



OFFICIAL GUIDE BOOK



THIS GUIDE BOOK BELONGS TO:

Why Start a Student Defenders Group?

Due process and the right to a fair hearing is threatened on college campuses across America. Currently, many students have no choice but to face campus judicial proceedings on their own. This can be daunting, as many schools' conduct policies and procedures are needlessly complex and some may even be unconstitutional. Campus judiciaries are often unchecked, leaving administrators to make life-altering decisions with no source of scrutiny.

Founding a Student Defenders group on campus will help ensure that you and your fellow students have the support and resources needed to navigate student conduct processes. Student Defenders will help educate fellow students on their rights and options, advocate for fair and clear policies and procedures, and represent and counsel students in the university judicial process. By accompanying students through the university judicial system, Student Defenders will act as watchdogs for due process violations and provide accountability for university administrators.

As a Student Defender, you are a pioneer for justice on campus. We at FIRE are counting on you to stand up for student rights and serve as a leader on campus. The goal of Student Defenders is to provide each student with a comprehensive overview of their rights and options and the campus judicial process. It is not your job to find out if students are guilty or innocent—rather, it is to help them navigate the system and advocate for fair and just procedures.

Student Defenders will help all students find justice and ensure fairness in campus disciplinary proceedings. In order to do this, you will serve as an ally to students—providing explanations of each step of the process, answering questions, and oftentimes just being there to listen. By offering this assistance to all students, you will make your university community a better, fairer place.

FIRE asks that you:

1 Do it right.

- › Examine your school's policies and procedures.
- › Carefully read this guide.
- › Set up a thorough training process for prospective representatives.
- › Explain students' rights and options to each person who seeks your assistance.

2 Keep in touch with FIRE.

- › We want to hear about your successes on campus!
- › Don't hesitate to reach out with questions, concerns, or possible FIRE cases.

About the Foundation for Individual Rights in Education

The Foundation for Individual Rights in Education (FIRE) is a non partisan civil liberties organization dedicated to defending student and faculty rights at our nation's institutions of higher education. FIRE defends constitutional liberties including freedom of speech, legal equality, due process, religious liberty, and sanctity of conscience on behalf of students and faculty nationwide. FIRE's core mission is to protect the unprotected and to educate the public and communities of concerned Americans about the threats to these rights on our campuses and about the means to preserve them.

FIRE effectively and decisively defends the fundamental rights of tens of thousands of students and faculty members on our nation's campuses while simultaneously reaching millions on and off campus through education and outreach. In case after case, FIRE brings about favorable resolutions not only for those individuals facing rights violations, but also for the millions of other students affected by the culture of censorship within our institutions of higher education. In addition to our defense of specific individuals and groups, FIRE works across the

nation and in all forms of media to empower campus activists, reform restrictive policies, and inform the public about the state of rights on college campuses.

The State of Due Process on Campus

The right to due process refers to the idea that judiciaries must provide fair and impartial procedures when determining a person’s guilt or innocence. The same principle applies to judicial hearings on college campuses. If colleges and universities care about justice and the accuracy of their findings, they must provide fair and consistent procedures for both the accuser and the accused.

History has taught us that the rights of all Americans can be secured only through the establishment of fair procedures and the recognition that all are equal in the eyes of the law. Yet on many campuses, the accused face “kangaroo courts” that lack fair procedures, in which the viewpoint or institutional interests of the “judges” greatly affect the outcomes of trials. The accused are often charged with no specific offense, denied the right to face their accusers, and sentenced with no regard for fairness or consistency. As a result, a generation of students is being taught the wrong lessons about justice—and facing ruinous consequences for their personal, academic, and professional lives. Students must come to know that justice means more than merely the enforcement of the will of the powerful and the suppression of the powerless.

Teaching Students About the Importance of Due Process and Free Speech

The judicial process provides a great opportunity to teach students about why their rights are important. Without due process rights, there is no guarantee that students will be notified of charges, have ample time to prepare their defense, have the opportunity to present their

case to an impartial hearing officer or panel in a timely fashion, hear the evidence against them, obtain access to records of their disciplinary case, or be able to hire a lawyer. (Your school may not allow lawyers to accompany students to hearings. If this is the case, see the Appendix for strategies to change this policy.)

It is important to explain these procedural safeguards to each student with whom you meet. This is a crucial learning moment and they should have a strong understanding of why these safeguards are essential.

Similarly, you should explain students' free speech rights and underline why they are important. Free speech is essential in advocating for fair procedures and student rights. Please check out [*FIRE's Guide to Free Speech on Campus*](#) for more information.

Establishing a Permanent On-Campus Presence

Official School Recognition

Becoming an official student organization should be your first priority when starting your Students Defenders group. On nearly all campuses, you will need official recognition in order to obtain an on-campus office and mailbox, receive funding, and table on campus.

Most universities have a standard set of procedures and paperwork that you will have to complete in order to become a recognized organization. Usually, you can find this information online or at your school's student life center. If you have trouble with this process or your recognition is being held up for reasons that don't sound right or aren't being applied to other groups, please contact FIRE. We can help.

Recognition Through Student Government

Another option for gaining recognition is to become a division, subsidiary, or office of your student government. By doing so, you can ensure that your group and the students you represent will have a voice on campus. Other benefits may include sharing your student government's faculty advisor or gaining financial and advertising resources.

Tips for approaching your student government:

- **Learn about your student government structure and procedures.** What steps need to occur in order for your group to be created? Is there a constitutional review period? If so, that may be the best time to propose your group.
- **Prepare a presentation that explains why Student Defenders is a vital resource and service for students.** Consider including metrics—like the number of students who face judicial charges each year—to strengthen your case.
- **Include a written outline or proposal.**
- **Explain the resources (e.g., funding, office space) you need to start and maintain the group.** Be sure to include an organized budget and be prepared to provide a rationale for each budget item. Consider budgeting for:
 - › A printer
 - › Legal pads
 - › Pens
 - › Advertising materials (like magnets)
 - › Business cards
 - › Folders
 - › Website

Creating a Constitution

Writing a constitution is essential to preserving organizational structure. It is often required to gain school recognition. Below you will find explanations and examples for the most common constitution requirements:

Organization Name

Your group's name should make it easy for students to understand what you do. Aim for a clear cut, self-explanatory name. For example:

- › Student Defenders
- › Students Defending Students
- › Student Advocates
- › Student Judicial Advisors
- › Students Helping Students

Mission Statement

Your mission statement should provide a clear description of your organization, what you do, what your goals are, and what members should expect when joining. Here's an example of a mission statement from one group, which happens to be a division of the student government (here, called a "subsidy"). You may want to modify this or come up with your own. FIRE can also help with this process, if you wish.

Students Defending Students, as a subsidy of Ohio University Student Senate, is an organization dedicated to serving the student community by representing and counseling students through the university judicial process. SDS strives to provide students with protection from the violation of their rights in the university, the judiciary, and the community. SDS is a non-profit organization and is run entirely by student volunteers who have been specifically educated in student rights at Ohio University.

Membership Requirements

This section should address the following questions:

- What are the requirements and qualifications for membership? Are there any restrictions?
- How can students become members? (Include details about the application, coming to meetings, and representing a minimum number of students.) How long does membership last?
- What is the process for removal?

Your school may also require that a standard non-discrimination policy be included in this section. Beyond outlining membership requirements in your constitution, you should also consider having members sign an expectations form. Please see the Appendix for an example.

Organization Leadership

This section should outline the leadership structure of your organization and answer the following questions:

- Who is eligible to run for a leadership position?
- How long do leaders serve?
- Are there procedures to remove leaders? Are there provisions for replacements?
- What is the election process for leaders?
 - › Who is eligible to vote for leaders?
 - › What format will the voting process follow?
- What do leadership transitions look like?
 - › Consider creating a transition period so newly elected officials have a chance to shadow the former executives.

A small organization may need only a director and assistant director. A larger group may want to add additional positions to handle things like advertising, group finances, or community outreach. Below is an example of a group's leadership structure:

Director: The Director is responsible for setting goals and maintaining progress, for relaying information and concerns to appropriate parties, and for ensuring that members are continually recognized and respected within the university community. The Director is responsible for ensuring Student Defenders takes a proactive approach to protecting students' rights.

Associate Director: The Associate Director is responsible for overseeing the day-to-day operations of the organization. These responsibilities include ensuring all Assistant Directors and representatives fulfill their obligations as well as ensuring that all students requiring assistance are given a representative. The Associate Director is responsible for creating an office hour schedule and an updated contact list.

Assistant Director of Administration: The Assistant Director of Administration is responsible for maintaining an operable office area. This includes overseeing supplies and ensuring properly functioning equipment, maintaining the filing system and precedent log, and managing the calendar. The Assistant Director of Administration is responsible for ensuring there are Student Defender business cards in the appropriate offices.

Assistant Director of Recruitment and Training: The Director of Assistant Recruitment and Training is responsible for recruiting potential representatives and ensuring that trainees are receiving training and guidance. This includes monitoring a trainee's progress in compliance with the training guidelines. The Assistant Director of Recruitment and Training is responsible for overseeing monthly training for all representatives. The Assistant Director of Recruitment and Training is responsible for maintaining and updating Student Defender social media accounts.

Advisor

If your school requires an advisor it may be helpful to consider:

- a faculty member with whom you have an existing relationship;
- a faculty member in the political science, philosophy, or law department;
- a professor who teaches a constitutional law course; or
- someone who has experience with campus judiciaries.

See the Appendix for a sample constitution.

Inter-Group Communications

Communication within the group is vital to a well-run organization. Whether you use Facebook, Slack, Orgsync, Google Drive, GroupMe, or something else, make sure you have an outlet where people can communicate or ask questions while maintaining confidentiality. It is also important to have weekly meetings with the entire group. All open cases should be discussed to allow others to chime in with information about any relevant past cases. Weekly meetings should also focus on brainstorming any possible advertising opportunities on campus. Meeting basics include the following:

- **An agenda:** An agenda should be prepared and agreed upon by group leaders prior to each meeting. A good agenda will help you run meetings efficiently, guaranteeing that all items are discussed and decided. You may also consider sending an agenda draft to members a few days prior to the meeting. This allows members to prepare or develop questions for robust and productive meetings.
- **Meeting minutes:** Select someone to record decisions, action items, discussion topics, and points of contention. This should not be a transcript of the entire meeting, but rather an outline of major

discussions and group decisions. Minutes should be distributed after the meeting to remind members of what was discussed and to update anyone who may have missed the meeting.

Group leadership should decide on the culture they would like to cultivate within the organization. For a more relaxed office culture, encourage members to hang out outside of group events or create a space within the office for homework. Regardless of your unique office culture, remember to maintain professionalism with the students you are serving.

Raising Money to Fund Student Defenders

At most universities, students can apply for money allocated by student governments. The money allocated through student government often comes from student activity fees that all students pay at the beginning of the year—so don't be shy when applying for funds. This is your money.

Typically, funds will be granted for a specific event or project and will involve an application or presentation where members of the organization explain what they plan to do with the money. When filling out these applications, be sure that you have a clearly outlined budget and straightforward explanations for why your work benefits the campus community. Please see the Appendix for a sample funding proposal.

In addition to campus-wide student governments, some schools also have college-based student governments (e.g., a student governing body for a law school or graduate program) that also have funds for which you can apply. At some schools, residence halls may have additional funding available for events that impact students living in that hall. Student organizations often overlook these opportunities, leaving unused funds at the end of the year.

The first step to successfully raising funds is developing a plan. The point person for these efforts will often be the treasurer, although it might also be helpful to designate a member as development or fundraising chair. Having an internal structure that designates responsibility for fundraising and submitting funding requests will ensure that raising money is never neglected.

Obtaining funding is critical to the success of any organization. This may seem daunting, but university communities typically have a wealth of resources available to student organizations. Beyond campus-based fundraising, students often find support from local businesses and direct donations from supporters.

Other ideas for raising money include:

- › asking alumni to donate;
- › soliciting online donations;
- › grants from outside organizations (like FIRE);
- › partnering with similar student organizations;
- › fundraising at local establishments (for example, five percent of one night's proceeds at a local restaurant);
- › campus bake sales; and
- › silent auctions.

A word of warning: Do not take money or donations from the students you are defending or their families—even if they want to donate. This could raise legal and ethical concerns. If they insist, suggest they donate to the group after the student has graduated.

Advertising

Advertising is an essential function for your group, as you will be trying to attract students in need of assistance. It is important to keep your audience in mind while advertising! Consider giving away materials like magnets, T-shirts, and stickers with your logo, email address, and phone number.

Flyering

Flyering is a great way to get the word out on campus. Hang flyers in campus buildings, restrooms, dining halls, and other high-traffic areas. Check your school's posting policy and, if necessary, gain approval before distributing and hanging flyers. Your flyers should:

- › be concise and to the point;
- › use graphics;
- › include your logo, phone number, and email address; and
- › look professional.

See the Appendix for a flyer template.

Some professors may be willing to have flyers distributed after class, following a brief announcement by a member of your group. Your school may also have student group mailboxes. Consult your student involvement center to see if you are able to place flyers in student group mailboxes.

Reaching out to campus leaders

Make connections with campus leaders to spread the word about your services. Reach out to Greek life, residence hall staff, intramural teams, academic societies, political activism groups, student government members, and other clubs to let them know about your group. Ask if you can give a short presentation at the start or end of their meetings. Remember to bring small handouts or business cards to pass out. Also consider sending a press release to your school's student newspaper to let them know about your organization.

Reaching out to conduct administrators

Conduct administrators have the potential to be one of your biggest sources of referrals. Schedule regular meetings with administrators and keep an open channel of communication. Consider asking conduct administrators to include your group contact information on the bottom of official emails and notices of conduct charges. Additionally, ask the conduct office if your group can leave business cards at their front desk.

Tabling

Tabling is an effective way to educate and engage your campus community and spread awareness of your group.

Effective tabling typically requires several volunteers, and it's a good rule of thumb to try to recruit more volunteers than you think you will need. Besides, it's helpful to have company while tabling so you can stay excited and motivated! Together, a team can distribute literature, answer questions, and engage with those passing by. If you plan on tabling for more than a few hours, schedule volunteers in shifts to ensure everyone stays enthusiastic and energetic. To coordinate shifts and keep track of volunteers, maintain a list of time slots and volunteer contact information so everyone knows who is working when. Think about what will attract people to your table and what visitors are likely to pick up once you have their attention. In addition to handouts, stickers, and other literature, bring a tablecloth and make a poster in advance to clearly show the purpose of your tabling event. Be sure to wear your Student Defenders T-shirt.

While your table will likely attract those already walking by, advertising in advance will help to draw additional visitors and supporters. Putting up flyers, personally inviting your friends and classmates, and setting up a Facebook event page are cost-effective advertising methods.

Hosting an event

Consider hosting an event on student rights to attract students. "Know Your Rights" events before Halloween, campus festivals, or sports games are sure to interest students. Consider inviting a campus police officer, a member of the residence hall staff, and an administrator from campus judiciaries to sit in on your "Know Your Rights" event.

Ask other organizations on campus to co-sponsor the event. By doing so, you can save money, boost attendance, and gain critically important campus allies. Tell allied faculty about your event and ask if they would be willing to promote it to students or even offer extra credit to those who attend. Also, let residence hall staff know about your event, as they can typically help advertise.

Ensure that your event is listed on the campus calendar. Also, try getting the college—or a department within the college—to co-sponsor or promote the event on the college website.

Create a Facebook or Eventbrite event page. Invite all students and anyone who might be interested. Encourage your friends to do the same! Advertising on social media allows news about an event to spread quickly and easily, even to those outside your network or circle of friends. Your school may also have specific advertising forums, such as email listservs, which can be useful in getting the word out.

Be sure to do direct outreach on campus. Flyering, tabling, press releases, media advisories, op-eds, and word of mouth are all great ways to draw attention to your event! It's a good strategy to have those helping to plan the event send out personal messages to their network of friends the night before or the morning of an event to remind people and confirm that they are attending. It means a lot more to receive a personal note from someone you know than a general Facebook invite reminder.

Residence halls

Residence hall staff are great allies with whom you should strive to build solid relationships and residence halls are a perfect place to get the word out about your group. Residence hall staff may be able to help spread the word and even refer students to your organization. Email resident hall directors and resident assistants to schedule an informational meeting. There, explain the resources you offer students and propose ways you can collaborate, such as hosting a "Know Your Rights" event, or an informational event with incoming first-year students. Additionally, you could also ask to design a bulletin board with information on the school's code of conduct and Student Defenders.

Growing Your Group

Once you are fully operating, you will need to recruit new members to make sure your group grows into a real force for student rights on campus. Check out these tips:

- **Start recruiting at the beginning of each semester.** Students are more likely to be looking for extracurricular opportunities at the start of the semester, and starting early gives you plenty of time to receive and review applications and conduct interviews with potential members.
- **Perfect your interview process.** An effective interview process is crucial to selecting the right members for your organization. Being a Student Defender takes the right type of student—someone who can handle private information, act professionally, and offer support to students—so a rigorous interview process is required.
 - › Students should submit an application (see the Appendix), a résumé, and a cover letter.
 - › Select three current officers or senior members to be on the interview panel.
 - › Try to have the same individuals serve on all of the interviews. Prepare questions in advance with your unique group culture in mind. The panel should ask each applicant the same questions so you have a consistent set of answers to review in making your decision. See the Appendix for sample questions.
 - › Dress for the interview should be business formal, which is a good way to ensure that the applicant can conduct himself or herself in a professional manner.
- **Send candidates a formal offer letter via email.** It is important to send unsuccessful candidates a letter as well, so no one is uncertain about their status.

- **Have a thorough training process.** Having a structured and thorough training process is one of the most important elements within this guide. The training process is essential for ensuring that when members are initiated into the organization, they are fully ready to help students. Creating a syllabus for your training program can help ensure a reliable and effective process. The syllabus should include weekly classes, readings, and tests. Lessons should include the following:

- › Organizational mission and history
- › An in-depth look at your school's policies
- › How the disciplinary process works
- › How to help students effectively present arguments
- › How to be supportive towards students
- › Working with administrators
- › Professionalism
- › Ethics and the Family Educational Rights and Privacy Act (FERPA)
- › Student resources
- › Office logistics

Please see the sample syllabus in the Appendix.

- Don't be afraid to remove trainees who may not be a good fit for the organization. It is better to hurt feelings now, if you must, than to have your group get a bad reputation later.
- Be sure to include a social element to your training process. This can be a good way to introduce new members to the group culture, or to create one.
- The training process should include several opportunities to shadow representatives.
- The training process should conclude with a comprehensive final exam.

- **Encourage younger members to apply for leadership positions.**

- **Group leaders should create or add to protocols detailing important group information each year.** This is essential to preserving group success during leadership transitions.

Professionalism

Professionalism is imperative. Without it, you risk losing credibility. Although your group is working with peers, you can achieve professionalism in a few easy steps:

Always wear proper attire. Dressing professionally is a great way to assure both clients and administrators that you take your position seriously.

- **Members should dress in business casual attire for office hours.**
 - › Though it may be tempting to go to your office hours in a hoodie and sweatpants, you want to inspire confidence in students seeking help. Additionally, a student may come in during your office hours looking for someone to accompany them to a hearing or procedural meeting. It's best to be prepared!
 - › Representatives should dress in business formal attire for hearings.
- **Conduct yourself in an appropriate manner.**
 - › When meeting with students and administrators, always act in a professional manner. This includes being on time, dressing properly, and being polite and friendly.
- **Maintain appropriate communications with students and colleagues.**
 - › It's important to make students feel comfortable in the office, or wherever they are meeting you. You may be the first and only person they talk to about their proceedings, so work to create a judgment-free zone. To build trust and encourage candor, tell students you will help them to the fullest extent of your abilities regardless of their guilt or innocence. Your job is to inform students of their rights and options and guide them through the judicial process.

- › Telling students about your crazy weekend is inappropriate. Inform representatives on where the line is drawn and be sure to keep “work” and your personal life separate.
- › If you see a student (or former student) while “out,” do not initiate contact. If they say hello, let them lead the conversation or introduce you to their friends. **Do not bring up their case under any circumstances.** Do not remind them of any upcoming meetings. It is their decision to talk about their case with friends or family. Maintaining privacy is paramount to your group’s success!
- › Cases are to be discussed in the office or in a private location. Do not discuss current or past cases at the coffee shop, bar, restaurant, or anywhere that someone could overhear you. Merely switching names is not enough to maintain a student’s confidentiality. Keep public case discussions to an absolute minimum.
- › Don’t discuss old cases (even with identifying factors removed) any more than absolutely necessary. It may make students nervous that you will talk to other people about their case.

- **Always remember that your job is to ensure that the process is fair and that a student knows about and has the chance to take advantage of his or her rights.** You are there to support individuals going through the judicial process and to advocate for due process.

- **Keep the office clean** (if you have one).

- › First impressions are everything! When a student comes in, make sure they always see a clean and organized office. Make sure records are organized in a locking file cabinet and notes are included in the appropriate file after every meeting. Do not leave notes with any personal information lying around the office. Keeping the office well-organized helps operations run smoothly and makes representatives want to spend more time in the office. If you have an office computer, make sure it is password-protected.

- **Have professional materials.**

- › All handouts should include branding material with the group’s contact information.

- › Consider purchasing custom group materials such as pens, padfolios, lapel pins, or notepads.
- › Encourage members to carry business cards.
- **Maintain a nonpartisan environment.**
 - › Political debate on campus is inevitable. Debates may even focus on issues that have implications for due process, such as sexual assault on campus. It is crucial that your group maintains a politically neutral stance throughout these debates. You do not want to dissuade any student or group from seeking your services. While members may certainly have opinions, the organization should not be portrayed as partisan in nature or allow its members to portray it that way.
 - › The group should not take sides or endorse candidates in student government elections.
 - › Do not allow bias to permeate your group. Remember, the mission of your group is not to defend the particular action of this or that individual, but rather to ensure that each student's due process rights are honored. The goal of Student Defenders is to provide each student with a comprehensive overview of their rights and options and the campus judicial process. It is not your job to find out if they are guilty or innocent, or go on a fishing expedition on their behalf.

Organizing Records

Though we live in a digital world, keeping centralized paper records is important to maintaining accurate and organized case records. Student records should be easily accessible.

- **Each student who comes in should first fill out and sign a release form.** Do not begin the process or look at any of their case materials until they have signed and turned in the release form. See the Appendix for a sample release form.

- **Your office may also want to utilize an intake form that summarizes the reason for the student's visit.** See the Appendix for a sample intake form.
 - › Make a file folder for the student's current case with the date and judicial charges.
 - › Each student should then get a hanging file folder with their name (last, first). These should be arranged alphabetically by last name. Alternatively, your group may find it more effective to group files together by member, giving each representative a spot in the file cabinet to keep cases.
 - › Keep all forms and notes in their respective folders!
 - › Records should be kept in a locked file cabinet.
- **Record metrics** on how many cases your group works on and even consider asking students to write anonymous testimonials or reviews on your service.

If you do not have an office, records should be kept and organized on a secure web platform (such as Blackboard or Google Drive).

Learning Your School's Policies

Become an expert on your school's code of conduct.

- Require all members to have a thorough and in-depth understanding of the conduct code. Without this knowledge, your organization cannot function properly.
- Hang up a "cheat sheet" with a code breakdown in a visible location within the office.
- Conduct tests on the code twice a year to keep representatives sharp.
- Consult FIRE's [*Guide to Due Process and Campus Justice*](#).
- Meet with your school's judicial administrators to discuss policies and common sanctions.

- Advocate for greater due process protections.

Learn other school-sponsored statements.

- Know what your university says in other various statements—for example, in a mission statement, or in policies beyond the code of conduct. These statements can help you glean a more comprehensive understanding of why your school has its policies. Knowing policies beyond the code of conduct will aid in your ability to better assist students.

Know the rules pertinent to each case.

- If your client got in trouble in a dorm, for example, make sure you know the residence hall rules.

What to Do When a Student Asks for Help

- ***Have them fill out confidentiality paperwork.***
 - › When a student walks in, greet them, immediately give them the necessary paperwork, and explain exactly what they are signing.
- ***Your first priority is to get a copy of their referral form*** (or whatever written notice your school uses to let students know about the charges against them) so you know which charges they are facing.
- ***Ask the student to tell his or her side of the story in detail.***
 - › Take copious notes! Remember to take notes during every meeting and keep notes in student's file.
 - › Wait to ask questions until the client is done sharing his or her side of the story; instead, write down any questions you may have to review later.

- **Ask the student if they were with anyone** and if that person would be able to serve as a witness.
- **Ask the student if they have any evidence to support their claims, such as videos, pictures, or texts.**
- **Get a copy of all documentation the student may have.**
Keep documentation in the student's file.
- **Explain the charges they are facing and common sanctions.**
- **Walk them through the steps of the judicial process.**
- **Stress the importance of writing everything down throughout the process.**
 - › Even if the student asks a quick question to an administrator, it's better to write it down and email it.
- **Ask the student about their desired outcome.**
 - › Will they admit or deny the charges?
 - › If they are planning to deny the charges, explain the different hearing options they can choose and the pros and cons associated with each option.
 - › If they are planning to admit to the charges, they will most likely be able to provide "character" materials, which may affect their sanction. *Ask if they have any professors, friends, supervisors, or resident assistants who may be willing to write a short letter attesting to their character. Administrators may also take extracurricular or volunteer work into account while sanctioning.*
- **Find out the dates of the student's upcoming meetings.** Consult your schedule to make sure you can attend. If you cannot, work to find a substitute representative.

- ***It is imperative that you create a judgment-free zone throughout the meeting.*** Students should feel safe disclosing their version of events and their planned responses to you. If you feel that you are biased against a student or feel uncomfortable representing someone, find another Student Defender who can help.

Dealing with Difficult Students

Going through the campus judicial system can be an emotionally overwhelming process. Students may neglect classwork, friends, and extracurricular activities, finding themselves isolated and falling behind in class. It is important to treat each student with respect and kindness. Listen to students and let them know that you are there to help. But be careful to abide by following guidelines:

- › Do not minimize their feelings or say “everything will be better soon.”
- › Do not take responsibility for them.
- › Do not overwhelm them with information or ideas to “fix” their problems.
- › Do not convey judgment or criticism of their choices, or make allowances for their irresponsible behavior.

Let struggling students know about on-campus counseling resources. Consider keeping materials from your school’s psychological services in your office to give to interested students. Even if a student appears to be doing okay, letting them know that counseling is available if needed is never a bad idea!

If a student does or says something strange, or something that makes you uncomfortable, don’t overlook it. Refer safety concerns to the Dean of Students’ Office, or to your advisor.

Tips for Helping Students Present Their Arguments

If a student does not feel that they have violated the code of conduct, you can help them prepare for their hearing. It is important to keep in mind that you are there to support the student, not to help them “beat the system” or avoid accountability. Additionally, you do not work for the student—the student must be the one to initiate contact and must follow through with tasks.

Preparing a case is a daunting task. Many students that you help will feel overwhelmed and may let emotion cloud their judgment. Because of this, it is important to be supportive and thorough when preparing students for the judicial process. Clearly communicating school policies, logistics, and common sanctions are important and necessary first steps. Once the student has a solid understanding of policies and procedures, you should help them prepare for the judicial proceedings.

- ***Evidence is key.***

- › If the student was in class, at the gym, and then at Chipotle during the time of the alleged incident, they need to collect evidence to support these claims. For example, you might recommend they bring a class schedule, swipe card record, and receipt to the hearing. This will improve a student’s credibility.

- ***Witnesses can add credibility.***

- › Anyone who can speak to a student’s story should be brought in or asked to write a signed statement. Details that may seem small may end up being an important element in the hearing.
- › If the student feels that a witness is biased against them, simply stating that in the hearing is not enough. They must provide evidence to support their claims.
- › It is the student’s job to prepare questions for prospective witnesses. For example, if the incident occurred in the residence

halls, a resident assistant or director might serve as a witness. Help your student brainstorm possible questions.

- ***Review questions that may be asked.***

- › The hearing officer or panel will most likely have questions for the student you are assisting. Help the student prepare by running through questions they will probably be asked.
- › You should also advise the student to write down questions they want to ask during the proceedings. They should not rely on memory during any part of the process, if they can help it.

- ***Help students prepare opening and closing statements.***

- › Students may be allowed to deliver opening and closing statements during the hearing. They should prepare the bulk of their statements beforehand, with room to add in new information during the proceedings. The opening should go over the information they are about to present. The closing should cover final thoughts and anything that further strengthens their case.

- ***Work with the student to address inconsistencies in their story.***

- ***Even if a student intends to accept responsibility, they still need to prepare!***

- › What do they feel the appropriate sanction would be? Encourage them to consider how they feel they should be held accountable.
- › Students should be prepared to explain what they have learned from the process thus far. Did they realize they needed to focus on school more? Associate with different people? Seek counseling? These factors will help the administrator or hearing panel decide on the appropriate sanction.

Case Presentation

It is essential that you thoroughly prepare students for each step of the judicial process. While you may have helped with countless meetings, this may be the student's first exposure to the process, which can be

overwhelming and intimidating. Explain the role of conduct proceedings and the steps within the process. Do not characterize the conduct administrator as “the enemy” or insinuate that the school is “out to get” the student. Rather, focus on ensuring that the student’s rights are respected and that fair procedures are followed.

There is a lot of necessary legwork needed to give students the best chance in a hearing or meeting.

- Review all codes and rules relevant to the charges before each step in the conduct proceedings.
- Go over possible questions the student with whom you are working may be asked.
- Brainstorm questions the student may want to pose to witnesses.
- Review the language that will be used to articulate their side of the story.
- Ensure that the student has clear evidence and an understandable chain of events in their account.
- Print out multiple copies of materials they want to share.
- Explain (and even act out) each step. Below is a rubric of a possible meeting or hearing:

Opening

This is a brief statement that either the student or (if permitted) the advisor can make. It should sound something like this:

“I do not believe I violated the ____ charge because _____.

“Molly did not violate Rule A3 because she was not drinking the night of the alleged incident.”

Complainant's side of the story

- Make sure the student remains calm during this part of the hearing, as it is usually the most frustrating time for them. Remind them that they will have the chance to present their side of the story.
- Both you and the student may have a chance to ask questions. Decide in advance who will be asking questions.
- Make sure the student doesn't make accusations or comments while the complainant is being questioned, like "You didn't ask me if I wanted to take a Breathalyzer" or "That's not true!" Remind the student that there will be time for them to present their side of the story.
- Advise the student to write down any inconsistencies or frustrating elements. This is important to do in order to establish facts, and a great tool for students who may be tempted to argue with witnesses or the complainant.

Accused's side of the story

- First, let the student tell their side of the story in detail. Make sure they establish a firm timeline of events.
- Reference notes taken during meetings and add details the student left out or prompt them to do so.
- Present any evidence.
- It is usually best to bring in witnesses last, as they will echo the student's side of the story, therefore adding credibility. This is ultimately up to the student, though.

Closing

This is a summary statement that either the student or (if permitted) their advisor can make.

- Be sure to counter any points the complainant made, citing evidence to strengthen your points.
- Consider having the advisor start the closing statement and then have the student summarize their position afterwards.

Deliberation

This can take anywhere from 20 minutes to two hours, or more. Be supportive throughout this time, as it can be the most stressful for students.

Finding

If the student is found to be in violation of the code of conduct, do not let your feelings show. Reassure the student that there are still two important stages of the process—sanctioning and appeals. You may consider asking for a moment alone with the student if they are emotional.

Appeals

If the student is unhappy with the decision or sanction, if there was a defect in the process, or if the student has evidence of bias, an appeal may be possible. Consult your school's policies for information on grounds for appeals, the appeal procedure, and deadlines.

What to Do If Your School Doesn't Allow Representatives to Speak During Proceedings

Your school may have a policy restricting your ability to speak during a hearing. If this is the case, consider working with your student government to pass a resolution allowing advisors to speak on behalf of the student.

Some states, such as North Carolina, have state laws that guarantee the right of accused students to have their advisors speak in some or all circumstances. [Find out from FIRE](#) if your state is one of them.

The right to have representatives speak is paramount for justice on campus. A hearing can be an overwhelming experience for students, causing even the most prepared student to forget to mention important elements that can help fact-finders arrive at the truth. An active advisor allows the experience to be fairer and less stressful. The right to have representatives for both the complainant and accused speak ensures an equal balance in the process.

Please see the Appendix for a sample resolution.

There are many other ways to work toward changing your school's policy on advisors.

- Write an op-ed.
- Circulate a petition.
- Meet with the university's administration.
- Start a letter writing campaign.

Due Process Red Flags to Watch For

Students at public schools are entitled to protections when facing suspension or expulsion for disciplinary reasons—as opposed to academic reasons. At the very least, these protections include:

- the right to have your case heard under regular (non-arbitrary) procedures used for all similar cases;
- the right to receive notice of the charges against you; and
- the right to present your side of the story to an impartial arbiter or panel.

Consult [*FIRE's Guide to Due Process and Campus Justice*](#) for more information on student due process rights. Hold your school accountable if students are not afforded their rights. If the school oversteps its boundaries, contact FIRE.

Talking to Administrators

You will likely work closely with administrators through your role as a Student Defender. Work to cultivate amicable and professional relationships. Maintain these relationships by meeting weekly, if possible. These weekly meetings should cover the following:

- Any issues you or any representatives have encountered.
- Feedback the administrator(s) may have about you or any of your representatives.
- Questions about school policies or sanctions, including whether sanctioning guidelines exist for certain infractions.
- Questions about any institutional changes.

You should not disclose specifics about any of the cases you are working on, nor should you discuss anything a student has said to you. It is important to be respectful even when airing concerns you may have. Take careful notes of conversations and follow up with an email that restates everything you talked about, then ask the administrator(s) to confirm that your notes are accurate. Keep copies of any written correspondence with administrators, faculty members, or student leaders.

Consider asking conduct administrators to include your group's contact information on the bottom of referral emails and correspondence with students.

University Committees

Your school likely has committees that evaluate and change campus policies. Meet with administrators to find out what committees exist at your institution. If there is a committee that deals with the code of conduct, make sure you are at the meetings. If possible, email the administrator who handles committees and ask to be formally added to the meetings.

If someone from your Student Defender group is invited to attend, they need to be punctual and prepared. Take careful notes and report the group discussion to other members of Student Defenders. University committees are great places to lobby for change on campus!

FERPA

The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

- ***Parents or eligible students have the right to inspect and review the student's education records maintained by the school.***

Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.

- ***Parents or eligible students have the right to request that a school correct records that they believe to be inaccurate or misleading.***

If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.

- ***Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record.*** However, FERPA allows schools to disclose those records, without consent, to the following parties or

under the following conditions (34 C.F.R. § 99.31):

- › School officials with a legitimate educational interest;
- › Other schools to which a student is transferring;
- › Specified officials for audit or evaluation purposes;
- › Appropriate parties in connection with financial aid to a student;
- › Organizations conducting certain studies for or on behalf of the school;
- › Accrediting organizations;
- › To comply with a judicial order or lawfully issued subpoena;
- › Appropriate officials in cases of health and safety emergencies; and
- › State and local authorities, within a juvenile justice system, pursuant to specific state law.

A student's rights under FERPA are much clearer than their constitutional due process rights, which come from judicial precedent rather than statute and vary widely by both specific case and jurisdiction. FERPA applies equally to all institutions, public or private, that receive any U.S. Department of Education funding. (That's almost all of them.)

Students have the right to see not only material that has been placed in their official file, but all documents about their case created by the university, no matter who created them or how they are stored. Students do not have the right to see some notes, however, such as the handwritten notes at meetings that individual administrators or professors made for their personal use.

Accessing Records

If a student wants to inspect the records of their disciplinary case, their college or university is required to gather them and give the student access within 45 days. A school is not required to let a student photocopy their records, although the vast majority of schools will allow students to make copies or at least take pictures. At state institutions, state law allows students to copy records to which they have legal access, which includes FERPA records.

At the conclusion of a student's case, if the university has decided to permanently retain documents, a student can ask the university to discard them. If administrators refuse to do so, the student has the right to a hearing before an impartial official of the university to ask that the materials be removed. In the hearing, the student must demonstrate that the information in the file is misleading or otherwise in violation of their privacy rights in order for the university to correct the records. It is, however, unlikely that students will succeed in having records expunged. FERPA does require that students be allowed to place a statement in their file explaining any problems they see with any aspects of their educational records.

The university may not share disciplinary records, even orally, with anyone other than the student and specific university officials and staff, unless the student waives their rights to such confidentiality. This means that the school may require students to sign a record release in order for Student Defenders to participate in disciplinary proceedings. See the Appendix for an example of a record release form.

Parental Notification

Many students will be concerned about whether their parents will find out that they got in trouble. Whether your college may tell students' parents about disciplinary cases depends on:

- The nature of the accusation;
- Whether a student's parents claim them as a dependent on their tax return;
 - › If a student's parents claim them as a dependent on their tax return, the college may show them all educational records, including disciplinary files.
- For some types of accusations, age.
 - › If a student is found responsible for an offense involving drugs or alcohol and they are under 21 years old at the time of disclosure, the university may tell their parents.

Under no circumstances is a college or university *required* to tell a student's parents of the student's record.

FERPA and Student Defenders

FERPA applies to schools themselves, and no court has ever found that student groups are covered by FERPA. To be safe, however, the Student Defenders group should get a FERPA waiver from the student being helped. Please see the Appendix for an example.

Students should be aware that their school is not required under FERPA to maintain education records—only to protect the privacy of the records it does maintain. Also, unless there is an outstanding request by an eligible student to inspect and review education records, FERPA allows schools to destroy such records without notice to students. However, in the case of public schools, many states have record retention requirements that would apply to education records. Also, if the subject matter of the hearing is something that, if true, would be a crime covered by the annual reporting requirements of the federal Clery Act (for example, a crime of violence or nonforcible sex offense), the Clery Act requires schools to retain those records for seven years.

Consult [*FIRE's Guide to Due Process and Campus Justice*](#) for more information on FERPA.

How FIRE Can Help

We are counting on you to be pioneers for justice on campus! FIRE is here to provide guidance and resources. We have a team of experts at your disposal who can help decode and demystify your school's policies, help you talk to administrators, and offer advice on tricky due process questions. Additionally, we can send guides, literature, speakers, and swag.

You can also encourage students to [submit cases to FIRE](#).

Please do not hesitate to contact us with questions. We are here to help!

* Every state has open records laws that generally allow individuals to copy government documents (like records from state schools) they have legal access to. See <http://rcfp.org/open-government-guide> for a list of these laws by state.

* See 34 C.F.R. § 99.35(b)(2).

* See <https://www2.ed.gov/admins/lead/safety/handbook.pdf>, page 9-11.

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