

Guide for Greek Organizational Advisors



FIRE

Foundation for Individual
Rights and Expression

This is an informational guide to help fraternity and sorority advisors understand student conduct issues related to free speech, freedom of association, and due process. Authored by the Foundation for Individual Rights and Expression (FIRE), a non-partisan nonprofit organization, this guide is informed by FIRE's experience and expertise gained over two decades of studying university disciplinary systems and responding to daily requests for assistance from students nationwide. We encourage fraternity and sorority advisors to use this guide to defend student rights.

If your group's rights are in jeopardy, [submit a case](#) to FIRE. We are happy to review your situation — free of charge — to see if we can provide individualized assistance. Read more about the case submission process and how we fight for student rights in our [FAQ](#).

For questions about this guide or student rights, please contact FIRE Senior Program Officer Zach Greenberg at zach.greenberg@thefire.org.

This guide is for informational purposes only and does not constitute legal advice.



FREEDOM OF SPEECH

Public universities are bound by the First Amendment, which protects a wide range of expression, even if it is offensive, distasteful, or just unpopular.

Private universities are not bound by the First Amendment, but the vast majority of private institutions promise students free speech rights consistent with the First Amendment. You can find many private universities' free speech promises in [FIRE's Spotlight Database](#).

Freedom of speech encompasses more than just words — it protects expressive activities such as holding events, chapter functions, and wearing Greek letters.

University investigations into clearly protected expression can deter students and groups from speaking out, and this [chilling effect](#) may violate free speech rights, even if the investigations do not result in formal punishment.

Content- or viewpoint-based restrictions, or rules that apply based on the topic, opinion, viewpoint, or speaker of the expression, are generally impermissible. Watch out for:

- Restrictions on themed, offensive, or distasteful expressive events or activities, such as parties, social events, [clothing](#), and [house decorations](#).
- Limits applicable to Greek groups, but not other student groups, such as bans on wearing Greek letters or holding Greek events or activities.
- Disciplinary action in response to “hateful” or controversial expression, such as investigations into social media posts.

For more information about free speech, see [FIRE's Guide to Free Speech on Campus](#) and this [primer on unprotected speech](#).

FREEDOM OF ASSOCIATION

Students have the right to freely associate with individuals and organizations to pursue a wide variety of political, social, economic, educational, religious, and cultural ends.

Students have the right to create and join university-recognized Greek organizations as well as [off-campus](#), non-university-affiliated social groups.

University rules that restrict or [limit recruitment](#), [social activities](#), or other [organizational functions](#) may violate the group's freedom of association. Watch out for rules that prevent students from associating with Greek organizations, or that deny Greek groups the same rights or privileges as other student organizations.



DUE PROCESS

Due process rights are procedural protections administrators must provide to students and groups before imposing punishment.

At public and private universities that promise students fundamentally fair disciplinary proceedings, administrators must provide students and groups with:

- Timely written notice of the alleged misconduct, including the specific university policies the students or groups are accused of violating.
- A meaningful opportunity to contest the charges, such as a disciplinary hearing where students and groups can defend themselves and present evidence.
- An impartial decision-maker.
- Other protections outlined in the college or university's disciplinary policies.

Punishments imposed without due process are generally impermissible. Watch out for interim measures such as suspensions, activity bans, communications restrictions, and other restrictions on chapter functions imposed pending disciplinary charges or investigations. These interim punishments must directly address the alleged harm, be limited in duration, and be followed promptly by an opportunity to contest the measures.

Conferring guilt by association, or punishing groups for misconduct they did not commit solely because they are similar to delinquent groups, is generally impermissible.

For more information about due process, see "[FIRE's Guide to Due Process and Campus Justice](#)," [Model Code of Student Conduct](#), and [Spotlight on Due Process 2021-2022](#).

BEST PRACTICES

Be respectful and professional when communicating with university administrators.

Keep track of, and meet, all relevant deadlines to request a hearing or an appeal, and be responsive when asked to schedule meetings. Missing a deadline or ignoring a meeting can mean waiving your rights.

Pay special attention to the rules governing the disciplinary process. Try to identify which process applies and where you are in that process. If you are not sure, ask university disciplinary officials. Disciplinary policies are usually found in the student handbook or on the university's website. If the university fails to follow the process, address this failure with administrators — if at all possible, during or prior to the meeting or hearing. Explain the objection in writing (by letter or email) as soon as possible. A procedural failure may provide grounds for a successful appeal.

Be prepared to assert your or your group's rights. Do not be afraid to bring up freedom of speech or to ask the institution to explain why it believes the speech at issue is not protected.

Ask for any disciplinary charges or misconduct allegations in writing, such as the specific conduct alleged and which particular policy or policies that conduct violated. Building an effective defense requires knowing both the applicable rules and the facts and evidence underlying the charges.

Create a written record:

- During meetings, take detailed notes. Consider asking to record conversations and meetings, but do not record a meeting or conversation without permission, even if your state's laws allow it.
- After conversations, email those involved, stating your understanding of what was discussed. Ask them to respond within a reasonable period if they believe your understanding is in error or omits something important.

Consider the consequences before admitting any wrongdoing or agreeing to any charges during an initial conversation, even if you believe acquiescing may help make the charges go away or lessen the punishment. Consider asking if you can think about any offers that are made or resolutions that are proposed for a few days.

Do not be afraid to ask questions about relevant dates, next steps, potential consequences, and the factual basis of the allegations.



Questions about this guide, FIRE, or student rights?
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zach.greenberg@thefire.org!