Student Conduct Investigation and Adjudication: Part Two

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Kelly Mihalik
Title IX Investigators

Title IX Summit
April 26, 2018

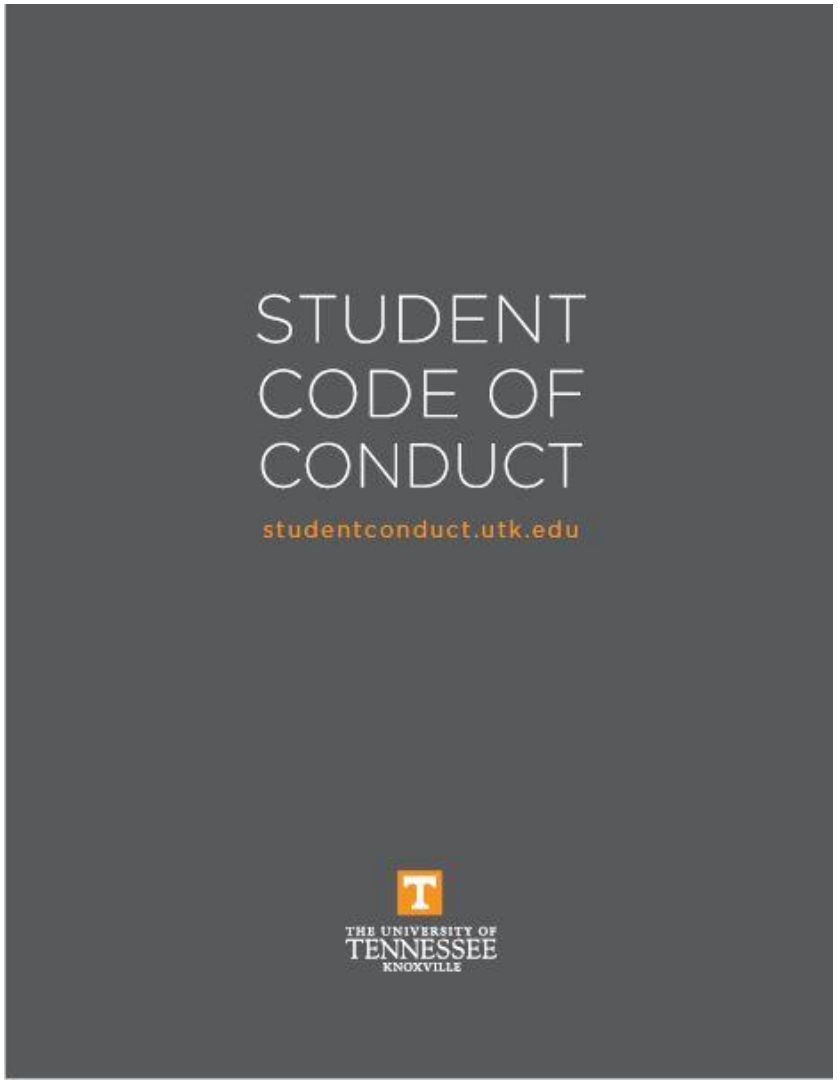
The University of Tennessee
Knoxville

Presentation Overview

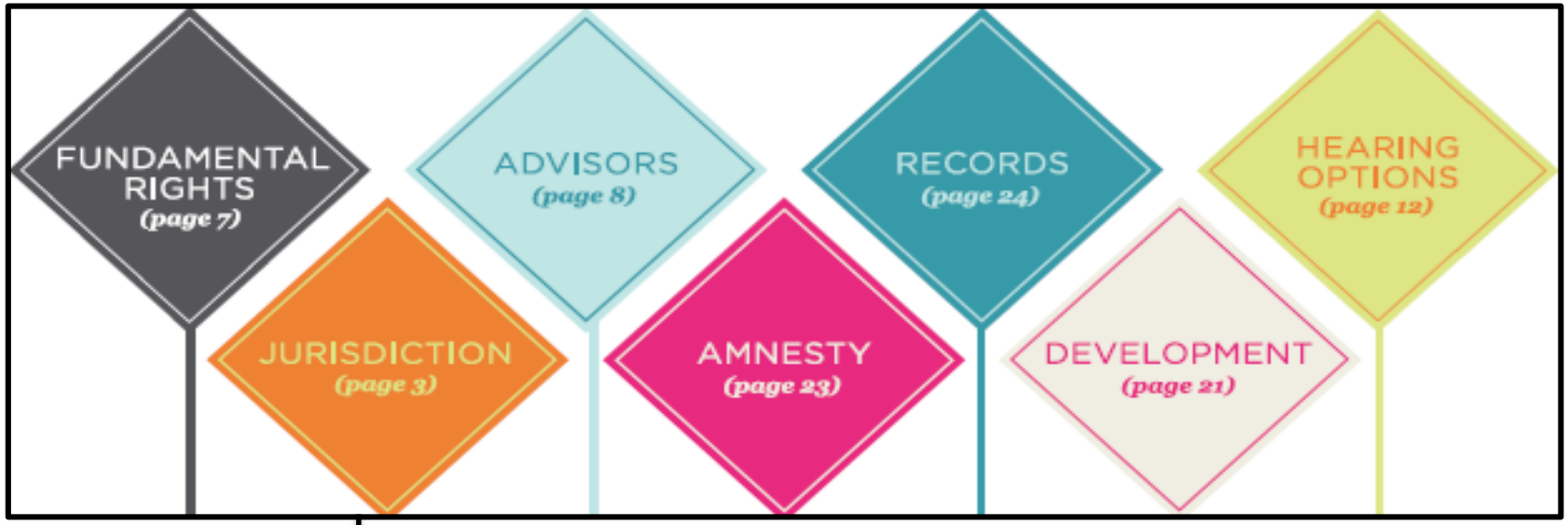
- Review of Student Conduct at UTK
- Title IX Policy & Investigations
- Student Conduct by the Numbers
- Adjudication Process
- Developing a Philosophy on Sanctioning
- Amnesty

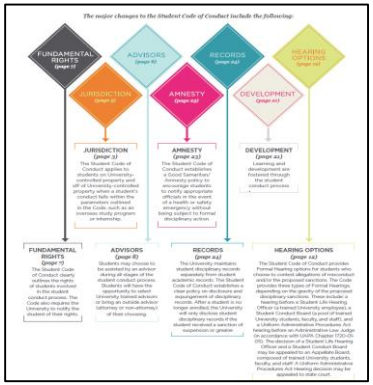
STUDENT CODE OF CONDUCT

studentconduct.utk.edu



Main Components of Code





Standards of Conduct

1. Academic Dishonesty
2. False information
3. Misuse of Information in Connection with University Investigation or Hearing
4. Misconduct Relating to Records or Identification
5. Harm to Others
6. Harassment
7. Sexual Misconduct, Relationship Violence, Stalking, and/or Retaliation
8. Invasion of Privacy
9. Private or Public Property
10. Hazing
11. Disorderly Conduct
12. Lewd, Indecent, or Obscene Behavior
13. Imminent Lawless Action
14. Fire Safety
15. University Keys, Access Cards, and Identification
16. Information Technology
17. Weapons
18. Alcohol Related Conduct – University Property or University Activities
19. Alcohol Related Conduct Prohibited by Law
20. Providing Alcohol to Underage Person
21. Drugs and Drug Paraphernalia
22. Failure to Fulfill a University Financial Obligation
23. Failure to Respond, Comply, or Identify
24. Failure to Appear
25. Violation of Interim Administrative Actions, Disciplinary Sanctions, or Conditions of Re-Enrollment
26. Obstruction or Disruption of University Activity
27. Violation of University Policy or Rule
28. Act Prohibited by Law
29. Attempted Violation; Accessory to Violation
30. Retaliation

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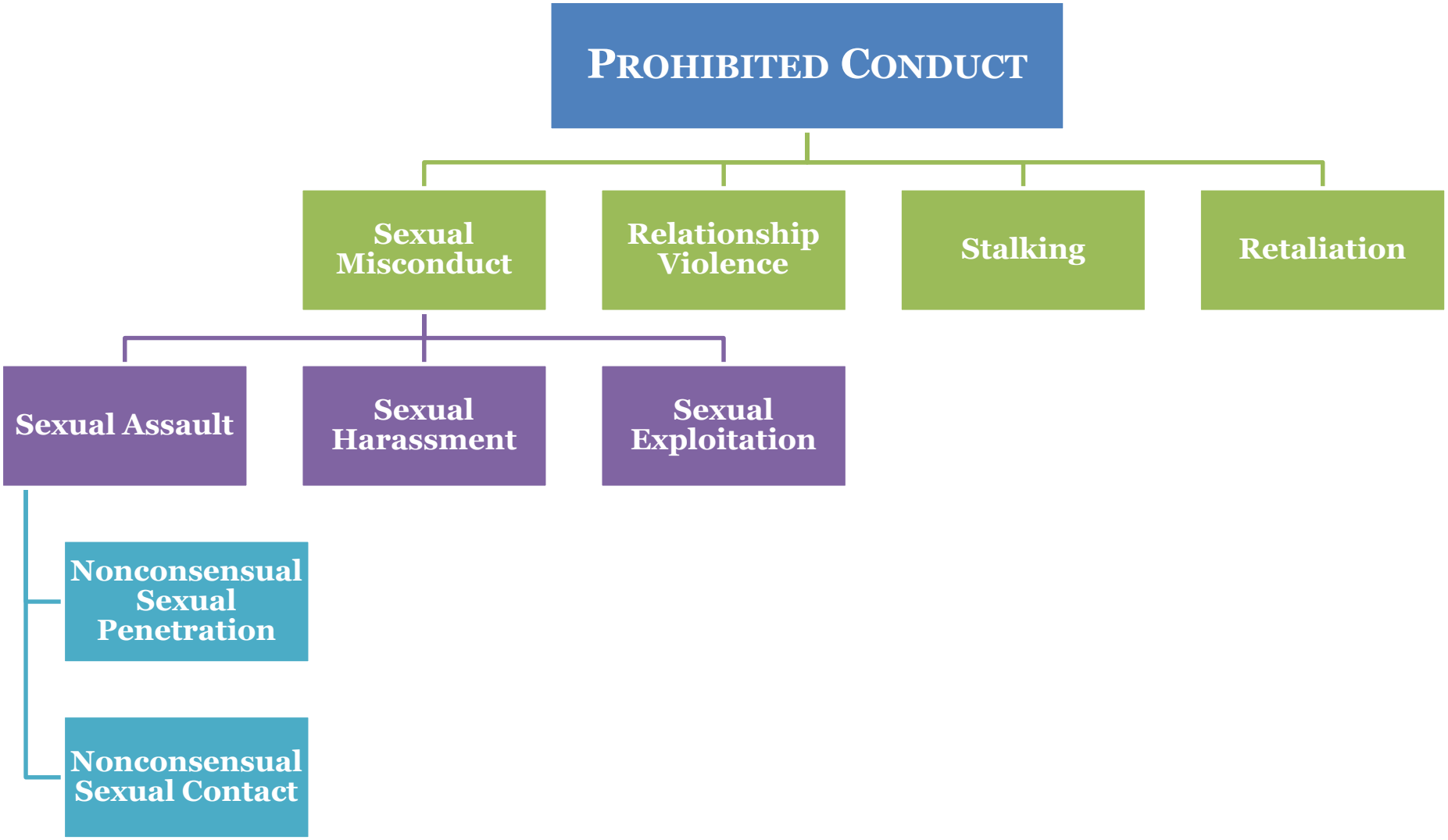
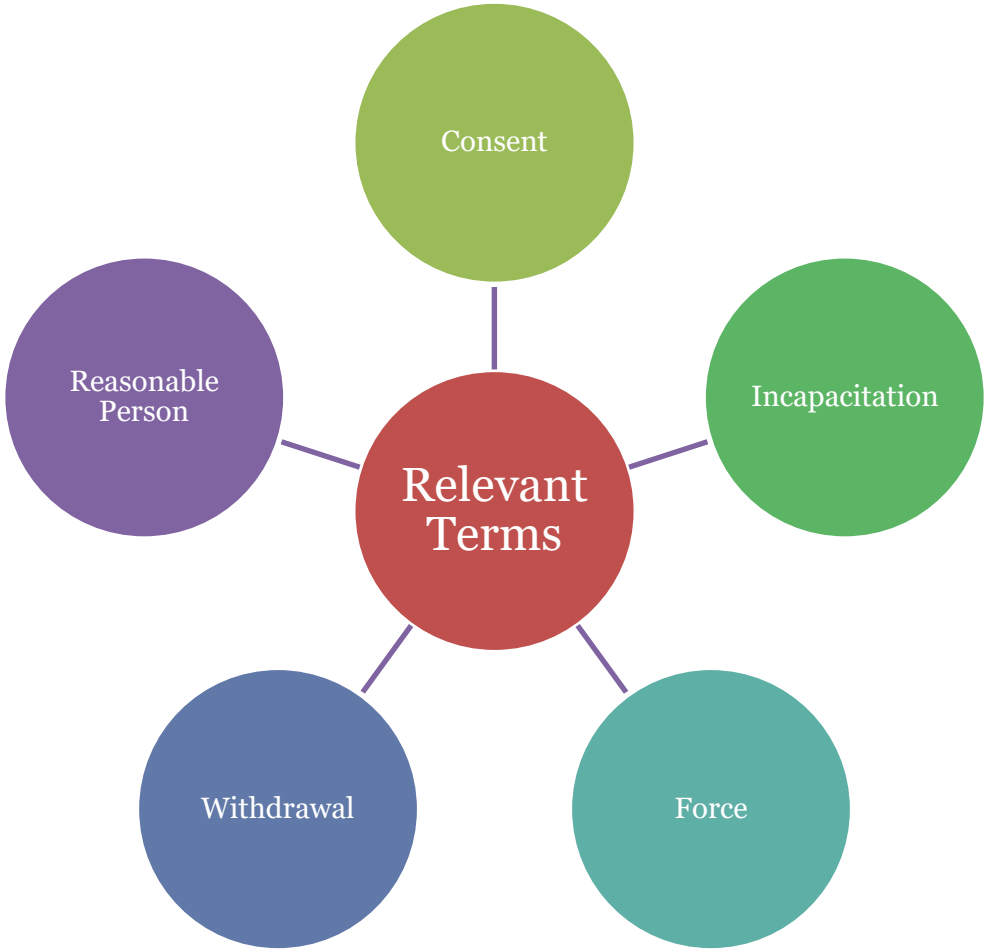
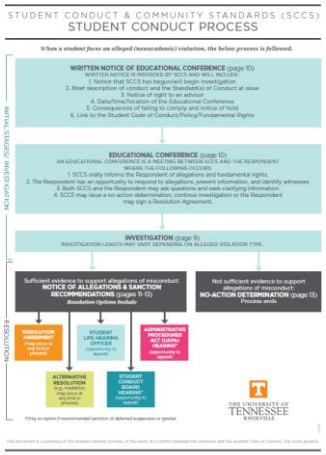
Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation


PROHIBITED CONDUCT
Sexual Misconduct
Relationship Violence
Stalking
Retaliation
Sexual Assault
Sexual Harassment
Sexual Exploitation
Nonconsensual Sexual Penetration
Nonconsensual Sexual Contact

Related Policy Definitions



Investigation Overview



STUDENT CONDUCT & COMMUNITY STANDARDS (SCCS)

STUDENT CONDUCT PROCESS

When a student faces an alleged (nonacademic) violation, the below process is followed.

INITIAL STAGES/ INVESTIGATION

WRITTEN NOTICE OF EDUCATIONAL CONFERENCE (page 10)

WRITTEN NOTICE IS PROVIDED BY SCCS AND WILL INCLUDE:

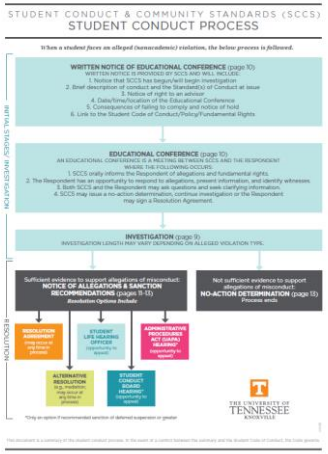
1. Notice that SCCS has begun/will begin investigation
2. Brief description of conduct and the Standard(s) of Conduct at issue
3. Notice of right to an advisor
4. Date/time/location of the Educational Conference
5. Consequences of failing to comply and notice of hold
6. Link to the Student Code of Conduct/Policy/Fundamental Rights

EDUCATIONAL CONFERENCE (page 10)

AN EDUCATIONAL CONFERENCE IS A MEETING BETWEEN SCCS AND THE RESPONDENT WHERE THE FOLLOWING OCCURS:

1. SCCS orally informs the Respondent of allegations and fundamental rights.
2. The Respondent has an opportunity to respond to allegations, present information, and identify witnesses.
3. Both SCCS and the Respondent may ask questions and seek clarifying information.
4. SCCS may issue a no-action determination, continue investigation or the Respondent may sign a Resolution Agreement.

Investigation Overview



INVESTIGATION (page 9)
INVESTIGATION LENGTH MAY VARY DEPENDING ON ALLEGED VIOLATION TYPE.

Sufficient evidence to support allegations of misconduct:
NOTICE OF ALLEGATIONS & SANCTION RECOMMENDATIONS (pages 11-13)
Resolution Options Include

Not sufficient evidence to support allegations of misconduct:
NO-ACTION DETERMINATION (page 13)
Process ends

RESOLUTION

- **RESOLUTION AGREEMENT** (may occur at any time in process)
- **STUDENT LIFE HEARING OFFICER** (opportunity to appeal)
- **ADMINISTRATIVE PROCEDURES ACT (UAPA) HEARING*** (opportunity to appeal)
- **ALTERNATIVE RESOLUTION** (e.g., mediation; may occur at any time in process)
- **STUDENT CONDUCT BOARD HEARING*** (opportunity to appeal)

*Only an option if recommended sanction of deferred suspension or greater

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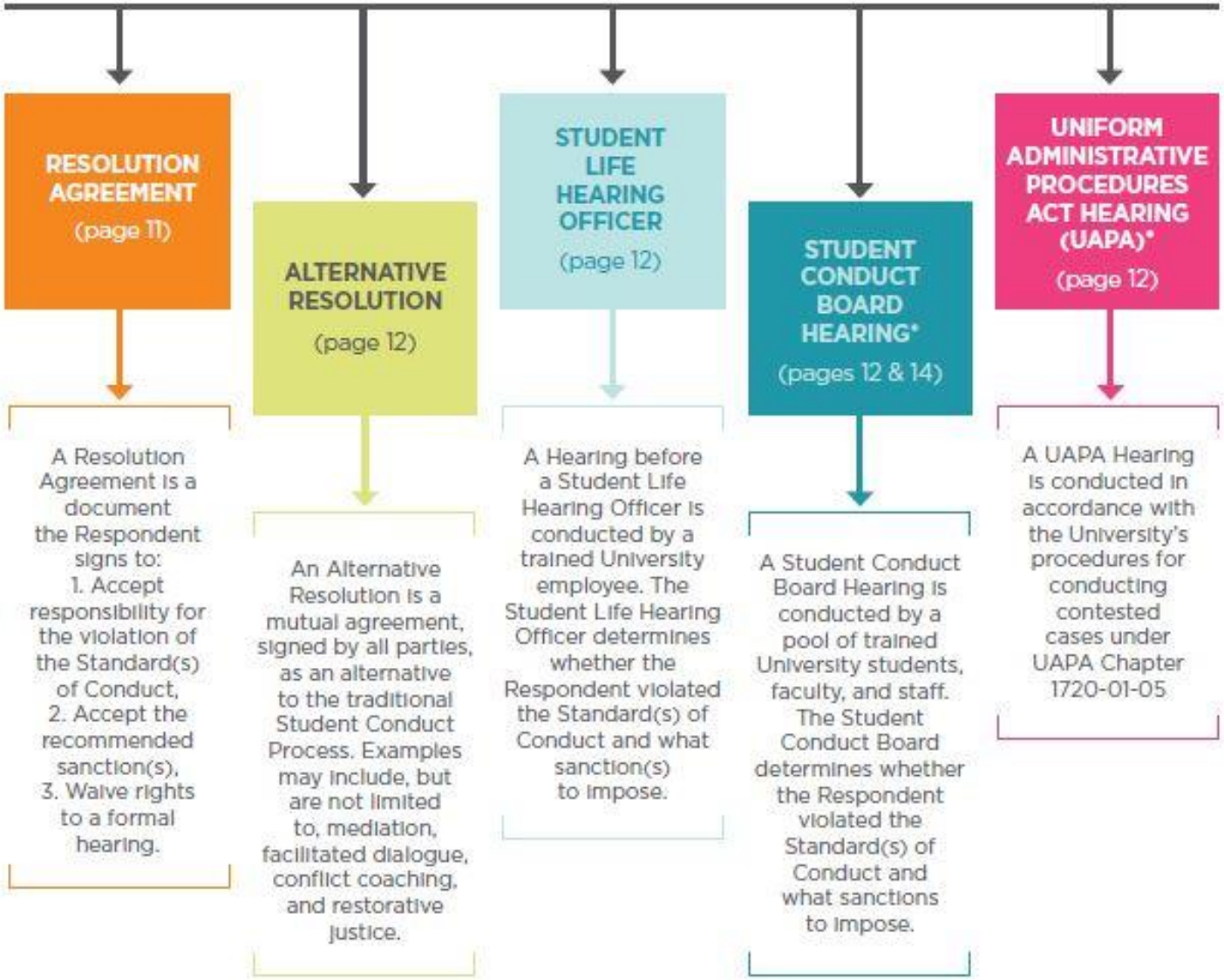
This document is a summary of the student conduct process. In the event of a conflict between the summary and the Student Code of Conduct, the Code governs.

STUDENT CONDUCT & COMMUNITY STANDARDS (SCCS)

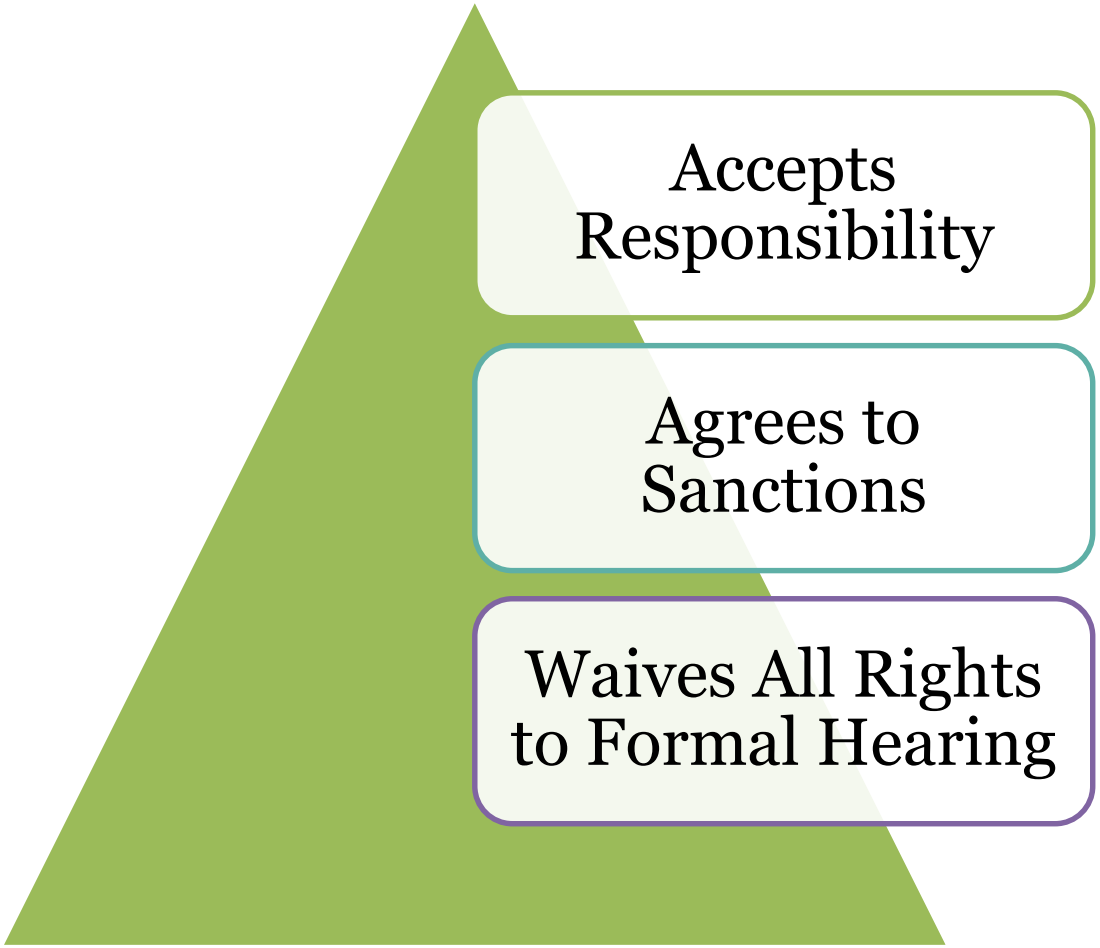
RESOLUTION OPTIONS



Kahoot

- Go to kahoot.it
- Enter Game Pin
- Enter Nickname

Resolution Agreement



Alternative Resolution

Mutual agreement of parties

Unavailable in cases of Sexual Assault

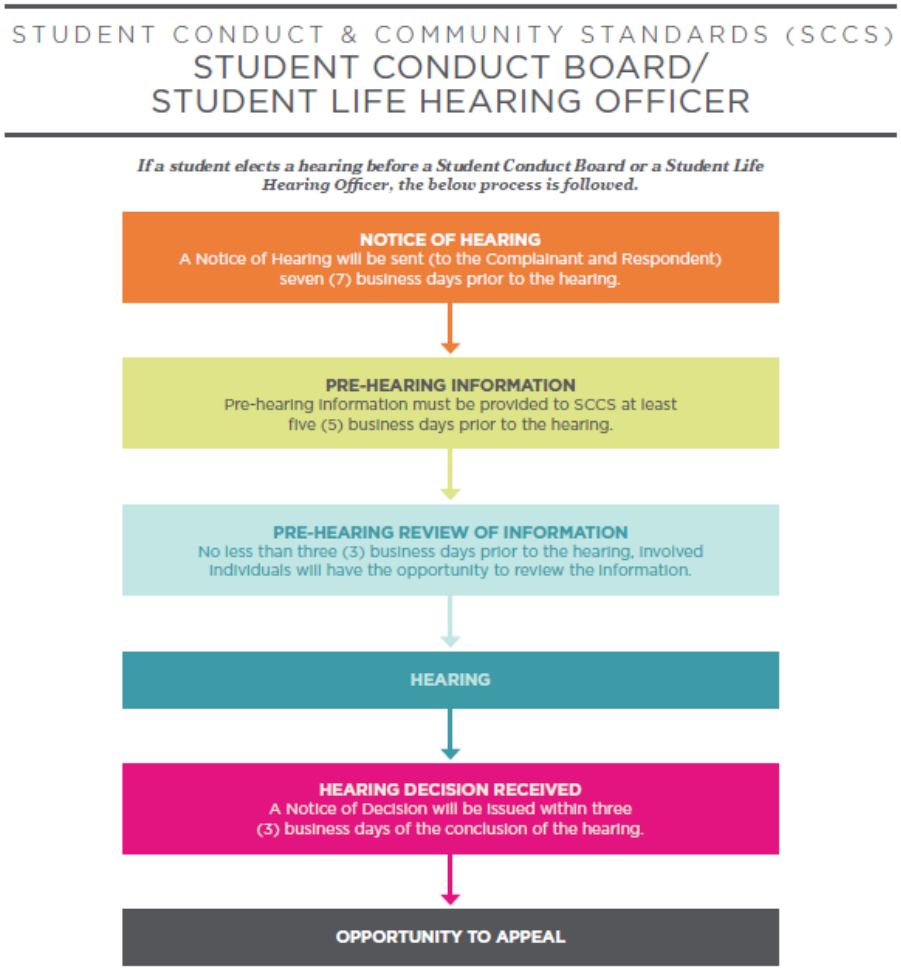
SCCS Hearings

Student Life Hearing Officer

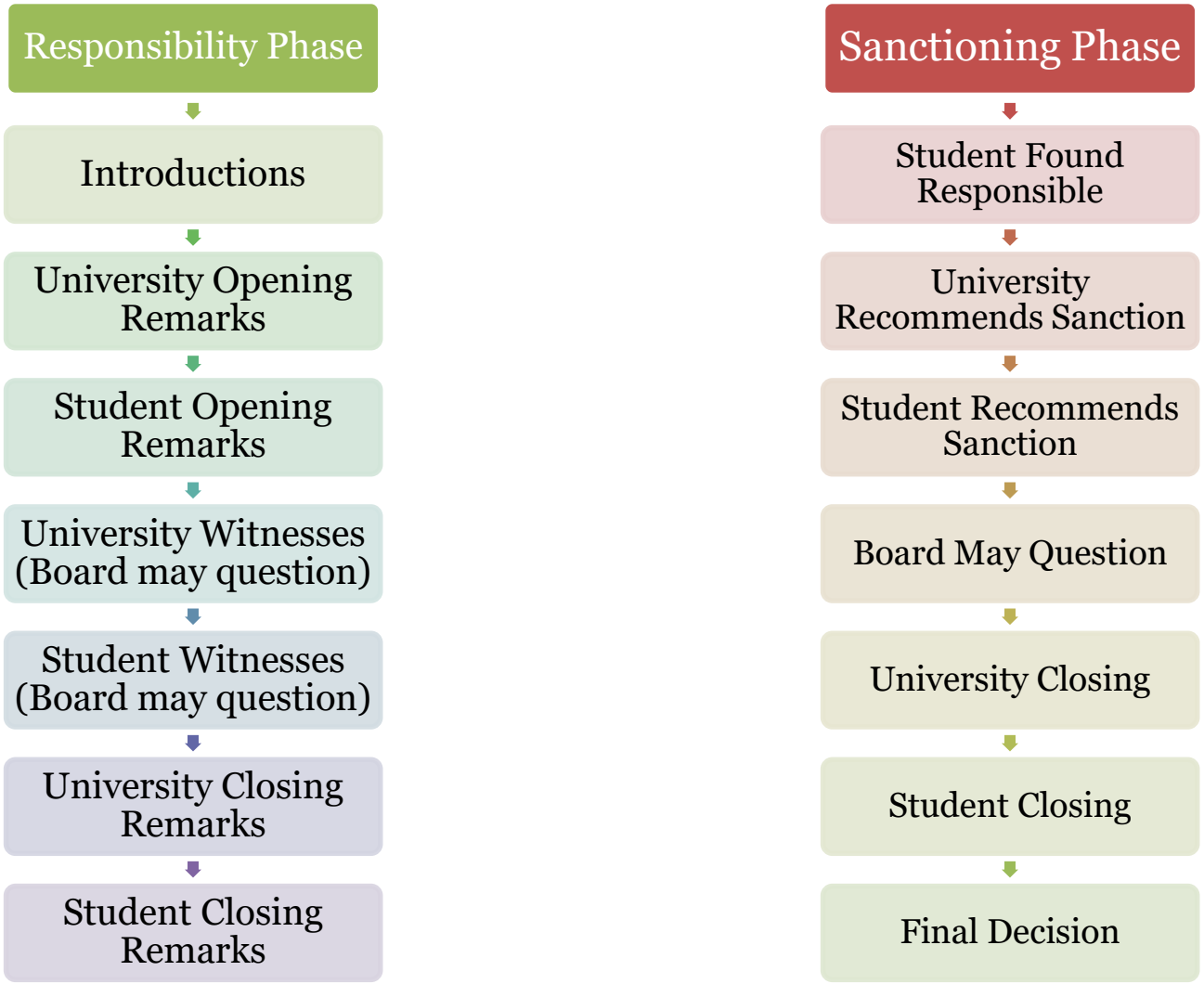
- 1 Trained Faculty/Staff member
- Student may challenge SLHO
- An option for all recommended charges and/or sanctions

Student Conduct Hearing Board

- 5 -7 Faculty, Staff, and/or Students + 1 non-voting Chair
- Equal to majority student representation
- Only an option if the recommended sanction is Deferred Suspension or greater



SCCS Hearings



Appellate Board

Composition

- Pool of 3 trained University students, faculty, and staff
- One non-voting chair

Grounds for Appeal

- Clearly Unreasonable Sanction
- Material Procedural Error
- New Information
- Personal Prejudice or Bias of a SCB Member

Potential Decisions of Appellate Board

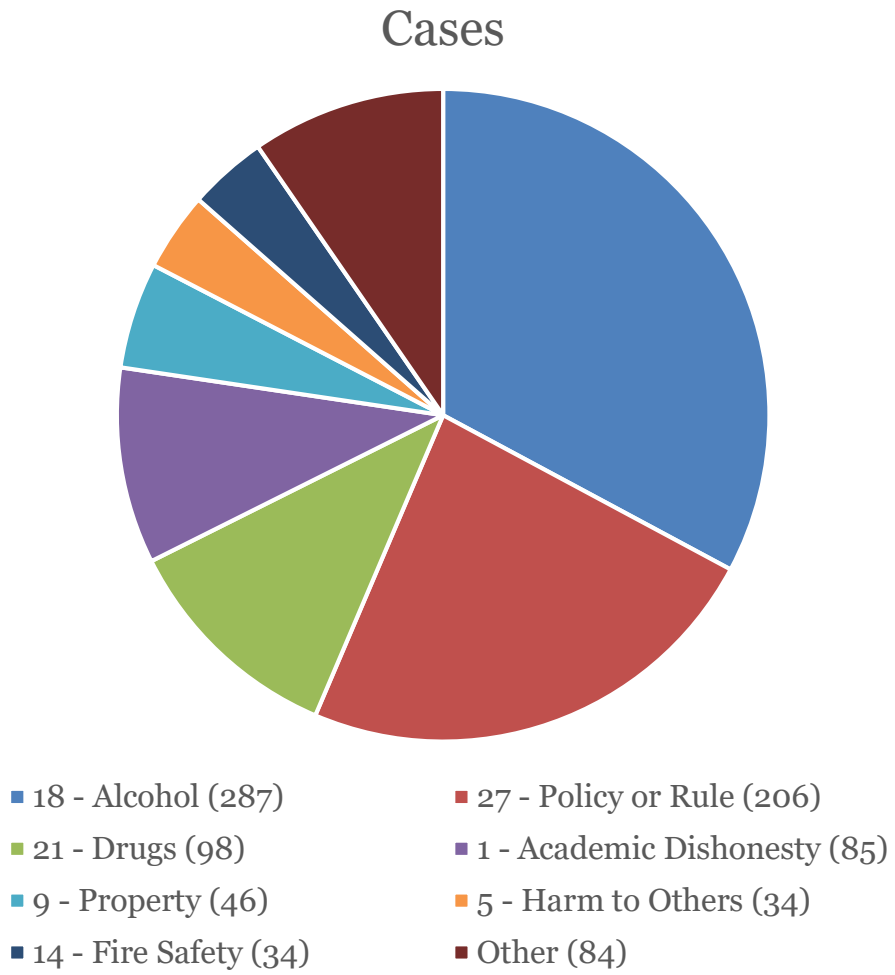
Affirm Board Decision	• Affirm decision of board (responsibility and sanction)
Unreasonable Sanction	• If sanction found to be clearly unreasonable, Appellate Board may modify the sanctions by making greater or lesser.
Material Procedural Error	• If found, Board shall remand case for a new hearing to be conducted by a new SCB. • Should recommend how to correct procedural error.
New Information	• If found, remand the case for the limited purpose of hearing the new information and reconsidering the decision.
Personal Prejudice or Bias	• If found, remand case for a new hearing.

Uniform Administrative Procedures Act Hearing

- Hearing before an administrative law judge
- Respondent represented by personal counsel
- University represented by General Counsel
- Generally longer resolution timeline

Process Numbers

Fall 2017



OVERVIEW

- 773 Total Cases
- 874 Alleged Violations & Findings
- 4 Formal Hearings (Student Conduct Board)

FINDINGS

Responsible	**706**
No Charges	145
Alternative Resolution	1
Pending	22
TOTAL	874

*Other includes all standards not individually listed. Each standard listed in Other had less than 2% of the 874 Alleged Violations/Findings

Student Conduct & Community Standards' Mission Statement

The Office of Student Conduct & Community Standards develops students by **educating and holding students and student organizations accountable to the Student Code of Conduct**. We value a student's right to a fair, respectful process, and the responsibility each one has to be an **accountable** member of the University Community. We combine fair and responsible discipline with the opportunity to learn from personal challenges. Striving to support the larger mission of the University, we work collaboratively with students and the campus community to encourage a higher level of decision making in our students for all of their future choices.

Sanctioning Purposes

- Educate students about appropriate conduct and community expectations
- To promote personal and professional development
- To discourage students from violating the Standards of Conduct
- To protect members of the University community

Sanctions

Administrative Sanctions

- Warning
- Disciplinary Probation
- Deferred Suspension
- Suspension
- Expulsion
- Withholding of Degree
- Revocation of Degree

Student Organizations

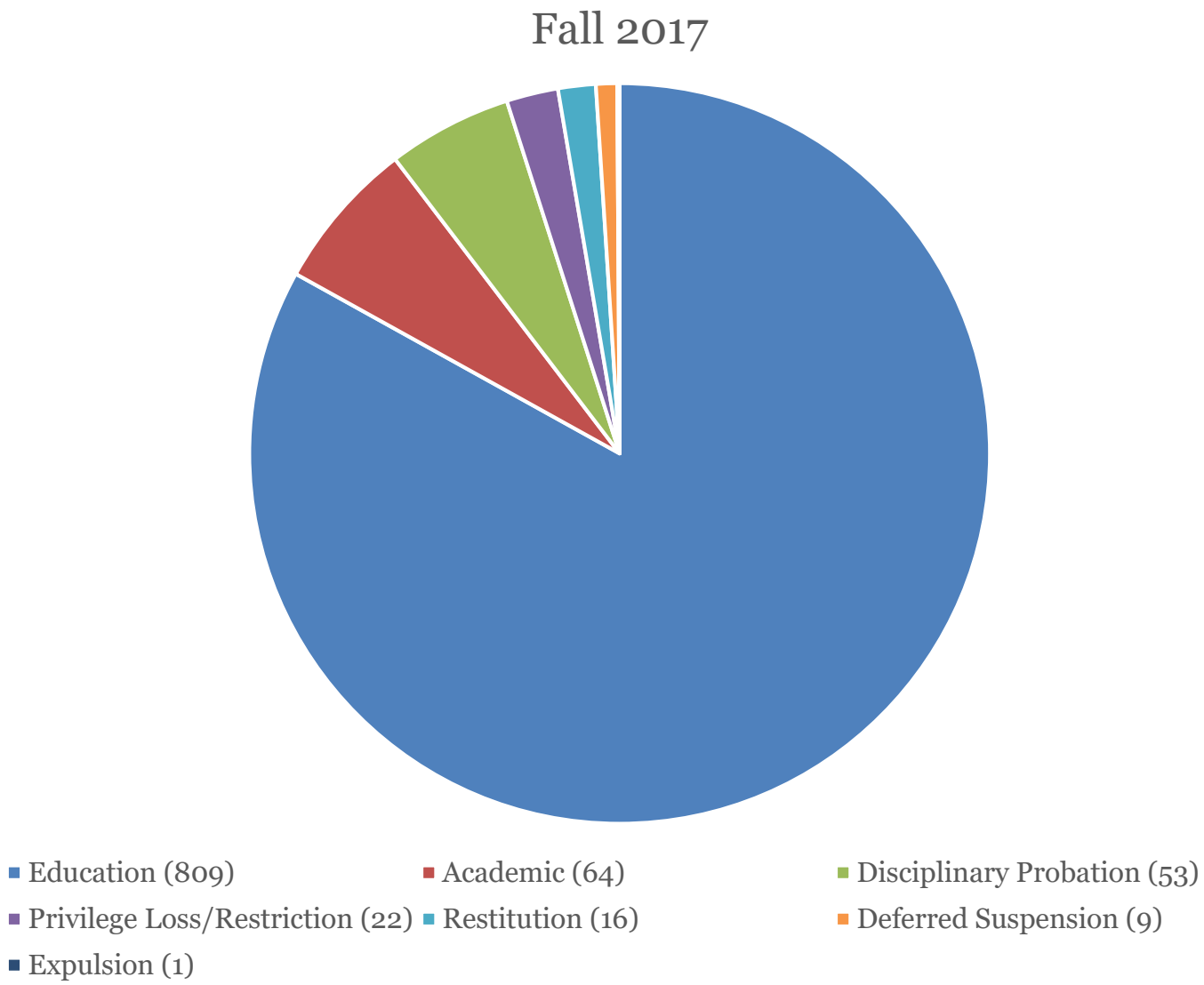
- Disciplinary Probation
- Social Probation
- Revocation or Suspension of University Registration

* Underlined sanctions create a permanent record

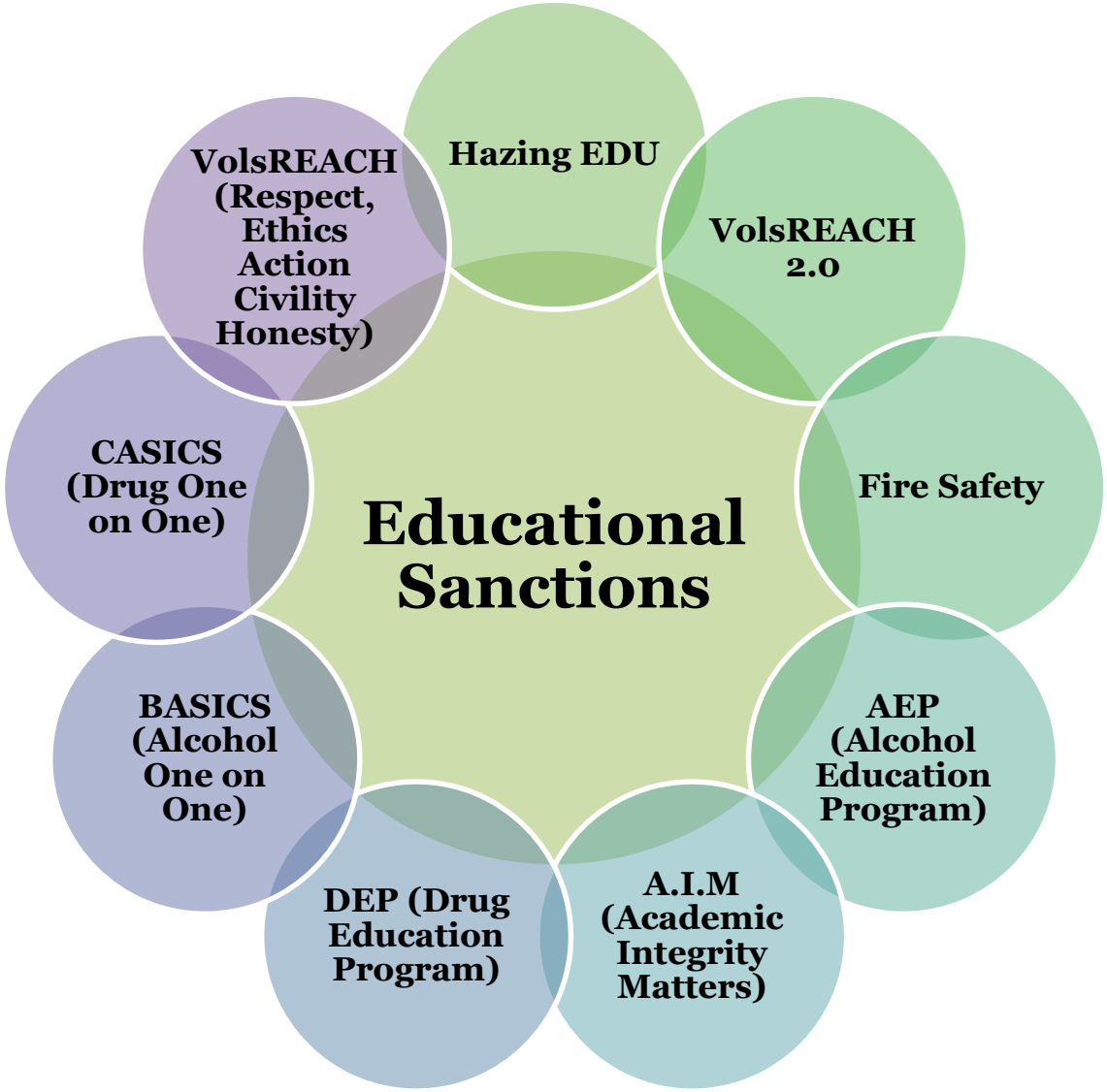
Developmental Sanctions

- Educational Activities
- Restitution for Loss, Damage, and/or Injury
- Supervised Work/Service
- Loss or Restriction of Privileges
- University Housing Reassignment or Removal
- Mandatory Education

Sanctions

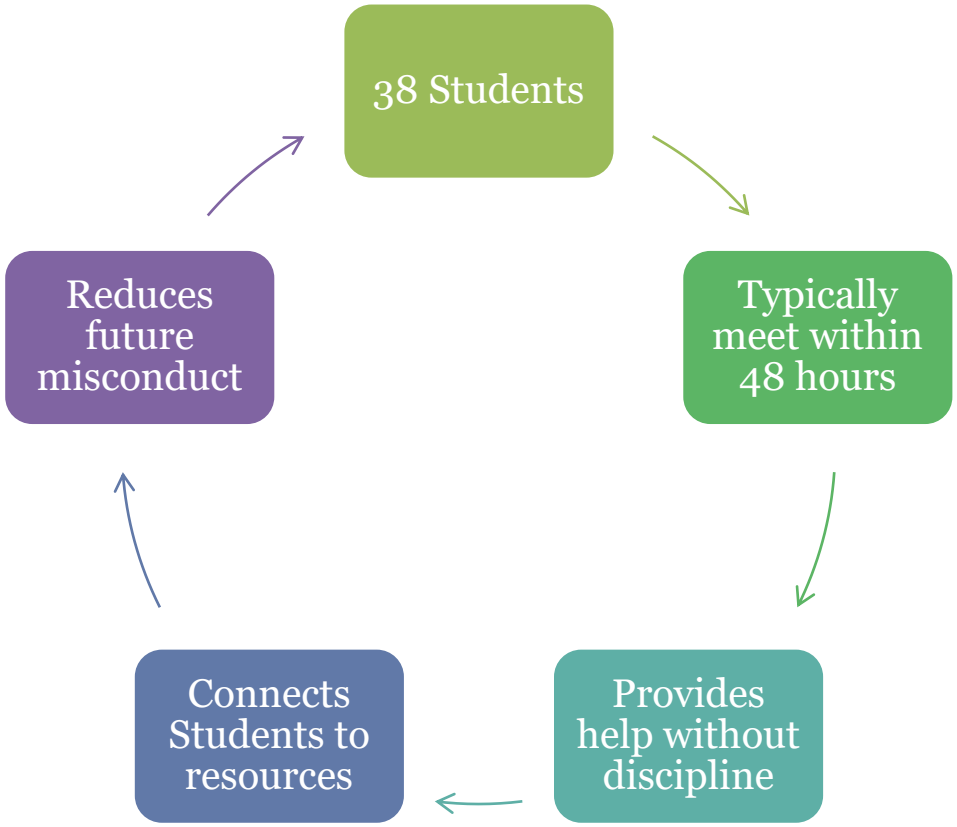

Fall 2017
Education (809)
Academic (64)
Disciplinary Probation (53)
Privilege Loss/Restriction (22)
Restitution (16)
Deferred Suspension (9)
Expulsion (1)

Educational Sanctions



Amnesty

Fall 2017



STUDENT AMNESTY CASES BY TYPE

Type	Total
Alcohol	31
Drug	4
Both Alcohol and Drug	3
	38

Questions?