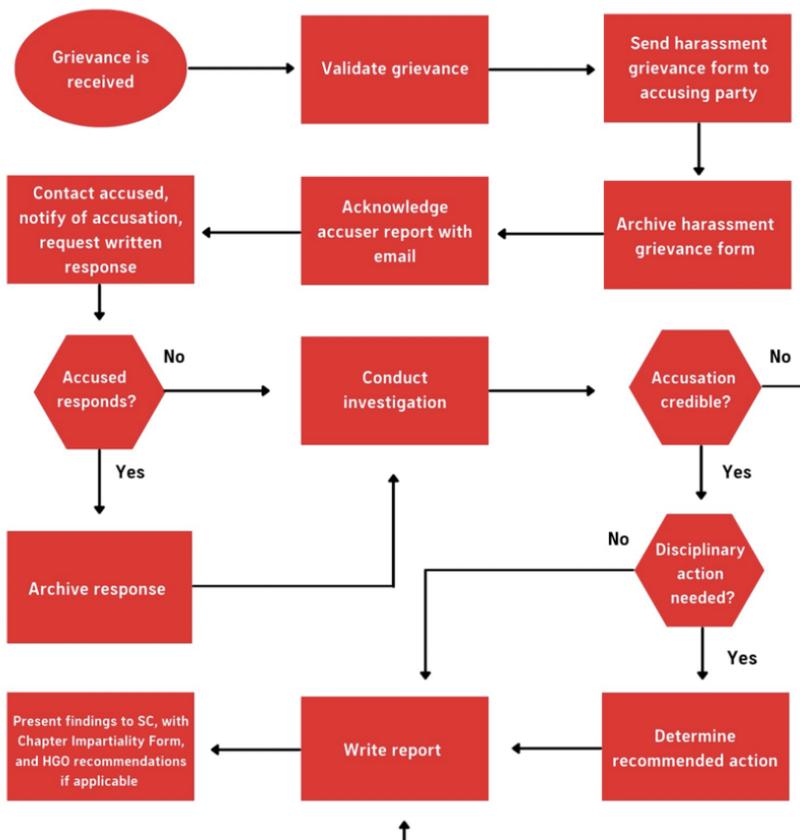


New HGO Training: Basic guidelines for conducting fair investigations October 2022, Ana Avendaño of the NHGO team

A thorough and fair investigation is a cornerstone of the grievance process. Without that, the process itself loses credibility and makes it easier for the process to be weaponized or manipulated for personal or political reasons. Remember: the ultimate goal of the grievance process is to protect DSA members from harm; preserving the integrity of the process means protecting our members and DSA.

Think of the investigation as a jigsaw puzzle. Your goal is to gather the information you need to understand the whole picture. Some pieces of the puzzle may not fit together at first—take that as a sign that you need to keep gathering information.

A quick primer on the grievance process



Adapted from a document created by



****A complete outline of the grievance process is available [here](#).**

- A member sends an email to the confidential HGO address.
 - Non-members can use the email address as well.
 - If the conflict is taking place on social media, members who know of that development should be encouraged to report through email.
- You (the HGO) respond with a [grievance form](#) (model or chapter-created). You can suggest alternatives if you have enough information to determine that a grievance is not the best path forward.
- The grievant files a formal grievance.
- You respond to acknowledge receipt of the grievance, clarify what information can be shared with the accused, and explain the need to preserve the integrity of the process by not sharing details or contacting the accused.

NB: While confidentiality is necessary to ensure a fair investigation, the process does not require that grievants not share their story. We do ask that they try not to escalate the situation, so that the process has a chance to work without having to add new allegations.
- You then send a notice of the grievance to the accused (ideally within 7 days of the filing of the grievance) and request a written response affirming or denying the allegations within 7 days.
 - Remember: the “deadlines” are meant to give guidance; they are not deadlines with legal consequences. Responses to complex grievances may take longer than 7 days, or it may take you longer than 7 days to understand the allegations enough to be able to share them with the accused.
- Your goal at this stage of the process is to reduce conflict. To that end, you may want to ask one or both parties to:
 - NOT contact (or engage with) the other party;
 - NOT engage with the other party’s friends;
 - NOT post about the grievance (or anything related to the grievance) on Slack, Twitter, or any other social media platform.
- If the accused does not respond, you should recommend that the Steering Committee take appropriate action.
- If the accused does not contest the grievance, the Steering Committee can move forward with assessing consequences based on the information you have;
- If the accused admits to the conduct, you should work with the parties and chapter leaders to determine the appropriate consequences;
- If the accused resigns in response to a grievance, you should proceed with the investigation and make recommendations regarding the length of suspension and conditions for return.

Start the investigation

- Your goal in the investigation is to gather enough information (evidence) so that you have a complete picture of what happened and can make recommendations to your chapter's leadership.
- Information you gather, and review should take the form of interviews, documents, social media posts, texts, etc.
- The following is the suggested order of interviews:
 - Start with the person who filed the grievance ("reporting party" or "grievant") first;
 - Then interview the grievant's witnesses, ie, the people with knowledge of the events at issue;
 - Then interview the accused;
 - Followed by the accused's witnesses.
- Try to interview an equivalent number of witnesses for the grievant and accused.

NB: You don't need to interview every single person the grievant or the accused name as a witness. If someone has the same knowledge as someone you've already interviewed and would contribute nothing new, you don't have to interview them.

Basics of the interview

Before starting the interview

- Review the grievance, outline your questions, and refer to [Resources](#) on the DSA website.
- Prepare to maintain an open mind:
 - Be conscious of potential biases:
 - If you know any of the people involved, ask yourself whether you can be impartial through the process; if the answer is no, recuse yourself;
 - Be prepared to explain to witnesses who know of your potential relationship with the grievant or accused that you are gathering information and that your relationship with the party will not interfere with your ability to keep an open mind;
 - Beware of confirmation bias: if you already believe something, your brain tends to chose information that confirms that belief;
- Make sure you are prepared to capture the information in a way that you can access later. If conducting the interview on Zoom, you might want to turn on the transcript function.
 - If you plan to record the interview, you will need to get permission from the person you are interviewing.
- Be prepared to recognize DARVO, Gaslighting, Rules Lawyering, and other signs that a witness might not be acting in good faith.

Starting the interview

- Introduce yourself and explain that you are conducting the interview in connection with a grievance filed under Res 33/Code of Conduct/Bylaws. Review the applicable basis.
- Tell the person that they should feel free to take a break, especially if the grievance consists of difficult issues that might trigger emotional responses or past trauma.
- Tell the person that you will have to continue the conversation at a mutually-agreeable time if you do not finish in the current time slot.
- If you are recording the interview, get consent.
- Ask if the person has any documents, screengrabs, texts, etc. that they want to share. These pieces of evidence are particularly important because if they show a violation on their face, you won't need to spend much time with the witness.

During the interview

- Ask open-ended questions when possible; these questions build trust and will not make your interview feel like an interrogation.
 - Feel free to use yes/no questions when you need to pin down an answer
- Practice good listening skills
 - Don't interrupt
 - Don't try to fill pauses; let the witness fill that space
- Ask as many follow-up questions as you need, but try to avoid repetition.
- Stay calm throughout the interview
 - If the witness becomes combative or overly emotional, take a break.
 - Important when determining what information is reliable.
- Don't make assumptions. If there is a gap in information, make sure you note that so you can find a witness/document, etc. who can fill that gap.
- Make sure you take notes on the witness' demeanor, tone, etc. These factors are important when determining what information is reliable.

Interviewing the grievant:

- Ask the person to share the details of the grievance with you.
 - It is often productive to allow the person to share their story in a narrative form without interruption.
- Ask clarifying questions without judgment:
 - DON'T say things like: "why didn't you...;" or "what were you thinking?"
 - Instead, use phrases like, "can you say a little more about..."
- Make sure you have a good picture of **what happened** from the grievant's perspective; continue asking questions until you do.
 - Who did what to whom?
- It might be helpful to get information about dates & times; however, remember that trauma impacts the ability of people to think chronologically, thus the grievant might not remember these kinds of details.

- Ask if anyone saw or heard the event/interaction at the root of the grievance or if the grievant shared the information with anyone soon after it happened, and get contact information (if possible) for those people.
- Ask if they have any documents/emails/recordings/screenshots/etc., they would like to share with you
- Explain the importance of preserving the integrity of the process, and ask the grievant to maintain confidentiality. Make clear that this does not mean that they are being asked to be silent, but rather to exercise their best judgment to guarantee that their grievance proceeds as smoothly as possible
- Make sure that you clearly understand what information the grievant DOES NOT want you to share with the accused or witnesses.
- If the situation/event/interaction concerns someone other than the grievant, and the grievant has no first-hand knowledge (i.e., didn't see it or hear it directly), ask for names of witnesses who have first-hand knowledge.
 - You should be very careful about proceeding with a grievance that is filed on behalf of an individual who does not wish to be interviewed or otherwise share information with you.
 - If that is the case, make sure that there is a reasonable explanation of why the person who was harmed refuses to participate in the investigation.
 - Make sure that whoever filed the grievance on that person's behalf is doing it with the consent of the person—avoid the “savior” phenomenon.

Interviewing the accused:

- Give the person a summary of the allegations, being careful not to reveal anything that the grievant asked you not to reveal.
 - For example, if the grievance concerns behavior at a meeting, you might want to start with something like, “the grievance concerns your conduct at last month's general meeting. I'd like to hear your perspective on that.”
 - If you have the green light to share more details, start with those, and ask the person for their reaction to the allegation.
 - Make sure that you give the accused enough information so that they understand the allegations.
 - Don't say things like, “someone said that you did something wrong; what is your reaction?” This kind of question deprives the accused of the ability to respond and leaves your investigation open to accusations of unfairness.
- If the accused denies all allegations, ask them if they have any idea why someone would make such allegations against them.
- If denials continue, make sure you have clarity on what they're denying.
 - You might want to say something like, “if I were to tell you that someone said they saw/heard you....., would you way that they are lying”?

- Remind the accused that the process requires confidentiality, and to not contact the grievant or other witnesses.

Interviewing witnesses

- Explain that you are gathering information in connection to a grievance, and go over confidentiality protocols.
- Ask the witness what connection/relationship they have to the grievant and/or the accused.
- Start with what the witness knows first-hand (not what someone told them)
 - If the witness starts talking about the character of the grievant or accused, let them know that we are investigating behavior, not character.
 - If the witness shares only what they know from other people, get contact information for those people. Second-hand information is less reliable—you'll deal with that later, when writing your report.
- If the witness seems reluctant to talk, take time to understand where the witness is coming from and what may be making them reluctant.
 - Remind the witness that their name will not be shared in any report.
 - Start talking about something unrelated—anything that might witness more comfortable. Research shows that if you can just get a witness to start talking, they will continue to talk.

Concluding the interview

- Before you conclude an interview, take time to review your notes and make sure all of your questions have been answered.
 - If you decide that you need more information after the interview is over, you can go back to the person. Try to gather all follow-up questions before conducting an additional interview.

What should you do if you get stuck?

- Don't contact the NPC
- Don't share confidential information
- **It is a violation of the process to contact the NPC and/or share information**
- Feel free to contact Paula Brantner, NationalGrievanceOfficer@dsausa.org
- If a witness who **is a member** won't talk to you:
 - Make sure you have a record of your attempts to contact them;
 - If appropriate, you can send the witness (**only if they are a member**) an email with this language:

“I have [emailed, texted, left voicemails] about setting up a time for an interview regarding a grievance filed under DSA’s Resolution 33, and have not received any response.

All members are required to abide by Resolution 33, including cooperating with any investigation of Resolution 33 violations. Members who do not cooperate with the investigation face expulsion from DSA if there is evidence that the member participated in the conduct alleged in the grievance.

As you know, DSA is a voluntary membership organization. It is up to you whether to remain a member of DSA. If you wish to do so, please contact me by close of business on Friday, August 5 to set up a time to speak.

If you refuse to cooperate with the investigation, given that there is evidence that you participated in the conduct alleged in the grievance, **you will be expelled from DSA and not permitted to return for a period of at least three years, either in your current chapter, any chapter of DSA and/or as an at large member.**”

- If a lawyer becomes involved (whether for a party or a witness), don’t talk to them; your best protection is to follow the grievance process closely and contact Paula as soon as possible.

Preparing to write your report

- Organize your investigation file by pulling all relevant documents and notes into a folder (usually chapters use Google Drive.)
 - If there’s an appeal, Paula will ask you to send it;
 - Or, you will want to share it with the new HGOs once your term is over.
 - Be sure to include the chapter’s written decision and all correspondence with the parties.
- Based on all the information you gathered, you need to determine whether the grievance is credible—**is it more likely than not** that the accused did what they were accused of doing?
- The report should have the following basic components:
 - a summary of the grievance, including the harm described by the grievant;
 - an explanation of the basis for the grievance (Res. 33/Code of Conduct/Bylaws)
 - An explanation/summary of the evidence you gathered (without names)
 - Your assessment of the information
 - Your conclusion: is it more likely than not that the conduct violated Res. 33/Code of Conduct/Bylaws?
 - Recommendations to the chapter Steering Committee

What to do if you have conflicting information

- When you assess the information, you will have to decide what information **is reliable, in other words, credible**.
- **Note:** when contacting witnesses, make sure that you are talking to people who saw or heard what happened—not someone who talks about the character of the accused.
 - First-hand information (what a witness saw or heard directly; documents; recordings, etc.) is the most reliable
 - Second-hand information is less reliable, and third-hand information is likely not reliable
 - If the witness is friends with/has a relationship with the accused, you will have to assess whether that relationship makes the person unreasonably biased.
- You might have to determine if the information from a particular witness is reliable—i.e., whether they are telling the truth. Some signs that the witness is not being completely truthful:
 - Gives evasive answers
 - Gives contradictory answers
 - Gives shifting explanations
 - Tells you things that you know are not true
 - Engages in DARVO, Gaslighting, Rules Lawyering or other abusive conduct
 - **Note: DO NOT** focus only on memories of dates, times, and other factors that don't make a meaningful difference to the ultimate outcome

Report and Recommendation to Chapter Leadership

- When your report and recommendation are complete, you will schedule a meeting with your chapter leadership (Steering Committee/Executive Committee/Coordinating Committee) to discuss the grievance and vote on an outcome.
 - The elected leadership of the chapter should make the decision. Even if they do exactly what you (HGOs) recommend, the decision is in their hands as part of their leadership role.
 - All members of the leadership should sign the Chapter Impartiality Form, and should recuse themselves if they cannot consider the grievance fairly or are involved as a party or witness.
 - The discussion of the grievance should take place in executive session and the leadership must agree to keep information shared in the meeting confidential.
 - Be careful about sharing confidential documents electronically that can be screen capped or forwarded. If it's an in-person meeting, you may wish to make copies or only show relevant documents on your laptop at the meeting.
- When the chapter votes on a decision, it should be conveyed to the parties in writing. Both parties should be instructed that if they wish to appeal the decision, they should contact Paula to get the forms to appeal to the NPC.

- If the parties do not appeal, the chapter should still inform Paula so that any information relevant to a party's membership (such as a suspension) can be added to the membership database that is kept nationally.
 - If you don't notify Paula, a member who has caused harm could cause the same harm in other DSA spaces, such as another chapter, working groups, committees, or as a Convention delegate or NPC candidate. It's important that the NHGO be informed so that their membership status can be noted.
 - If a member resigns without going through the grievance process, that should also be noted on their membership record, so if they try to come back later, they can't do so without addressing the grievance.