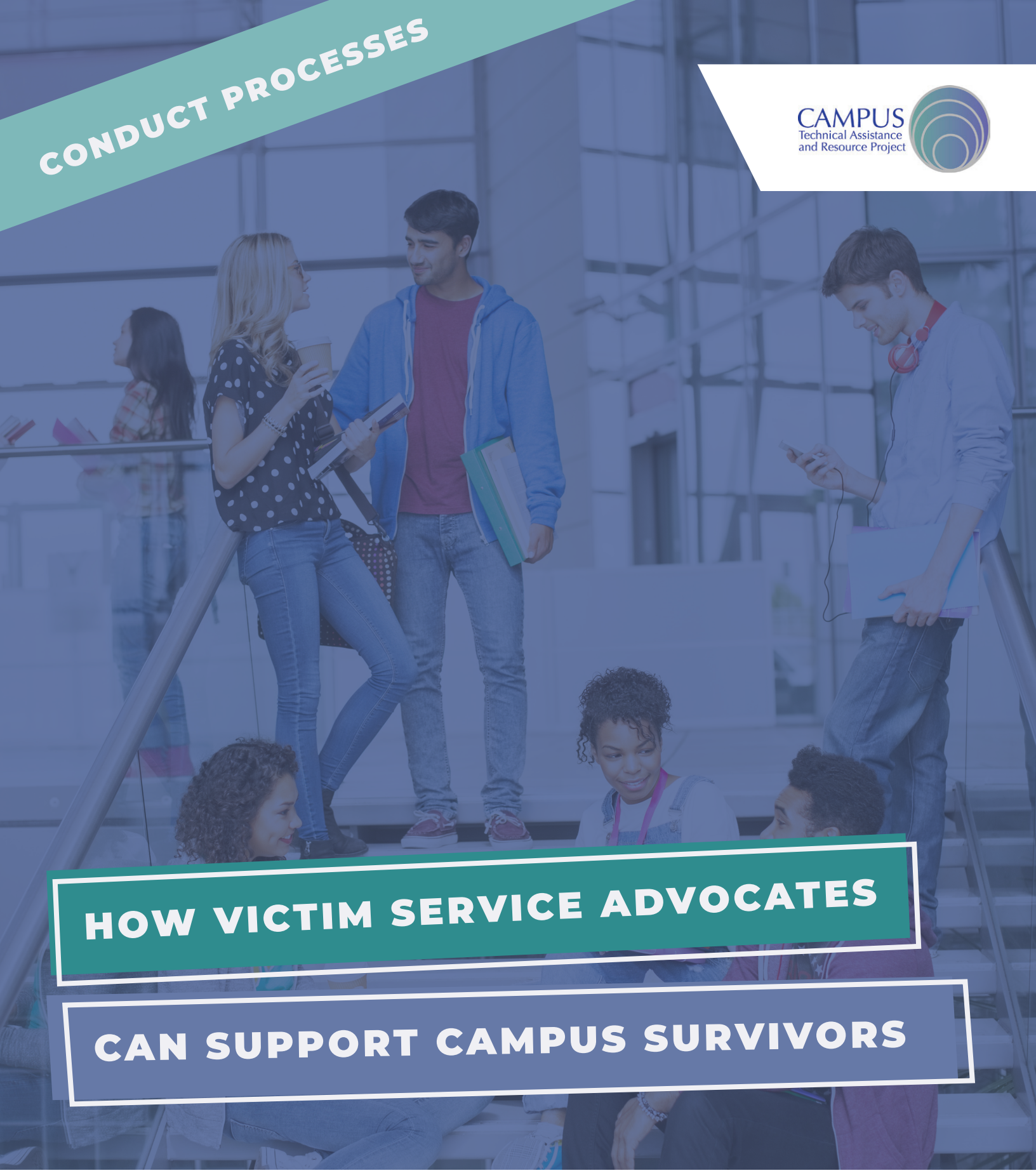
CONDUCT PROCESSES

CAMPUS
Technical Assistance
and Resource Project



HOW VICTIM SERVICE ADVOCATES CAN SUPPORT CAMPUS SURVIVORS

MSCASA
MISSISSIPPI COALITION
Against Sexual Assault

LADDER CONSULTING LLC

Many victim service providers – including community and institutions of higher education (IHE)-based – are familiar with helping survivors of dating/domestic violence, sexual violence, and stalking (DVSAS) through the conduct disciplinary process. Victim advocates provide invaluable support to survivors, including helping to file complaints, those who have filed complaints, and those who struggle to keep up with dates, paperwork, and recovery. Victim service advocates who work with student survivors of DVSAS should know about the process of filing a complaint with the students' institution and how to support them through it, which provides many potential remedies. The victim advocates must understand that to help student survivors decide if they want to file complaints, there is IHE Conduct Process and the Criminal Justice system. This guide provides an overview of an IHE conduct process to help victim service providers support student survivors to make informed choices.

Key Differences Between Campus Conduct Process and the Criminal Justice System

Victim advocates are poised to help students understand the basics of each system and what outcomes are possible. One natural place to start with a student survivor is the intention of each system. The criminal justice system is broadly conceived to keep an entire community safe by addressing individuals who have violated criminal laws. Ultimately, the goal of the criminal justice system is to deter future crime, either by the person accused or other abusers, by imposing some form of penalty. Penalties for being criminally convicted can range from fines, probation, jail time, or the death penalty, depending on the severity of the crime. The person making the report is the victim, the person bringing the charges is the prosecutor, and the person accused of the crime is the defendant. It is important to note that the victim is considered a witness at a criminal trial rather than a party and is not given an active role in determining strategy in the case. In the criminal justice system, the prosecutor represents the state rather than the victim and makes all decisions regarding whether the case goes forward, what evidence and witnesses will be called, and if the defendant will be offered a plea deal, often for less punishment. Prosecutors are not the victims' attorney and do not share attorney-client privilege with the victim.

The IHE conduct process was created for an entirely different purpose. Many institutions focus on an educational response to violations of their code of conduct to help students change their behavior. Other considerations may also be explored.

The party who files the complaint is called the Complainant or Reporting Party, and the party accused is called the Respondent or Responding Party. To assist with the process, the victim advocate may access the policies and procedures of the disciplinary process provided by their institution and step-by-step help the survivor understand how it works. Be sure to explain to the

survivor that they will have to face the Respondent during the process. Generally, both parties come in as equals, provide statements and information, and a decision-maker determines what is more likely to have happened. The advocate may contact campus disciplinary staff to assist in preparing the survivor for the process.

IHE's Conduct Processes are Rooted in the Institution's Policies

Prior to the hearing, the victim advocate may have the survivor sign a confidentiality consent form as to who the survivor wants their information shared, as there may be much communication with diverse personnel during the process. The advocate may accompany the survivor to the hearing and help with statements to be provided. The advocate should also inform the survivor that there may be a wide range of staff and administrators on and off-campus, confidential and non-confidential, who can play different roles in an IHE conduct case. These may include a Conduct Officer, Hearing Board Chair and members, Investigators, Campus Security, and the Title IX Coordinator. Each can play a separate or collaborative role in the case. Also, the survivor should be aware that if any of the attending parties violate the code of conduct, sanctions are far-ranging and specific to their institution. Also, the victim advocate may inform the survivor of what the outcome of the case may be for the Respondent. This may involve being separated from their community for a specific amount of time (suspension) or permanently (expulsion or dismissal).

Victim advocates may also share with the survivor that, even if they decide not to go through a conduct process, they can request accommodations and supportive measures from the institution. These measures can include in-person support, help with academics, changing class schedules, stay-away orders enforced by the institution, on-campus housing transfers (if applicable), IHE-based employment, transportation, counseling, and referral sources on and off-campus, and many other concerns.

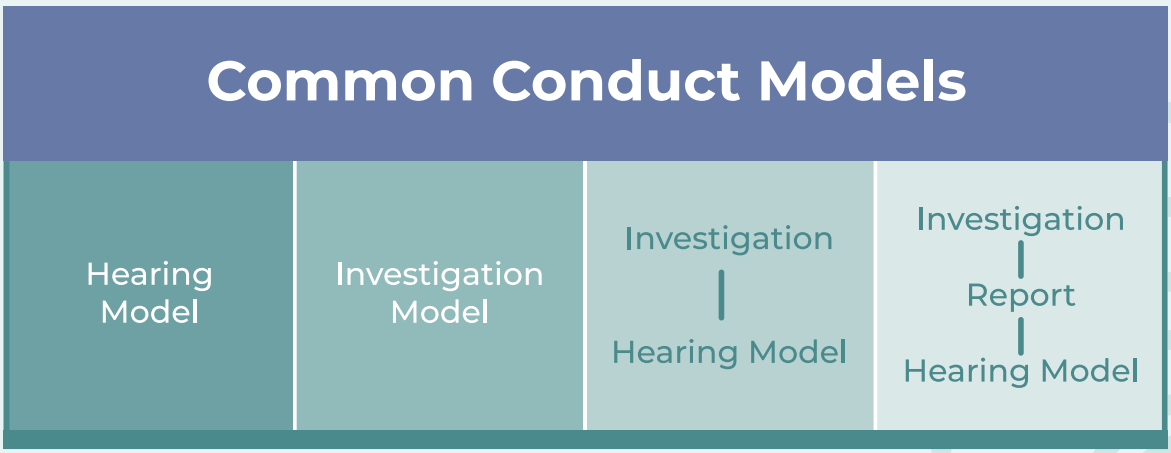
Explaining the timeline for resolution of the complaint is also important. It is essential for the advocate to be accessible for support for the duration and even past the hearing. The time frame for the IHE conduct case is typically resolved within a couple of months. For students who plan to leave the area or will graduate soon, making a long-term commitment to a law enforcement case may be a deciding factor for the survivor and should be assessed with the advocate's assistance.

Each institution has its own conduct policy and process. It is critical that campus victim advocates read and understand the general framework of each institution for which they are providing advocacy to be well versed in the similarities and differences to give survivors accurate information. Or, if they are community-based, they should know the differences between the conduct processes of the IHEs within their service area. Victim advocates familiar with IHE administrators can also help survivors find who to contact about other overarching concerns or make immediate changes.

No institution has the same policy or process as another, so it is critical to be able to explain to the student survivor how the conduct process at their school works and be able to answer questions about timing, decision-makers, and confidentiality of the process.

There are several common types of conduct models. Each of the following can have different elements that change from institution to institution and could make a difference to a student survivor and the type of support they receive. For example...

For example...



- **Hearing Model.** After a complaint is filed, both parties bring all evidence to a hearing before a panel of IHE-based stakeholders. Panels can include only administrators, staff, and faculty, but some institutions include students. Both parties present their evidence at the hearing, which is usually chaired by one individual who makes any decision about policy implementation and questions throughout the hearing.

- **Investigation Model.** After a complaint is filed, both parties and witnesses are interviewed by an investigator. All evidence is provided to the investigator, who compiles a report of their findings and recommends whether a violation has occurred. A separate administrator then reviews the information and delivers a sanction if necessary.

- **Investigation to Hearing Model.** In this model, an investigator interviews the parties and witnesses and gathers all evidence before the hearing. The investigator generally presents the evidence to the panel with the parties present and will answer questions from the panel about what was gathered. Parties and witnesses can be called to provide evidence and be questioned by the panel.

- **Investigation to a Report to a Hearing Model.** Unlike the previous model, the investigator completes the investigation and draws up an extensive report for the Hearing Board to read prior to the hearing. In some instances, the investigator will suggest a finding based on the conclusion of their investigation. The hearing resembles the previous model, but the panel normally does not require presenting all evidence again as it is contained in the report previously submitted to the Hearing Board. The panel can question the investigator, the parties, or witnesses or ask that additional information be provided at the hearing if they conclude there are gaps in the report that should be addressed.

At the conclusion of the hearings, the decision-maker(s) are expected to deliberate over the information provided and determine what evidence was credible. The decision-maker determines whether the Responding Party has violated the institution's policies and what sanction is warranted. This decision is provided in writing to both parties simultaneously, often a day or two later.

Both the Reporting and Responding parties can have an Advisor of Choice present for all meetings, interviews, and hearings to provide advice and support throughout the process. Each party can pick an advisor that meets their needs, and for some student survivors, an advocate in this setting can make sense[1]. However, if the advocate is not a choice, other options may be provided. Some conduct processes require a live hearing component that includes cross-examination of the parties and witnesses. The Advisor of Choice is expected to be prepared to cross-examine the opposing party and/or witnesses. The advocate should discuss this requirement with student survivors to ensure they choose the advisor who best fits their needs. Many advocates can continue providing care to a student survivor as a support person during the conduct process.

[1]Student survivors should be advised that using an advocate as their Advisor of Choice could result in turning over records in the event of litigation. For more information about the privacy implications of choosing an advisor, see Integrating Victim Services into Policy on the OVW Campus Grantee Portal.

Victim Advocates Help Student Survivors Set Expectations

While juggling several factors, student survivors need practical and informed support to manage a conduct complaint as well as their recovery and education. Advocates are navigators, which is an essential resource for survivors needing to make decisions. Survivors need to understand what level of confidentiality they can expect from the professionals they encounter both on and off-campus.

Victim advocates can help student survivors set expectations around the IHE complaint timeline, persons involved, and what is needed to start and continue the process. For those advocates with a close relationship with administrators, their working relationship can enable better access to services and clarity around the exact requirements needed to access accommodation or supportive measures. Advocates can explain the process, help survivors prepare for an interview, and support the survivor throughout the hearing process.

Student survivors often have various competing needs, so victim advocates can support the student during and beyond the conduct process. Advocates can provide referrals, access and accommodations to off-campus resources such as legal aid, counseling, support groups, etc. It is also essential for the advocate to continue discussing and outlining ongoing safety planning needs, as it is necessary for the survivor to feel safe on and off-campus. Advocates can also connect survivors to resources to better meet culturally specific needs. For instance, advocates could help survivors looking for pastoral counseling from a particular religion or a mental health therapist with a specific identity or specialty from the community.

Conclusion

The victim service advocate is a critical support network in helping student survivors understand and traverse the conduct process. Support and knowledge of the process are crucial. Strong collaborative relationships with both IHE-based and community-based advocates can provide an ideal framework to ensure student survivors find the culturally specific, age-appropriate, and trauma-informed services they need.

[2]For more information on IHE advocate privacy implications, see Privacy on Campus: A Workbook for Advocates at www.victimrights.org

This project was supported by Grant No.2019-TA-K029 awarded by the Office of Violence Against Women, Office of Justice Program, U.S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position of policies of the U.S.