

November 9, 2020

Student Conduct Hearing – Via Zoom 2 pm

Respondent: Sigma Alpha Epsilon  
[REDACTED]

## **I. Persons Present**

On the afternoon of November 9, 2020, a Student Conduct Hearing Board was convened to hear the case of Sigma Alpha Epsilon, a registered student organization at the University of Kentucky. [REDACTED] President of Sigma Alpha Epsilon, testified at the hearing as well as Dr. Adam Downs, support person, [REDACTED], Vice-President of Sigma Alpha Epsilon, Kyle Shatto, support person, and Mary Deaton, University of Kentucky Office of General Counsel. Ms. Ellen Kilgore served as the hearing's conduct officer and provided testimony to the Hearing Board.

Sigma Alpha Epsilon was charged with violations of the Code of Student Conduct policies: P. Misuse of Alcohol, BB. Failure to Follow UK Covid-19 Health and Safety Guidelines, H. Failure to Comply, and A.6 Abuse of the Process.

## **II. Case File**

The information in the case file included:

Case 1 – 2020078601

- Incident Report dated September 1, 2020
- Organization Investigation Letter dated September 4, 2020
- Incident Report dated September 8, 2020
- Sigma Alpha Epsilon Internal Report, no date
- Care Processing Form dated October 9, 2020

Case 2 - 2020121301

- Incident Report dated September 12, 2020
- Organization Investigation Letter dated September 22, 2020
- Sigma Alpha Epsilon Internal Report, no date
- Care Processing Form dated October 9, 2020

Case 3 - 2020160001

- Incident Report dated September 1, 2020
- Care Processing Form dated October 9, 2020

In addition, the following documents were in the file:

- Organization Informal Meeting Notification Letter dated October 6, 2020
- Informal Meeting Notes dated October 9, 2020
- Organization Hearing Scheduled Letter dated November 2, 2020
- Prior conduct history of policy violations and restorative action plans

On November 9, 2020, respondent provided the following documents that were added to the case file:

1. [REDACTED] Photos
2. Conduct Meeting 11\_9 Presentation
3. Meeting 9\_8
4. Officer Transition Form
5. Overview Read First
6. Service Opportunities

### **III. Case 1– 2020078601**

By letter dated October 9, 2020, respondent was charged with violation of P. Misuse of Alcohol and BB. Failure to Follow UK Covid-19 Health and Safety Guidelines. Based upon the testimony at the hearing, the information in the case file, and the documents provided by respondent, the Hearing Board finds that there was a preponderance of the evidence that the respondent violated the Code of Student Conduct policies P and BB. There was a preponderance of evidence that respondent had a party on September 1 with alcohol consumed by persons under 21 where the Covid-19 mask and socially distancing requirements were not met. This conclusion was based upon the following information in the case file:

1. Anonymous eyewitness report from 9/1 indicating that videos were taken of SAE having an event that broke Covid social distancing and event capacity requirements. These videos showed individuals who appeared to be under 21 years of age, a beer pong game, the Sigma Alpha Epsilon flag, and a woman holding a White Claw can.
2. Anonymous eyewitness report from 9/12 from someone who was involved in the fraternity rush and who attended SAE events. This report stated that SAE hosted a party on 9/1 and that police were called to this party. The report indicated that at this rush event there was beer provided and large numbers of people attended who did not wear masks.
3. Based upon the Snapchat videos that showed an SAE flag, it would be reasonable for nonmembers to have the belief that this was an event associated with SAE.
4. Based upon the fact that September 1, 2020 was a fraternity recruitment period, it was reasonable to believe that it was more likely than not that individuals attending this event were under 21 years of age.

Respondent stated that anyone could buy an SAE flag, they did not have a party on September 1, and that the pictures of the house at [REDACTED] did not match the Snapchat videos. The Hearing Board did not find it was credible that SAE flags would appear at locations where no SAE members were present. It also appeared that the snapchat videos were taken in the same basement at [REDACTED] as the photo provided in Case #2. While respondent denied that a party in violation of the aforementioned Student Conduct policies took place at [REDACTED]

█, the respondent affirmed that SAE members did indeed reside at that address. For the reasons outlined below, the Hearing Board found that respondent's testimony that there was not a party on September 1 lacked credibility.

The Hearing Board found that respondent's testimony lacked credibility for the following reasons:

1. In written responses provided to the Office of Student Conduct, it was stated that there were no events on any of the dates in question. However, at the hearing, respondent stated that they had a meeting for leadership officers on September 8 at █ to tell the members that all of their future events would be online. Ten to fifteen members were present, as seen in the photo of █. This meeting was held even though the Office of Student Conduct had advised respondent on September 4, 2020, as follows:

“your organization is not to host any in-person events and/or events with alcohol, beginning September 4, 2020, until this matter is resolved. This includes all official or unofficial events where members of your organization are present until the student conduct process, including any investigations, informal meetings, formal hearings, or appeal processes, is complete. The organization can participate in events/meetings held strictly via an online platform.”

Respondent stated that █ scheduled an in-person meeting that violated Covid-19 requirements as well as the Order dated September 4, 2020 prohibiting any meetings, because it would be more impactful to hold an in-person meeting.

2. In written responses provided to the Office of Student Conduct, it was stated that there were no events conducted on any of the dates in question or on bid day. However, respondent stated that the rush chairs communicated with the new members at the beginning of September and sometimes met in person with groups of new members. Respondent said the rush chairs were “hard to control.” Rush chairs were not supervised by SAE leadership or asked to report back on their activities with new members.
3. Respondent stated at the informal meeting that they did not know who lived at █. At the hearing, respondent indicated that SAE members do indeed reside at that address including at least one (if not both) of the rush chairs.

It appears that respondent's credibility is questionable in view of the responses provided to the Office of Student Conduct and the testimony provided at the conduct hearing.

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1. Anonymous eyewitness report from 9/1 indicating that videos were taken of SAE having an event that broke Covid social distancing and event capacity requirements. These videos showed individuals who appeared to be under 21 years of age, a beer pong game, the Sigma Alpha Epsilon flag, and a woman holding a White Claw can.
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Respondent stated that anyone could buy an SAE flag, they did not have a party on September 1, and that the pictures of the house at [REDACTED] did not match the Snapchat videos. The Hearing Board did not find it was credible that SAE flags would appear at locations where no SAE members were present. It also appeared that the snapchat videos were taken in the same basement at [REDACTED] as the photo provided in Case #2. While respondent denied that a party in violation of the aforementioned Student Conduct policies took place at [REDACTED]

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3. Respondent stated at the informal meeting that they did not know who lived at █. At the hearing, respondent indicated that SAE members do indeed reside at that address including at least one (if not both) of the rush chairs.

It appears that respondent's credibility is questionable in view of the responses provided to the Office of Student Conduct and the testimony provided at the conduct hearing.

person with members. Respondent said the rush chairs were “hard to control.” Respondent stated that [REDACTED] would not have been surprised if they met with members in-person. [REDACTED] stated that [REDACTED] could not predict what they did. The respondent stated that [REDACTED] did not provide guidance to rush chairs as to the mode of that communication (i.e. [REDACTED] did not advise that in-person contact was strictly prohibited), nor did [REDACTED] ask the rush chairs about the modality of their communication to the recruits after the fact.

For reasons outlined above, the Hearing Board found that respondent’s testimony that they did not host in-person gatherings lacked credibility.

#### V. Case 3 - 2020160001

Respondent admitted responsibility for the charge, A.6, Abuse of the Process. The charge involved the failure to complete the Recruitment Plan Coaching Meeting by September 1, 2020 as required by the restorative action plan for case #2019044901. Respondent did not accept the proposed restorative action – two years suspension.

There was evidence in the informal meeting notes that respondent does not have appropriate procedures in place to ensure that University rules are followed. Respondent seems to blame other entities for their failure to complete the Recruitment Plan Coaching Meeting.

At the informal hearing, the respondent stated the “it was kinda a shock to hear that they had an outstanding restorative action.” [REDACTED] first blamed the consulting agency and stated that the agency “got [REDACTED] up to speed in the summer, but this was not discussed.” [REDACTED] then admitted that the consulting agency confirmed that SAE had failed to complete the Recruitment Plan Coaching Meeting. [REDACTED] then blamed Assistant Dean of Students Susan West. [REDACTED] indicated that [REDACTED] took over in July and had been meeting with Susan West. [REDACTED] noted that “West didn’t tell [REDACTED] anything about this restorative action plan.” [REDACTED] then stated that this was an “honest oversight.” [REDACTED] then blamed the past president and stated that “[REDACTED] was elected in June and the previous president didn't inform [REDACTED] of it.” The past president then stated that [REDACTED] “was surprised the group would be held accountable to complete something from the Music Madness event as it was so long ago.” [REDACTED] also blamed the past administrations of SAE and stated that [REDACTED] “didn't know it existed.” When asked about the transition, the respondent shared that the past administration sent multiple documents. [REDACTED] stated that [REDACTED] did not know “if it was a misstep that [REDACTED] wasn't informed.”

The informal meeting notes indicate that emily britt, Associate Director of Fraternity and Sorority Life, shared that “in chapter coaching the coach would discuss the importance of making sure to complete restorative action plans.” Furthermore, the informal meeting notes stated that “Susan [Assistant Dean West] has talked with previous leadership about importance to share this information in transition of leadership roles.”

There was evidence in the hearing that respondent still does not have procedures in place so that there is an orderly transition of leadership roles. Respondent stated that they are trying to make changes. However, when respondent was asked for information regarding the violation that triggered the Restorative Action Plan for the March 13, 2020 incident, the respondent did not know what violation had occurred. While respondent has now completed the Recruitment Plan Coaching Meeting, ██████████ testified at the hearing that ██████ did not know what offense had occurred that resulted in the restorative action plan and the requirement to complete the Recruitment Plan Coaching Meeting.

Some offense triggered this requirement. The respondent's leadership should be fully familiar with the history of past violations so that they can take steps to avoid similar violations in the future. Without this knowledge, the Hearing Board concluded that it is likely that respondent will continue to violate UK rules and requirements.

As outlined in Section VI, Restorative Action, respondent has been provided with numerous warnings, coaching, workshops, and probationary periods. These have not worked to change respondent's behavior. For all of these reasons, the Hearing Board concludes that a two-year suspension is an appropriate sanction for Case #3.

## **VI. Restorative Action**

In evaluating the appropriate restorative action, the Hearing Board considered ways to restore the harm created by the policy violations and repair the trust. It appears to the Hearing Board that respondent has not benefited from numerous warnings, coaching, workshops, and probationary periods. In three years, respondent has been put on conduct probation on three occasions. Respondent has received an official warning. Respondent was placed on social restriction – two events with alcohol per semester. Respondent was directed to do a Policy Presentation, written expectations by pledge class, and ASTP. Respondent was directed to do J-Board Training on two occasions, Strategic Planning workshop with outside consultant, Budget Workshop for Executive Board, Event Planning for Executive Board, Executive Board Leadership Workshop, Values Retreat, Executive Board meeting with FSL, and Recruitment Plan Coaching.

After all of these warnings, workshops, probate, and coaching, respondent has admitted that they intentionally ignored the direction to not host any in person events beginning September 4, 2020. Given the seriousness of the Covid-19 epidemic, it is unconscionable that the respondent made the decision to host a large gathering on September 8, 2020 in complete defiance of University of Kentucky Covid-19 restrictions and the requirement issued on September 4, 2020 that all events take

place online. The respondent indicated that many SAE members contracted Covid-19 since returning to campus in the fall. In light of the fraternity's willful disregard of safety protocol, this was not surprising. Furthermore, rather than complete the restorative action by September 1, respondent chose to have a party on this day.

The Hearing Board carefully considered respondent's testimony and the documents submitted that outlined its plans for the future. In the Hearing Board's view, these plans do not constitute an appropriate restorative action plan. Respondent's suggestions will not restore the harm created by the policy violations or repair the trust. They will also not ensure that respondent follows rules in the future. Put simply, respondent has demonstrated that it does not have the capacity to follow University of Kentucky rules and Office of Student Conduct orders.

Given the fact that past sanctions have not worked, and respondent has made decisions that demonstrate an extreme disregard for human life, the Hearing Board recommends a two-year suspension.

Respectfully submitted:

A large black rectangular redaction box covering the signature of the respondent.