

INTERFRATERNITY COUNCIL
UNIVERSITY OF CALIFORNIA, IRVINE

JUDICIAL PROCEDURES

BY-LAWS

ARTICLE I

Purpose

Section 1. The goals of the IFC Judicial process are to adhere to both University and IFC policies, to resolve conflicts within the Greek community, and to improve the public image of the Greek community by promoting high standards of conduct.

ARTICLE II

Allegations

Section 1. *Referrals*

- A. A complaint of any infraction of the IFC constitution, by-laws, or policies and acts, or established University regulations applying to all students may be done so in any way possible.
 - 1. This referral must:
 - a. be filed with the IFC Executive Vice-President.
 - b. be filed within one year after it has occurred; or can be extended under extenuating circumstances.

Section 2. *Investigation and Report*

- A. The IFC Executive Vice-President shall conduct an investigation with the evidence provided and shall decide one of the following:
 - 1. Send case to a mediation session
 - 2. Send case to the Conduct Board
 - 3. Send case to the Judicial Board
 - 4. Dismiss claim.
 - a. A claim can be brought back to the IFC Executive Vice-President if new evidence arises, even after being dismissed.
- B. The decision for course of action shall be reached by the IFC Executive Vice-President after consultation with the IFC President and Director of Greek Life.
- C. The IFC Executive Vice President shall prepare an investigation form with any pertinent information. The purpose of this form is to outline the evidence found and the decision to refer case or dismiss it. A sample of this form can be found in Appendix D.

Section 3. *Notification of Referral*

- A. The Executive Vice-President shall inform the involved parties in a Notification of Referral after promptly concluding the investigation and referral decision.

ARTICLE III
Mediation Process

Section 1. *Definition and Jurisdiction*

- A. Mediation shall be called in the event that there is a conflict between two organizations. This includes, but is not limited to, disputes at events, athletic games, verbal discrepancies, etc.
- B. Mediation is the first step to solve conflicts between two or more fraternities, but it can be referred to the Conduct Board if no agreement is reached.

Section 2. *Notification of Mediation*

- A. Scheduling Mediation: A time and place for the mediation meeting shall:
 - 1. Be scheduled by the IFC Executive Vice-President in conjunction with the chosen mediator.
 - 2. Be held within 30 days of the endorsement of mediation.
 - 3. Be scheduled within ten days of Notice of Mediation.
- B. In the event that the two organizations and the mediator do not agree on a meeting time within the ten days of notice, the case shall be referred to Conduct Board.

Section 3. *Membership*

- A. The mediation shall be compromised of a mediator, the chapter presidents of the involved organizations, one at-large member per organization.
- B. Choosing a Mediator: A mediator shall be selected who is available to serve as a neutral party to the mediation process. A university staff member shall serve as mediator.
 - 1. Members of the IFC Executive Board, Conduct Board, Judicial Board, and Director of Greek Life may not serve as mediators.
 - 2. No undergraduate chapter member shall serve as mediator.

Section 4. *Procedure*

- A. The mediation shall stay consistent with the outline in Appendix A
 - 1. Mediator's Opening Statement
 - 2. Parties' Opening Statement
 - 3. Joint Discussion
 - 4. Individual Caucuses
 - 5. Closure
- B. Time of the mediation shall not exceed a time agreed upon prior to mediation. If no time is agreed upon prior to the mediation, the standard time for mediation is one hour.
 - 1. If no agreement is reached at the conclusion of the agreed time the case shall be referred to IFC Conduct Board immediately.

Section 5. *Results of Mediation*

- A. The results agreed in mediation shall be binding. Failure to comply with the mediation's binding agreement grants jurisdiction for an IFC Conduct Board hearing.
- B. A written agreement must be signed by both chapter presidents.
 - 1. A copy of this agreement will be given to each chapter president and for the Chapter file held by the Director of Greek Life.
- C. The results, as well as everything discussed in mediation, shall be kept confidential and shall not be made public.

ARTICLE IV
IFC Conduct Board

Section 1. *Definition and Jurisdiction*

- A. The IFC Conduct Board shall serve as the primary court of conduct and infractions.
- B. Jurisdiction of the Board shall be granted by the IFC Executive Vice-President during the investigation OR after mediation. The Conduct Board shall solve disputes of unresolved mediations or unfulfilled mediation agreements.
- C. Any policy infractions to the IFC, university, state and federal laws may be brought to the IFC Conduct Board.

Section 2. *Notice of Hearing*

- A. The IFC Executive Vice-President shall write a Notice of Hearing. He shall deliver a copy of the notice to the involved party via email or alternative methods.
- B. The notice shall include:
 - 1. the name of the plaintiff or group filing the complaint;
 - 2. the date and place of the incident;
 - 3. a description of the alleged violation;
 - 4. A statement of rights as outlined in these by-laws;
 - 5. may include the date, place, and time of the hearing if it has been scheduled;
- C. The IFC Executive Vice President shall schedule the hearing within seven days of the notice of hearing. This scheduled hearing shall occur as promptly as possible but must be at least 72 hours after the notice of hearing has been delivered. The IFC Executive Vice President may arrange for a hearing at any time after the 72 hour-courtesy wait time.
- D. The IFC Executive Vice-President must notify the involved parties by letter of date, time, and place for the hearing. The IFC Executive Vice-President shall deliver the letter to the presidents of the involved chapters.

Section 3. *Membership*

- A. *Quorum:* There shall be at least two-thirds of the voting justices present in order to conduct a hearing. The IFC Executive Vice-President shall only vote in the event of a tie. A justice must disqualify himself if his fraternity, or a member of that fraternity, is involved in a complaint. If a justice feels he cannot judge a complaint fairly, the justice may choose to disqualify himself. If a justice is

disqualified he is removed from the pool of justices and must be replaced with another justice from the pool.

- B. *Chair of the Board:* In the event that the IFC Executive Vice-President cannot perform the duties of his office during the hearing, a member of the IFC Executive Board shall fill the role. If neither is available, the Conduct Board, with a majority vote, will appoint a Conduct Board member to fill the role.
- C. *The following people may be present at the hearing:* chapter president(s), one chapter executive board member, the IFC Conduct Board, the IFC Executive Vice-President, and the person bringing up the complaint. A member of the IFC Conduct/Judicial Board or the IFC Executive Board may not represent his own chapter during a Conduct Board Hearing.
- D. *Board members:* The Conduct Board shall be comprised of 5 board members selected at random from each chapter. These justices may not be members of the chapter(s) involved in the hearing. The appointed board members will serve a term that shall be from Fall to Spring quarter annually as to keep consistency and fairness throughout the year. Justices must be appointed by their respective Chapter Presidents and should not be the Chapter President.

Section 4. *Procedure*

- A. The hearing will take place as scheduled. If an individual, or a chapter's representative, fails to appear at the hearing, the Conduct Board, by way of majority vote will select one of the following courses of action:
 - 1. Reschedule the meeting.
 - 2. Render a decision based on the available information.
- B. The procedure for the hearing is outlined under Appendix B.
- C. *Responsibility*
 - 1. A standard of preponderance of evidence shall be used. Preponderance of evidence shall be defined as "the greater weight of the evidence required in a claim for the trier of fact (jury) to decide in favor of one side or the other. This preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence."
 - 2. If it is determined that the respondent is responsible of a violation, the Conduct Board will take appropriate and authorized action and impose any authorized and judicious sanction(s). This information will be submitted in writing to the defendant promptly.
- D. Evidence may be brought into this Conduct Board however the intent of the board is to solve conflicts in a peer-to-peer manner.

Section 5. *Results of Hearing*

- A. The written decision will include the facts of the case, the sanction(s) imposed, and notice of the right to request an appeal the decision via the IFC Judicial Board (also known as Board of Appeals).
- B. If it is determined that the defendant is not responsible of a violation, the Conduct Board will submit this decision promptly as well.
- C. The involved parties or the IFC may initiate an appeal in writing to the IFC Executive Vice-President. If the decision is not appealed within 72 hours of the

written decision of the IFC Conduct Board, the decision by the IFC Conduct Board will be final.

- D. A copy of the decision shall be given to the Judicial Affairs Officer, the Director of Greek Life, the IFC Judicial Board Archives, the charged fraternity(ies)'s president, chapter alumnus advisor, and the national offices.
- E. The decision of the IFC Judicial Board shall be read at the next regular scheduled IFC meeting.

ARTICLE V

IFC Judicial Board (Board of Appeals)

Section 1. *Definition and Jurisdiction*

- A. The IFC Judicial Board shall serve as the appellate and highest court of the Interfraternity Council. All decisions made by the board will be final.
- B. All cases sent to the IFC Judicial Board can come in two manners:
 - 1. An appeal of an IFC Conduct Board decision for any of the following reasons:
 - a. There was a mistake in procedure that is fundamental to the outcome of the case;
 - b. The facts uncovered in the case do not prove responsibility;
 - c. The penalty is too harsh;
 - 2. The IFC Executive Vice President may refer a case directly to the IFC Judicial Board in severe occasions. Such occasions may be, but are not limited to, hazing, theft, damage property, felony charges, death, etc.

Section 2. *Notice of Hearing*

- A. The Notice of Hearing guidelines in Article IV, Section 2, Subsections A-D are all applicable to the IFC Judicial Board as well.

Section 3. *Membership*

- A. *Quorum:* There shall be at least two-thirds of the voting justices present in order to conduct a hearing. A justice must disqualify himself if his fraternity, or a member of that fraternity, is involved in a complaint. If a justice feels he cannot judge a complaint fairly, the justice may choose to disqualify himself. If a justice is disqualified he is removed from the pool of justices and must be replaced with another justice from the pool.
- B. *Chair of the Board:* the justices assigned to the hearing shall appoint a Chair. The Chair must be one of the 3 selected justices.
- C. *The following people may be present at the hearing:* chapter presidents, one executive board member of each chapter, a chapter advisor from each chapter, the Director of Greek Life, the IFC Judicial Board, the IFC Executive Vice-President, a representative of the IFC Conduct Board, and the person bringing up the complaint. A member of the IFC Judicial Board or the IFC Executive Board may not represent his own chapter during a hearing.
- D. *Justices:* The IFC Judicial Board shall be compromised of three justices selected at random from all chapter presidents. These presidents may not be members of

the chapter(s) involved in the hearing. Once a president has served on the IFC Judicial Board, he shall not serve until all other presidents have been used.

- E. In an appeal, the party bringing the appeal shall be considered as the plaintiff. The IFC Conduct Board and the party on the opposite end of the appeal will be the defendant.

Section 4. *Procedure*

- A. The procedure for the hearing is outlined under Appendix C.
- B. The procedures enlisted in Article IV, Section 4, Subsections A and C apply to the IFC Judicial Board as well.
- C. *Evidence:* All Evidence relevant to a complaint is admissible at a hearing. This may include direct (eye witness) evidence, circumstantial evidence, documentary evidence, hearsay evidence, and signed affidavits. This doesn't imply that all evidence admitted is equivalent in weight, since most testimony has some degree of bias or tends to lead the listener to a single interpretation of a fact or situation.
 - 1. In the event that oral testimony is presented, the IFC Executive Vice-President will invite a reasonable number of witnesses whose presence is deemed appropriate or who have been named as witnesses by the plaintiff or defendant. Justice's and the IFC Executive Vice-President are excluded from being witnesses.
- D. *Witnesses:*
 - 1. Faculty/staff members, students who are not members of Greek-letter organization, and others may be requested to appear as witnesses at hearings.
 - 2. Although witnesses are not placed under oath during hearings, every witness is expected to speak the truth. If it can be proved that a member of a fraternity clearly and deliberately falsified testimony presented to the Judicial Board, the Judicial Board will take disciplinary action against his fraternity.
- E. In the event that the case is an appeal, no new evidence shall be presented at the trial. No witnesses may be present at an appeal.

Section 5. *Results of Hearing*

- A. The written decision will include the facts of the case, and the sanction(s) imposed.
- B. If it is determined that the defendant is not culpable of a violation, the Judicial Board will submit this decision promptly as well.
- C. All decision by the IFC Judicial Board are final.
- D. A copy of the decision shall be given to the Judicial Affairs Officer, the Director of Greek Life, the IFC Judicial Board Archives, the charged fraternity(ies)'s president, chapter alumnus advisor, and the national offices.
- E. The decision of the IFC Judicial Board shall be read at the next regular scheduled IFC meeting.

ARTICLE VI
Sanctions

- Section 1.** In determining an appropriate sanction, the Conduct and Judicial Board should consider the following factors:
1. Was the behavior intentional?
 2. What were the direct and indirect actual consequences of the behavior?
 3. What were the potential consequences?
 4. What actions have already been taken to correct the situation? What sanctions have been imposed by other disciplinary bodies?
 5. Has the fraternity previously engaged in similar behavior? Is this fraternity currently on probation?
 6. What is the educational value of the sanction? Will it help the group to act more appropriately in the future? Will it be effective in discouraging similar behavior by other fraternities?
 7. Is the sanction consistent with sanctions imposed on other fraternities for similar violations and similar circumstances?
 8. Is the sanction appropriately related to the offense?
 9. Is the sanction consistent with the expectations of the University administration and the IFC?

Section 2. The Boards will have the power to set penalties if a member fraternity or individual fraternity member(s) is found culpable of violating any rules and regulations of the IFC or University. These penalties will include any of the following or any other action deemed necessary and proper.

1. **EXPULSION**
Expulsion means that the offending chapter will have no voice in the IFC and will not participate in any IFC sponsored activity. The chapter will lose all IFC recognition and will be excluded from membership. If a fraternity is expelled from IFC, the University may request that the national/international officers revoke the chapter's charter.
2. **SUSPENSION**
Suspension from IFC, for a definite period, not to exceed one year. A suspended chapter loses all privileges associated with IFC membership, including but not limited to:
 - a. the right to vote on all matters concerning the IFC.
 - b. the right to have members on the IFC Executive Board or Judicial Board,
 - c. participation in the IFC intramural sports leagues (no member shall represent the suspended chapter in any shape or form when competing outside the IFC intramural sports leagues),
 - d. the privilege of posting on campus,
 - e. participation in IFC sponsored recruitment activities or inclusion in IFC rush publications (A suspended chapter may conduct its own rush activities but must follow the IFC standing Rules of Recruitment).

- f. participation in Greek Week and IFC sponsored social or recreational events,
- g. participation in the Greek Awards.

A suspended chapter shall be required to fulfill all obligations of membership including payment of dues, attendance at IFC meetings, and compliance with IFC and University policies. Failures to fulfill these obligations may prevent reinstatement to good standing.

3. **PROBATION**

Probation, defined as a period of time, not to exceed one year, during which a fraternity is ordered to conform to established policies and regulations and/or adhere to certain conditions.

4. **SOCIAL PROBATION**

Social probation, defined as a period of time, not to exceed one year, during which a fraternity is not allowed to hold any chapter events that have alcohol present. This includes but is not limited to parties, formals, exchanges and retreats.

5. **FINES**

Fines may be levied at a level which the Judicial Board deems suitable and appropriate with respect to the violation. Fines will be designated in the decision to be paid to an appropriate organization or agency whose purpose is related to the violation. The minimum fine is \$75 per chapter.

A fine given to a chapter that is found violating the alcohol policy in regards to recruitment shall follow the following guidelines, these guidelines are per event and as such may be levied multiple times if there are multiple events. These guidelines are inclusive of all recruitment events as defined by the IFC Recruitment Bylaws.

Tier 1 – A 7\$ per active member fine. This is the minimum fine that the chapter may receive for violating the alcohol policy. This fine is for events that have under 15 total people. This is considered a minor event and as such is given a small fine relative to the violation that is occurring.

Tier 2 – A 12\$ per active member fine. This is the minimum fine a fraternity may receive for events that have less than 100 total people but more than 15 people.

Tier 3 – A 17\$ per active member fine. This is the minimum fine a fraternity may receive for events that have over 100 total people present at the event.

The tier system is to work as such:

1. If the event does not seem planned or has a large number of random people and a minimal (five or less) number of “brothers” at the event it may be brought down 1 tier, the violation cannot be downgraded below Tier 1. This is primarily regarding IFC finding

one or two members at a party where it clearly was not a concerted chapter effort.

2. If a fraternity is found in violation of the alcohol policy for the second straight year, they will be increased by one tier.
3. If a fraternity is found in violation of the alcohol policy for a third straight year the tier will be increased by two tiers.
4. If the event appears to be intentional and planned, by the chapter and not just the few brothers present, then the tier will be increased by one tier level.
5. The Judicial Board should consider prior violations.

The Judicial Board shall also consider prior violations the chapter has had as well as the context of the event when determining the sanction.

When reviewing the event please refer to Article IV Section 1 above in regards to the event. Also note such important factors as: was it a safe environment, was anyone in danger, and were the people involved able to handle any possible issues that may have arisen. Also, note that the fines listed above are minimum fines and should be taken into context when being reviewed, not just levied at the minimum level as each case is unique.

6. COMMUNITY SERVICE

Community service projects are to be constructive in nature, such as work projects or social service projects, which the Judicial Board deems suitable and appropriate with respect to the violation.

7. EDUCATIONAL PROGRAMMING

Educational programming may range from one session to a series of sessions on a specific or related topic(s) which the Judicial Board deems suitable and appropriate with respect to the violation.

8. UCI COMMUNITY INVOLVEMENT

UCI Community Involvement is a sanction given to a chapter that may have a harsh sanction delivered to them but the IFC is not interested in pushing them away and is more so interested in keeping that chapter a close knit part of the IFC community. Such a sanction refers to the planning, organizing and running of an event or events that focus on involving the sanctioned chapter with the IFC community. Some sample events are, a school-wide BBQ, a IFC Sports All-Star competition, an instructional workshop or a planned community service event.

9. RESTITUTION

Financial or other restitution for property damage or physical injury (limited to the actual costs, including fair value of labor).

10. REPRIMAND

A reprimand is a public warning indicating that the chapter's or member's actions were inappropriate and that subsequent infractions should not occur. Subsequent violations of the same rule(s) and/or regulations(s) of the IFC or University will be subject to a more serious penalty. This shall

be automatic in the case of any sanction given and shall be delivered at the next regularly scheduled IFC meeting.

11. GOOD BEHAVIOR CLAUSE

The Good Behavior Clause is a clause that can be put into a sanction granting the fraternity a lessened punishment based on it completing its sanctions in a timely fashion as well as completing or abiding by certain requirements set out by the judicial board and/or IFC board when the sanction was first delivered. This is recommended for use in extreme cases where the punishment is very harsh and based off of repeated offenses.

12. NATIONAL NOTIFICATION

Letter from the Judicial Board to the National or International office of the fraternity shall be automatic in the case of any sanction given.

Section 3. Further Authority and Actions

- A. The Boards also have the authority to issue reasonable “alternative sanctions,” defined as constructive requirements appropriate to the offense.
- B. The Boards may also refer the case to the Student Conduct Office in Dean of Students, if applicable.
- C. If the fraternity chooses to appeal a decision of the Board, the sanction shall become effective immediately until it is overturned or affirmed.

ARTICLE VII

Rights and Expected Behavior

Section 1. Rights of an Accused Fraternity (Defendant)

- A. Right to be informed in writing of all charges at least 72 hours before any hearing.
- B. Right to reasonable access to the case file upon request, which shall be maintained by the IFC Executive Vice-President.
- C. Right to remain silent.
- D. Right to have an advisor present during the hearing. An attorney may appear at an administrative hearing as an advisor. An advisor may not address the board, represent the accused student, or directly question or cross-examine witnesses; his role is simply to advise the chapter.
- E. Right to question witnesses.
- F. Right to review all evidence.
- G. Right to present a written statement in response to charges to be amended to the IFC Executive Vice President’s report.
- H. Right to present witnesses.
- I. Right to a closed hearing, or an open hearing, upon request.
- J. Right to a written statement of the outcome of the proceeding and decision of the Judicial Board within five business days of the hearing.
- K. Right to appeal the decision, in writing to the IFC Executive Vice President within 72 hours of receiving notification of hearing outcome.

Section 2. Rights of Individuals/Fraternities Making a Claim (Plaintiff)

- A. Right to submit a victim/witness impact statement that details the alleged actions/consequences of the claim.
- B. Right to have a personal advisor accompany him during the hearing. An advisor may not address the board, represent the accused student, or directly question or cross-examine witnesses; his role is simply to advise the chapter.
- C. Right to be informed of the outcome of the hearing upon request.
- D. Right to not have his past behavioral history discussed during the hearing. Questions of relevancy shall be determined by the IFC executive Vice-President.

Section 3. *Expected Behavior at Hearings and Mediations*

- A. *Student must act in a civil manner.* Student may not yell, threaten, curse, slam doors, pound tables or chairs, disrupt the conduct process, throw items, or act in any other uncivil manner during any part of the conduct process. Students may express anger or frustration in appropriate manners but students do not have the right to act in an abusive or uncivil manner toward conduct officers.
- B. *Honesty.* If students choose to make a verbal or written or electronic statement during their conduct process, their statements must be honest, complete, and forthright. Students who make false, dishonest, or misleading statements will be subject to further conduct review.
- C. *All students have the responsibility to appear on time for their hearing.* Students who do not appear for their hearing will forfeit the right of appeal. Employment, academic, or social obligations are not valid reasons for rescheduling a hearing.
- D. *Students have the responsibility to complete assigned sanctions in a thorough manner and submit the sanction assignments on time.* Conduct sanctions which are not fully completed and/or appropriately completed by the deadline prescribed in the hearing outcome letter will result in an immediate referral to IFC Judicial Board for further review and/or sanctioning.

APPENDIX A

Mediation Protocol

1. Mediator's Opening Statement.

The opening statement is the verbal opening of the mediation by the mediator. This is the mediator's first contact in person with the parties together. It is, therefore, an important part of the mediation process. Aside from setting the ground rules for proceeding, the mediator will set the tone for the mediation as well as have an opportunity to gain or lose credibility as a capable neutral.

Because of the importance of the opening statement, it is strongly advised that the mediator be prepared with what he/she will say. Many mediators, once they have developed a good opening statement, always use that same opening statement. Good speaking skills are helpful for the mediator, especially in the opening statement. An inexperienced mediator should practice the opening statement until he/she is thoroughly familiar with it. This will not only make the mediator more comfortable in the mediation's opening minutes, it will allow the mediator to have good eye contact with the parties, thus putting them at ease and increasing their confidence in the mediator. A sample opening statement is provided in Appendix 4.

The first thing a mediator should do in the opening statement is to identify himself or herself to the parties. This introduction not only includes the mediator's identity, but also the qualifications of the mediator. The mediator should explain that he/she is qualified to be the neutral because 1) he/she has been duly appointed to be the mediator; and 2) he/she has been adequately trained in mediation. Of course, any prior experience in mediations should be highlighted.

Another important part of the introduction is for the mediator to acknowledge any acquaintances associated with the parties to the mediation or their representatives and assert his or her neutrality and impartiality in the process. If the mediator is also an Air Force employee or a union official, it is also important for parties to know the mediator's unit of assignment or union affiliation.*35 Disclosure of such information ensures that the parties' consent to the mediator's continued involvement is fully informed, and increases the parties' confidence in the mediator.

The mediator should next confirm receipt of the mediator's letter and agreement to mediate with the parties in which they agreed to mediate the dispute.*36 This confirmation emphasizes to the parties that the other side is there voluntarily and is prepared to attempt to resolve the dispute in good faith. Furthermore, the mediator may want to use the agreement to mediate as a tool later in the process to move beyond impasse. Getting each party to acknowledge their agreement and understanding of the letter makes its use later in the process easier.*37

It is imperative that during the opening statement the mediator establishes the ground rules for the mediation. This includes not only explaining the process, but also laying out the mediator's expectations and rules for the parties.*38 Of particular importance is the need for the mediator to review the confidentiality of the process. While confidentiality should already have been addressed during case intake, the mediator must ensure the parties understand what can and

cannot be held in confidence. Finally, the mediator should congratulate the parties for being willing to attempt to settle their dispute and assert a note of confidence in the process of which they are about to undergo.

2. Parties' Opening Statements.

Each party has the opportunity to present an opening statement. Usually the moving party, the Complainant, goes first. The mediator should allow the party to fully explain his or her position. This may be the first time that each party hears the other party's view on the issues. Because of this, the mediator should allow both parties to fully explain their position even if they become emotional. Furthermore, venting by the parties can be the first step in putting the dispute behind them and moving toward resolution.

It is also very important that the mediator listen very closely during the opening statements, paying careful attention to the issues as articulated by the parties. Many times the issues defined by the parties in the opening statement are different from those articulated in the complaint.

Mediators can also learn from a party's opening statement the hidden concerns or interests of the parties and sometimes can even discover the real source of the problem. This type of information is invaluable later when getting the parties to focus on interests instead of positions.*39

The opening statement of the parties can also allow mediators to note how far apart the parties are at the onset. This will give the mediator an initial view of the challenge ahead as well as assist him/her in determining when and if caucuses should be utilized. Of course, the attitudes of the parties and the ability of each party to articulate their positions will also be evident. This information will assist the mediator in determining who may be in need of caucuses more often and how much the mediator will need to assist the parties in understanding the other party's views on the issues.

3. Joint Discussion.

Joint discussion is the first opportunity for the parties and the mediator to interact. The mediator should start the joint discussion by summarizing the parties' opening statements. Clarifying questions should then be asked of each party so the issues can be properly identified. Moreover, this is an opportunity to begin assisting the parties in focusing less on their positions and more on their interests. Careful observation is required, though. Caucus may be the more appropriate forum for more sensitive parties or sensitive interests.

The mediator may allow or encourage the parties to ask questions and discuss the issues more with each other rather than the mediator. The amount and speed of the mediator's withdrawal from the conversation is case-specific and depends on how the parties are able to interact, and whether the emotions or the abilities of the parties make unassisted, face-to-face discussion possible or effective. If the parties are unable to communicate with each other, the mediator should continue to serve as the buffer between the two.

If joint discussion breaks down, or issues arise which are sensitive or which might be confidential, the joint discussion should be suspended and the mediator should move to a caucus. However involved the mediator may be in the joint discussions, it is important that the mediator use active listening skills and take good notes for use in caucus or later joint discussions.

4. Caucus.

A. Caucus with the Parties.

A caucus is a private meeting between the mediator and one party. Virtually everything discussed in caucus, which was not previously disclosed either before or during the mediation, IS CONFIDENTIAL. Unless the party explicitly grants the mediator permission to discuss some or all of what is discussed in caucus, the mediator must not reveal the information to the other party either in caucus or joint discussion. When the mediator holds caucuses with a party, the mediator should explain the rules on confidentiality before starting the sessions. To avoid confusion, the mediator should verify, at the end of each private session, what information the party wishes to keep confidential and what information can be disclosed to the other party. A party is free to reveal its own communications offered in caucus.*40

Caucuses may be called when the parties need to cool off and refocus, when confidential information needs to be discussed in a protected setting, when options for settlement need to be explored in a secure setting, or when a party needs to save face in front of the other party.

In caucus a mediator can accomplish a number of things beyond getting additional information that the party may not feel comfortable discussing in open session, such as disclosure of possible compromises. While the mediator cannot disclose this information without the express permission of the party, the information may nevertheless be invaluable in assisting the parties to recognize interests as opposed to positions, thus moving them toward settlement. Before leaving the caucus, the mediator should get a clear understanding from each party as to what can and cannot be disclosed to the other party.

In caucus, the mediator also has an opportunity to cultivate a relationship with each party. While it is imperative that the mediator maintains impartiality, it is almost as important that the party has faith in the mediator as well as the process as a whole.

One of the most important tools that can be employed in a caucus is the reality check. While this can be an incredibly powerful tool in getting a party to a reasonable outlook, it can be the most difficult to execute correctly. A discussion of reality checking can be found in the Dynamics section below in Getting Past Impasse. Tips for caucus can be found in Appendix 7.

B. Mediator's Caucus.

Sometimes a caucus is necessary, not because a party needs it, but because the mediator needs it. This is an acceptable reason to call for a caucus. The mediator is responsible for being the calmest, most controlled person in the mediation. If the circumstances of the mediation make meeting this responsibility difficult, the mediator should take a mediator's caucus. In other circumstances, issues will arise during the mediation where the mediator will need guidance from

the ADR Champion, SJA, or SAF/GCD. This is another situation where a mediator's caucus is appropriate. Neither party needs to know the caucus is for the mediator.

5. Closure.

At some point, after using joint sessions and caucuses, the mediation process will come to a close. This can occur in one of two ways: 1) without agreement/settlement, or 2) with agreement/settlement, either partial*41 or in full.

When settlement no longer seems possible, i.e., there is no more movement by the parties on any of the issues and the parties and the mediator have seemingly exhausted all available mediation tools, or one or both parties have removed themselves from the mediation, the mediation should end. The mediator should again congratulate the parties for availing themselves of the process and encourage them by recounting any progress that was made during the mediation. The mediator should ensure the parties know how to contact the mediator (or the ADR Champion) in the future because, while the mediation has ended, the mediation process is not necessarily over, and either one or both parties may reconsider their decision to stop. Many times the parties may be more willing to remain in the process or may be more amenable to settlement after a period of time has passed. Appropriate follow-up by the mediator or ADR Champion may result in the parties back at the table and an eventual settlement.

In most cases the mediation session will close with at least some of the issues resolved. Once a specific issue has a specific solution proposed and the mediator works through the proposal with the parties to see if it is indeed satisfactory to them, it should be reduced to writing by the mediator, reviewed, and then signed by the parties. A more complete discussion of settlements follows.

*35 To preserve the appearance of impartiality, a mediator who is also an Air Force employee should never be assigned to the same functional organizational unit as either party.

*36 The agreement to mediate is a good source for information to be included in the opening statement. A sample agreement to mediate is found in Appendix 3.

*37 See the section on impasse for more on this use of the agreement.

*38 Some sample rules are included in Appendix 4.

*39 See Part 2, Interest-Based Negotiation

*40 See Appendix 26, 5 USC § 574(b)(1).

*41 Partial settlements, though legally acceptable, are nevertheless not encouraged. One of the major benefits of ADR is to resolve the entire dispute with finality and avoid further litigation. Partial settlements frustrate that benefit.

Source: Air Force Alternative Dispute Resolution Program: Fact Sheets, Mediation Process
<http://www.adr.af.mil/factsheets/factsheet.asp?id=7362>

APPENDIX B
Conduct Board Hearing Protocol

1. The hearing board is called to order, and the IFC Executive Vice President briefly summarizes the case to be heard. Reports and other information is reviewed at this time.
2. The alleged violations and some potential questions are discussed among the board members.
3. The chapter president(s) and at-large representative(s) of the organization(s) named in the Incident Report are then brought into the room along with their chapter advisor, if so desired.
4. The chair should introduce himself, the advisor, and other members of the Board. The chair should briefly explain the purpose of the hearing.
5. The Incident Report should be read and the relevant policies reviewed.
6. The chair should ask the student to present his case, and/or explain the incident.
7. Board members, after being recognized by the chair, may question the student.
8. After the questioning of the student and any witnesses is complete, the Board enters into deliberations and asks non-Board members to leave the room.
9. The Board then discusses the case and arrives at a decision of responsibility in the absence of the student.
10. The student is asked to return to the hearing room and is informed of the Board's decision regarding responsibility for this incident.
11. If the organization is found responsible for violating policy, the student is asked to leave the room and the Board is presented with any further information of prior incidents. The Board makes a determination of sanctions.
12. The student is called back in and informed of sanctions. At this time the student is informed of the appeal procedures, and the right to appeal the decision.
13. The Board evaluates the hearing and the chair completes the Hearing Board Record.
14. If there are no further comments, the hearing is adjourned (or the next case is heard).

Source: USD Greek Discipline Board Hearing Protocol

APPENDIX C
IFC Judicial Board Procedures

Bellow is the Judicial Review Board Hearing Timeline and can be adapted to serve every different hearing. The IFC Executive Vice President may use these guidelines as suggestions.



University of California, Irvine
Student Judicial Affairs
Office of the Dean of Students

• Judicial Review Board • Hearing Timeline •

8 minutes	Opening Remarks by the Chair of the Judicial Review Board <ol style="list-style-type: none">1. Introduce members of Board and all others present;2. Should state that the hearing will be conducted in accordance with Section 103.11a of the <i>“University of California Policies Applying to Campus Activities, Organizations, and Students”</i>;3. Announce that an audiotape will be made of the proceedings;4. State that documents have been submitted in advance by the parties;5. Define the issues to which the hearing will be limited;6. State that the Chair shall rule on all questions of procedure; and7. Should remind all participants that they are expected to tell the truth.
5 minutes	Complainant Opening Statement (May be limited by time if necessary)
5 minutes	Respondent Opening Statement (May be limited by time if necessary)
30 minutes	Order of Evidence – Complainant <ol style="list-style-type: none">1. Complainant<ol style="list-style-type: none">a. Complainant presents caseb. Questions from Respondentc. Questions from members of the Hearing Panel2. Complainant Witnesses<ol style="list-style-type: none">a. Questions from Complainantb. Allows for cross examination of witness by Respondentc. Questions from members of the Hearing Panel3. If the case involves an alleged sexual assault, allow for impact statement to be made.4. Questions from members of the Hearing Panel for the Complainant
30 minutes	Order of Evidence – Respondent <ol style="list-style-type: none">1. Respondent

- a. Respondent presents case
 - b. Questions from Complainant
 - c. Questions from members of the Hearing Panel
2. Respondent Witnesses
 - a. Questions from Respondent
 - b. Allows for cross examination of witness by Complainant
 - c. Questions from members of the Hearing Panel
 3. If the case involves an alleged sexual assault, allow for impact statement to be made.
 4. Questions from members of the Hearing Panel for the Respondent
- 5 minutes **Complainant Closing Statement**
(May be limited by time if necessary)
- 5 minutes **Respondent Closing Statement**
(May be limited by time if necessary)
- 2 minutes **Conclusion of Hearing by Chair**
 1. Tape Recording is ended
 2. Complainant and Respondent notified by the Chair of the projected date for written report to be sent to the Dean of Students
 3. Complainant and Respondent excused from hearing room by the Chair
- 40 minutes **Deliberation of Judicial Review Board**
 1. The Board should meet privately for the purpose of arriving at a decision;
 2. Discuss and list findings of fact; (all findings of fact must be supported by a preponderance of the evidence)
 3. Conclusions reached;
 4. Make a final recommendation on sanction(s) to be imposed
- 50 minutes **Written Report of Findings, Conclusions, and Recommendation of Judicial Review Board**
 1. Outline of Written Report should address:
 - a. Members present;
 - b. Date/time of hearing;
 - c. Location of hearing;
 - d. Description of case being heard;
 - e. A brief summary of the testimony received, including the position of the parties;
 - f. Findings of fact, based on the testimony;
 - g. Conclusions (a determination as to whether initial sanction should be upheld or modified;
 - h. Recommendation(s) of sanction as appropriate.
 2. Report formally submitted to the Office of the Dean of Students
- 180 minutes TOTAL

