Student Discipline (D-34)

Original Implementation: January 19, 1988
Last Revision: July 20, 2010/July 17, 2012

Rules of Procedure in Student Disciplinary Matters

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I. Introduction

The following Rules of Procedure in Student Disciplinary matters are adopted to ensure that the university will fulfill the requirements of procedural due process in student disciplinary proceedings, that the Stephen F. Austin State University Student Conduct Code and Residence Hall Policies may be secured to all students and that the disciplinary procedures within Stephen F. Austin State University shall be definite and determinable.

These Rules of Procedure shall be followed in any disciplinary proceeding, subject to the authority of the Board of Regents and the authority delegated to the president of the university to exercise jurisdiction over disciplinary matters of the university.

II. Definitions

As used in these rules, the following definitions shall apply:

**Advisor:** An individual accompanying a charged student in a hearing. The advisor may be anyone of the charged student's choice. The advisor may provide counsel to the charged student but may not participate in the hearing, for example through questioning or making statements to any other hearing participant.

**Appeal:** The exercise of the right of review by the charged student or the individual designated as the appellate authority complainant of the full record of a disciplinary hearing and/or the sanction imposed by a hearing officer or board.

**Charged Student:** The student being charged with the violation of the Student Code of Conduct or other university policy or rule.

**Complainant:** The student who has made a formal complaint against another student(s) for violation of the Student Code of Conduct or other university policy or rule.

**Complicity:** Being present during the planning or commission of any violation of the Student Conduct Code in such a way as to condone, support, or encourage that violation. Students who anticipate or observe a violation of the Student Conduct Code are expected to remove themselves from association or participation and are encouraged to report the violation.

**Dean of Student Affairs:** As used in these procedures, the dean of student affairs is charged, as a designee of the vice president for university affairs, with the responsibility for the administration of these disciplinary procedures.
**Hall Director:** The individual charged with the administration of a residence hall that will initiate the proceedings to be followed when a residence hall infraction has occurred.

**Judicial Board:** The panel that is authorized to conduct hearings and to impose sanctions regarding residence hall infractions committed by residence hall occupants. The board shall be composed of two (2) volunteer residence hall students, one (1) resident assistant, and one (1) hall director who serves as the chair.

**Judicial Officer:** As used in these procedures, the judicial officer is charged, as a designee of the dean of student affairs, with the daily responsibility for the administration of these disciplinary procedures. Specifically, the judicial officer conducts informal hearings for alleged conduct code violations, has appellate authority over residence hall violation hearings, presents the university's case in formal hearings before the Student Conduct Committee and serves as custodian of all Student Conduct Code disciplinary hearing records. The dean of student affairs may designate additional staff members to serve as hearing officers as the need arises.

**Provost:** As used in these procedures, the provost, or designee, is charged with the primary responsibility for the administration of these disciplinary procedures that relate to academic dishonesty in the classroom as delineated in University Policy A-9.1, Academic Integrity.

**Student:** All persons taking courses at the university, either full-time or part-time, pursuing undergraduate, graduate, or professional studies. Persons who withdraw after allegedly violating the Student Code, who are not officially enrolled for a particular term but who have a continuing relationship with the university or who have been notified of their acceptance for admission are considered “students” as are persons who are living in university residence halls, although not enrolled in this institution.

**Student Conduct Code:** University Policy D-34.1, which describes the types of behaviors and situations for which students and student organizations will be held accountable.

**Student Conduct Committee:** As used in these procedures, the Student Conduct Committee is that body which is authorized to conduct formal hearings and impose sanctions for alleged Student Conduct Code violations and to serve as the appellate authority over informal hearings for alleged Student Conduct Code violations. The committee shall be composed of one (1) faculty/staff member, one (1) student and one (1) faculty/staff chair. The chair, appointed by the president of the university, shall hold the position on a permanent basis and shall preside at all disciplinary hearings of the committee, unless another faculty/staff member is
appointed to preside by the chair for reasons of scheduling or conflict of interest. The initial pool of committee members shall consist of five (5) faculty/staff members appointed by the president of the university and the student member of the committee from a pool of five (5) students appointed by the president of the Student Government Association. Each committee member shall have a vote. The VPUA vice president for university affairs, or designee, may appoint student or faculty/staff members to the committee pool in situations where committee members are unavailable to serve to preserve the timeliness of the student conduct process.

**University-recognized Medium**: Any form of communication officially recognized by the university. Examples include, but are not limited to, postal mail, campus mail, hand delivery and email to a university account.

**Vice President for University Affairs (VPUA)**: As used in these procedures, the vice president for university affairs is charged with the primary responsibility for the administration of these disciplinary procedures and is the appellate authority for Student Conduct Committee hearings. The vice president may appoint designees to administer disciplinary procedures or to hear appeals. The dean of student affairs shall serve as the primary designee of the VPUA vice president for university affairs in the administration of these procedures, with the daily responsibility for the administration of these disciplinary procedures delegated to the judicial officer. The VPUA vice president of university affairs may designate additional staff members to serve as hearing officers as the need arises. All designees shall follow the same procedures as outlined for the judicial officer in this policy.

**III. Rights of Charged Students in Disciplinary Proceedings**

Any student charged with violating a residence hall policy or the Student Conduct Code will be notified through a university-recognized medium to contact the appropriate hearing official for a hearing regarding the alleged misconduct. The notice will include the date of the alleged violation and the specific provision of the policy or code in question. The rights outlined below will be accorded to any student in a formal or informal hearing for an alleged violation of the Student Conduct Code and for formal hearings for an alleged violation of residence hall policy. A student is not afforded the right of an advisor in an informal hearing for an alleged infraction of residence hall policy due to the nature of these types of offenses and the short timeframe allowed for a case to be resolved.

A. to be present at the hearing;

B. to meet with the judicial officer to discuss the disciplinary process;
C. to submit a written account of the alleged incident;

D. to be advised of the date, time and location of the disciplinary hearing, and to request rescheduling for good cause;

E. to be present at the hearing and to be accompanied by an advisor of the student’s choosing during the hearing process, although the advisor will not be permitted to speak for the student during the hearing;

F. to testify as a witness during the hearing. An intercom or other remote audio or video device may be used in hearings to allow a either party to testify and respond to questions and cross-examinations without face-to-face contact with the other student at the hearing;

G. to decline to testify, with knowledge that, in the case of victims choosing not to testify, such action could result in dismissal of the charges for lack of evidence. All relevant evidence will be considered and the alleged violation adjudicated.

IV.

A. to have an advisor of the charged student’s choice appear with the student and to
B. consult with such advisor during the hearing, except as stated in the previous paragraph;

H. to hear or examine evidence presented against the charged student;

C. to have and cross-examine witnesses.

D. to make any statement in mitigation or explanation of the conduct in question;

E. to be informed in writing of the finding and any sanction imposed;

G. to appeal the finding and/or sanction to the proper authority;

H. to waive hearing deadlines as outlined in these procedures;

I. to have and cross-examine witnesses.

J. to meet with the judicial officer to discuss the disciplinary process.

K. to submit a written account of the alleged incident.
I. to be advised of the date, time and location of the disciplinary hearing, and to request rescheduling for good cause.

J. to be present at the hearing and to be accompanied by an advisor of the victim's choosing during the hearing process, although the advisor will not be permitted to speak for the victim during the hearing.

K. to testify as a witness during the hearing. An intercom or other remote audio or video device may be used in hearings to allow a victim to testify and respond to questions and cross-examinations without face-to-face contact with the alleged perpetrator.

to decline to testify, with knowledge that such action could result in dismissal of the university's charges for lack of evidence.

IV. Rights of Victims-Complainants in Disciplinary Proceedings

Some actions that violate university rules-policy involve victimization of one or more students by another student(s). This behavior may include physical violence and other acts that endanger the safety of others in the university community. If a person is identified as a victim of a nonforcible sex offense or other violent criminal offense, that person is entitled to certain rights during the disciplinary process.

If a complaint is filed with the judicial officer, it is important to remember that the accused student is being charged with violating a university rule or regulation; therefore, the university is ultimately responsible for initiating charges, imposing sanctions if the charged student chooses to admit the violation, implementing the hearing process, and determining sanctions following a finding of responsibility. Although a complainant's victim's input may be sought during the disciplinary process, the ultimate disposition of the case rests with the university. If a complainant victim withdraws their complaint during the course of the disciplinary proceeding, the university reserves the right to proceed with the case on the basis of evidence other than the testimony of the complainant victim.

A. During the course of a disciplinary proceeding, a victim of an alleged violent criminal offense or nonforcible sex has the following rights:

to meet with the judicial officer to discuss the disciplinary process.

to submit a written account of the alleged incident.

to be advised of the date, time and location of the disciplinary hearing, and to request rescheduling for good cause.
to be present at the hearing and to be accompanied by an advisor of the victim's choosing during the hearing process, although the advisor will not be permitted to speak for the victim during the hearing.

to testify as a witness during the hearing. An intercom or other remote audio or video device may be used in hearings to allow a victim to testify and respond to questions and cross examinations without face-to-face contact with the alleged perpetrator.

to decline to testify, with knowledge that such action could result in dismissal of the university's charges for lack of evidence.

to meet with the judicial officer to discuss the disciplinary process, and to make an impact statement, either in person or in writing, to the hearing officer or Student Conduct Committee for consideration during the sanctioning phase. The complainant further has those rights outlined in Procedures for Violations with a Student Complainant.

**VI. Evidence and Burden of Proof**

In all disciplinary proceedings, Except as otherwise provided, the university bears the burden of proof by a preponderance of the evidence. Preponderance of the evidence means proof which leads a reasonable person to find that the fact in issue is more probable than not. It is evidence that is of greater weight or more convincing than the evidence offered in opposition to it. The rules of evidence do not apply in any hearing nor are the proceedings to be conducted as judicial trials; however, care shall be taken to comply with the intent of the procedural safeguards provided by these rules. All hearings are closed to the public.

**VII. Confidentiality Standards**

All hearings and records pertaining to such will be considered educational records and will be treated as designated by current law. This means there will be no disclosure of file contents outside of the university without the written permission of the student, unless a legal exception exists. Disclosure within the university will be limited to those employees having legitimate need of the information to conduct university business. Disclosure to victims of violent crimes and nonforcible sex offenses will be handled according to current law. Hearings will be closed to the public.

**VIII. Penalties**

**Admonition:** is a warning.

**Conduct Probation:** is for a specified period of time and requires that a second offense will result in disciplinary probation or suspension.
**Disciplinary Probation:** is for a specified period of time and may carry with it other conditions to be met (e.g., restriction of participation in extracurricular activities, holding student office, pledging or joining campus organizations).

**Special Action:** is a sanction designed to enhance the educational intent of the disciplinary process. Examples of sanctions include the requirement of a special program or class (the cost of this program will be paid by the student), removal from university housing, payment of damages, extracurricular activity restrictions, community service, educational sanctions, counseling referrals, removal from any class or program, or restrictions on enrollment in any class or program.

**Suspension of an Individual:** is a bar from attending the university for a specific period of time and begins at 5 p.m. on the first business day following the date of the decision of the hearing officer or board considering the case. A suspension also carries with it the following conditions:

A. The charged student must remain off the campus during the period of suspension, except when summoned by an administrator of the university or when an appointment with an official has been arranged in advance.

B. A student under suspension may not live or board in university facilities.

**Suspension of a Student Organization:** is loss of university recognition for a specified period of time as outlined in Policy F-14, Student Organization Formation and Recognition (F-14). Student organizations are required to cease all activities during the specified period. Student organizations that continue to function during the suspension will be considered in violation of their suspension. Special Actions may also be attached to the suspension to enhance the educational intent of the disciplinary process. Suspended student organizations must submit a new application as an organization at the end of the suspension period.

**Expulsion:** is a permanent bar from attending the university whereby the student is not eligible for readmission to this university and begins at 5 p.m. on the first business day following the decision of the hearing officer or board considering the case. An expelled student's status will also carry the following conditions:

A. The expelled student must remain off the campus, except when summoned by an administrator of the university or when an appointment with an official has been arranged in advance.

B. A student under expulsion may not live or board in university facilities.

**Debarment:** is equivalent to suspension from the university applied to persons not currently registered at the time the penalty is imposed.
Interim Suspension: The judicial officer may, with the approval of the vice president of university affairs, suspend a student for an interim period pending disciplinary proceedings when there is evidence that the continued presence of the student on the university campus poses a substantial threat of harm or bodily injury to herself/himself or to others, damage to property, or threat to the stability and continuance of normal university functions. The judicial officer may provide for the interim suspension to become immediately effective without prior notice to the student. However, the judicial officer shall provide notice to the student at the first reasonable opportunity.

The judicial officer shall inform the student that he/she is entitled to a hearing to be held within five (5) university business days from the effective date of the interim suspension. If the student desires, a preliminary hearing, either formal or informal, shall then be held on the following issues only:

A. the reliability of the information concerning the student's conduct, including the matter of his/her identity;

B. whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on the university campus poses a substantial threat of harm or bodily injury to herself/himself or to others, to property, or to the stability, poses a substantial threat of harm or bodily injury, damage to property, or threat to the stability and continuance of normal university functions.

If the judicial officer or committee finds the information concerning the charged student's conduct is unreliable or that the charged student has been misidentified, charges may be dismissed. If the judicial officer or committee finds that allowing the charged student to remain on campus poses no threat or disruption, the student may be allowed to remain on campus pending the completion of the hearing process.

IX-VIII. Residence Hall Policy Violation Procedures

The hall director shall receive the report of any alleged infraction of residence hall policy and the Student Conduct Code that occurs in a residence hall. Alleged residence hall policy infractions shall be adjudicated by residence hall hearing procedures. Student Code of Conduct Code violations shall be referred to the judicial officer in the Office of Student Rights and Responsibilities.

In the event of multiple infractions involving both Residence Hall Policy and the Student Conduct Code, each infraction shall be heard separately by the appropriate hearing officer. In Residence Hall Policy violation cases, the hall director shall notify the charged student, through a university-recognized medium, of a hearing to adjudicate the alleged infraction. Failure by the charged student to have his/her current local address on record with the university or to access
notifications transmitted through a university-recognized medium shall not invalidate the notice. The notice shall include the date of the alleged violation and the specific provision of the Residence Hall Policy in question. The hall director shall make every effort for the hall hearing to be held within five (5) working days of the alleged infraction.

The hall director will provide the charged student a copy of the discipline report relative to the case, which will include the name(s) of the individual(s) making the charge and potential witnesses. The charged student will also be presented with the option of having the hall director informally resolve the incident or having the case heard before the Residence Hall Judicial Board. The hall director shall also have the right to refer the case to the Residence Hall Judicial Board.

A. Informal Disposition for Residence Hall Policy Violations

1. Informal Hearing Procedures for Residence Hall Policy Violations

If the charged student selects an informal hearing, the discipline report shall serve as evidence of the infraction. The hall director shall serve as the official initiating the charge of misconduct, serve as hearing officer, make a determination and impose any sanction. In the event the charged student does not appear for the initial hearing with the hall director, the charged student shall be notified again of a new hearing within two (2) working days. If the charged student fails to appear for the newly scheduled hearing, the hall director shall refer the case to the Residence Hall Judicial Board for a hearing on the original charge and an additional charge of failure to comply with the directions of a university official.

2. Right of Appeal for an Informal Hearing of Residence Hall Policy Violations

The charged student may appeal the decision of the hall director to the judicial officer who has final authority in the matter. The student must file the appeal within three (3) working days of the hall director's decision. Grounds for an appeal are limited to procedural irregularities. The student must file the signed and dated written appeal in the Office of Student Rights and Responsibilities no later than 5 p.m. on the day of the deadline. The written appeal must contain the charged student's university identification number, date of the disciplinary action being appealed, the nature of the charges, the grounds which merit an appeal, and any extenuating circumstances the charged student wishes to have considered. The judicial officer shall review the full record of the case and the appeal documents and may affirm, reverse or remand the case for further proceedings and shall notify, through a university-recognized medium, the charged student and the Residence Life Department of the decision on the appeal.
3. **Status During Appeal for an Informal Hearing of Residence Hall Policy Violations**

When an appeal is filed within the required time, the terms of the sanction are not enforced pending final determination of the appeal. In the event the sanction is upheld, any final disciplinary action imposed shall be effective from the date of the final appellate authority decision.

4. **Record of Hearing for an Informal Hearing of Residence Hall Policy Violations**

The hearing record shall be maintained by the Residence Life Department according to the university's retention schedule. For the purpose of appeal, the record shall be accessible at reasonable times and places to both the appropriate university officials and the student charged. The record may be stored electronically and shall include the content of the originating report of misconduct, the findings of and sanctions imposed by the hall director and any additional documentation generated through an appeal.

B. **Formal Disposition for Residence Hall Policy Violations**

1. **Hearing Formal Hearing Procedures for Residence Hall Policy Violations**

   If the charged student elects to have the case heard before the Judicial Board, or the case is referred to the Judicial Board by the hall director, the chair of the Judicial Board shall notify the charged student of the hearing date to be scheduled within five (5) working days.

   The Judicial Board chair shall provide notice of the hearing through a university-recognized medium. Failure by the charged student to have his/her current local address on record with the university or to access notifications transmitted through a university-recognized medium shall not invalidate the notice. The notice shall set forth the date, time, and place of the alleged infraction, the conduct in question, and the date, time and place of the hearing before the Judicial Board. The charged student shall also be informed that an advisor may accompany the charged student to the hearing. If the charged student fails to appear at the scheduled time, the charged student shall be notified of a new hearing date within two (2) working days. If the charged student fails to appear for the newly scheduled hearing, the case shall be referred to the judicial officer for a hearing on the original charge and an additional charge of violation of the Student Conduct Code for failure to comply with the directions of a university official. If the charged student has been referred to the Judicial
Board because of failure to appear for informal hall director hearings, the charged student will receive no second notice and the hearing will proceed without the student being present. The findings of and any sanction imposed by the Judicial Board will be provided to the student through a university-recognized medium.

The judicial board chair shall preside at the hearing, ascertain the presence or absence of the student charged with misconduct, read the notice of the hearing and the charges, and establish the presence of any advisor of the charged student. The charged student may make a statement to the board at this time. Witnesses for either the university or the charged student may be questioned by both the board members and the charged student. The student's advisor may advise the charged student, but may not participate in the hearing by questioning witnesses or addressing the board. At the conclusion of the questioning, the board shall then make its findings and determinations in executive closed session out of the presence of the charged student. The board shall promptly consider the case on its merits, make its findings and inform the charged student and the student's hall director within two (2) working days of the findings and any sanction to be imposed.

2. **Right of Appeal for a Formal Hearing of Residence Hall Policy Violations**

The decision of the Judicial Board may be appealed in writing within three (3) working days to the judicial officer who has final authority over the matter. Grounds for an appeal are limited to procedural irregularities. The student must file a signed and dated written appeal in the Office of Student Rights and Responsibilities no later than 5 p.m. on the day of the deadline. The written appeal must contain the charged student's university identification number, date of the disciplinary action being appealed, the nature of the charges, the grounds which merit an appeal, and any extenuating circumstances the charged student wishes to have considered. The judicial officer shall review the full record of the case and the appeal documents and may affirm, reverse or remand the case for further proceedings and shall notify, through a university-recognized medium, the charged student and the hall director of the decision on the appeal.

3. **Status During Appeal for a Formal Hearing of Residence Hall Policy Violations**

When an appeal is filed within the required time, the terms of the sanction are not enforced pending final determination of the appeal. In the event the sanction is upheld, any final disciplinary action imposed shall be effective from the date of the final appellate authority decision.
4. **Record of Hearing for a Formal Hearing of Residence Hall Policy Violations**

The hearing record shall be maintained by the Residence Life Department according to the university's retention schedule. For the purpose of appeal, the record shall be accessible at reasonable times and places to both the university and the student charged. The record may be stored electronically and shall include the content of the originating report of misconduct, the findings of and sanctions imposed by the Residence Hall Judicial Board and any additional documentation generated through an appeal.

**X-IX. Student Conduct Code Violation Procedures**

The Office of Student Rights and Responsibilities shall receive the report of any alleged violation of the Student Conduct Code. Reports of alleged violations may be received from any person having knowledge of the incident.

**Notice:**

The Office of Student Rights and Responsibilities shall notify the charged student, through a university-recognized medium, of the necessity of a hearing to adjudicate the alleged violation. The notice shall include the date of the alleged violation and the specific provision of the Student Conduct Code in question.

Failure by the charged student to have his/her current local address on record with the university or to access notifications transmitted through a university-recognized medium shall not invalidate the notice.

The charged student shall contact the office of the judicial officer concerning the scheduling of an appointment within five (5) working days. The charged student shall be informed that an advisor may be present to provide counsel to the charged student and if an attorney is chosen as an advisor, the student must provide this information when scheduling the initial meeting to allow the university's attorney to also be present.

The judicial officer will provide the charged student a copy of the incident report which will include the name(s) of the individual(s) making the charge and potential witnesses.

The charged student will also be presented with the option of having the judicial officer informally resolve the incident or having the case heard before the Student Conduct Committee. The judicial officer shall also have the right to refer the case to the Student Conduct Committee. Cases where expulsion could be considered a sanction will automatically be referred to the Student Conduct Committee.

**A. Informal Disposition for Student Conduct Code Violations**
1. **Informal Hearing/Finding Procedures for Student Conduct Code Violations**

If the charged student selects an informal hearing, the incident report shall serve as evidence of the violation. The judicial officer shall serve as the official who initiates the charge of misconduct, serve as hearing officer, make a determination and impose any sanction. The charged student’s advisor may advise the charged student but may not participate in the hearing, *for example* by asking questions or addressing the judicial officer.

In the event the charged student does not appear for the initial hearing scheduled with the judicial officer, the charged student shall be sent a second notice within two (2) working days. If the charged student does not respond to the second notice, the charged student’s case may be considered and a final decision determined in the absence of the student and/or a bar placed on all university files and accounts preventing the conduct of university business until the charged student appears before the judicial officer for disposition of the case.

2. **Right of Appeal for an Informal Hearing of Student Conduct Code Violations**

*The written appeal must be submitted according to one of the following procedures within 5 working days of the judicial officer’s decision. A student must remain off campus until his/her appeal is accepted by the proper authority and permission is granted to continue to reside on campus and/or to attend classes until the completion of the appeal process.*

**a. Sanction of Suspension or Expulsion**

*There are two (2) appeal options for the sanctions of suspension or expulsion. A student may appeal either the finding/decision OR the sanction.*

*Appeal of the Finding
Sanction of suspension or expulsion*

*There are two (2) appeal options for the sanctions of suspension or expulsion. A student may appeal either the finding/decision OR the sanction. The written appeal must be submitted according to one of the following procedures within 5 working days of the judicial officer’s decision. A student must remain off campus until his/her appeal is accepted by the proper authority and permission is granted to continue to*
reside on campus and/or to attend classes until the completion of the appeal process.

**Appeal of Findings**

The determination of the judicial officer of a student's responsibility in a case that results in a sanction of suspension or expulsion may be appealed to the Student Conduct Committee by requesting a formal hearing. The student must file the signed and dated written appeal in the committee chair’s office no later than 5 p.m. the day of the deadline. The written appeal must contain: the charged student's university identification number, date of the disciplinary action being appealed, the nature of the charges, a specific request to have the case reheard before the committee, and a request(s) to continue to reside on campus and/or attend classes during the appeal process. See the following section, B. Formal Dispositions for Student Conduct Code Violations, for formal hearing procedural details.

**Appeal of the Sanction**

**Appeal of Sanction**

The charged student may accept the finding of responsibility and appeal the judicial officer’s sanction of suspension or expulsion to the vice president for university affairs. The signed and dated written appeal must be filed in the vice president's office no later than 5 p.m. the day of the deadline. The written appeal must contain: the charged student's university identification number, date of the disciplinary action being appealed, the nature of the charges, the grounds which merit an appeal, any extenuating circumstances the charged student wishes to have considered and a request(s) to continue to reside on campus and/or attend classes during the appeal process.

The vice president may assign the appeal to the dean of student affairs. In this case, the dean of student affairs will serve as the final level of appeal.

b. **Sanctions other than Suspension or Expulsion**

The charged student may appeal the decision of the judicial officer to the Student Conduct Committee who has final authority in the matter, within five (5) working days of the judicial officer's decision. Grounds for an appeal are limited to the following: procedural irregularities severe enough to have denied the student
a fair hearing; lack of clear and convincing evidence to support the hearing outcome; new information pertinent to the case that was unknown to the student at the time of the hearing; or an excessive or inappropriate sanction. The student must file the signed and dated written appeal in the office of the Student Conduct Committee chair no later than 5 p.m. the day of the deadline. The written appeal must contain the charged student's university identification number, date of the disciplinary action being appealed, the nature of the charges, the grounds which merit an appeal, and any extenuating circumstances the charged student wishes to have considered. Upon filing, the chair will provide the charged student with a list of the faculty/staff and student pool members of the Student Conduct Committee and allow the charged student to make one (1) strike of any one (1) member of the ten (10) pool members. The committee shall review the full record of the case and the appeal documents and may affirm, modify, reverse or remand the case findings or sanctions for further proceedings and shall notify, through a university-recognized medium, the charged student and the judicial officer of the decision on the appeal.

3. **Status During Appeal for an Informal Hearing of Student Conduct Code Violations**

In cases of suspension or expulsion where an appeal is filed within the required time, a charged student may petition the appropriate appeal officer, either the conduct committee chair, or the VPUA vice president for university affairs or designee, in writing for permission to continue to reside on campus and/or attend classes pending final determination of the appeal. The officer may permit either of these requests under such conditions as may be designated pending completion of appellate procedures, provided such continuance will not seriously disrupt the university or constitute a danger to the health, safety or welfare of the university community.

In cases of sanctions other than suspension or expulsion, where an appeal is filed within the required time, the terms of the sanction are not enforced pending final determination of the appeal. In the event a sanction is upheld, any final disciplinary action imposed shall be effective from the date of the final appellate authority decision.

4. **Record of Hearing for an Informal Hearing of Student Conduct Code Violations**

The hearing record shall be maintained by the Office of Student Rights and Responsibilities according to the university's retention schedule. For
the purpose of appeal, the record shall be accessible at reasonable times and places to both the appropriate university officials and the student charged. The record may be stored electronically and shall include the content of the originating report of misconduct, the findings of and sanctions imposed by the judicial officer and any additional documentation generated through an appeal.

B. Formal Dispositions for Student Conduct Code Violations

1. Procedures for Violations Without a Student Complainant

Formal Hearing Procedures for Student Conduct Code Violations

a. If the charged student elects to have the case heard before the Student Conduct Committee, or the case is referred to the Committee by the judicial officer, the judicial officer will immediately provide the charged student with a list of the faculty/staff and student pool members of the Student Conduct Committee. The charged student will be allowed to make one (1) strike of any one (1) member of the ten (10) pool members. This information will be forwarded to the chair of the committee, who shall notify the charged student of the hearing date to be scheduled within ten (10) working days of the election. Formal hearings will be scheduled as quickly as reasonably possible. Formal hearings generally will not be scheduled when classes are not in session or during dead week or finals week.

b. The Student Conduct Committee chair shall provide notice of the hearing, transmitted either through a university-recognized medium or personal delivery to the charged student. The notice shall set forth the date, time and place of the alleged violation, the conduct in question, and the date, time and place of the hearing before the Student Conduct Committee. The charged student shall also be informed that an advisor may accompany the charged student to the hearing and if an attorney is chosen as an advisor, the student must provide this information when scheduling the initial meeting to allow the university's attorney to also be present. Failure by the charged student to have his/her current local address on record with the university or to access notifications transmitted through a university-recognized medium shall not invalidate the notice. The notice shall be given at least five (5) consecutive calendar days prior to the hearing, unless a shorter or longer time is fixed by the chair for good cause. If the charged student fails to appear at the scheduled time, the charged student shall be informed of a new hearing date. Any request for continuance shall be made in writing to the chair, who shall have the authority to continue the hearing if it is determined the request is
timely and for good cause. If a new hearing must be set for either the failure of the charged student to show or for a continuance, the chair shall notify the judicial officer and the charged student of the new date for the hearing. Failure to appear for the newly scheduled hearing may result in the charged student’s case being considered and a final decision determined by the committee in the absence of the student and/or the judicial officer being instructed to place a bar on all university files and accounts preventing the conduct of university business until the charged student appears for disposition of the case in compliance with these rules.

c. The Student Conduct Committee chair, or designated temporary chair, shall preside at the hearing, ascertain the presence or absence of the student charged with misconduct, read the notice of the hearing and the charges and verify the receipt of notices of charges by the charged student, report any continuances requested or granted, establish the presence of any advisor or counselor of the charged student and call the attention of both the charged student and any advisor to any special or extraordinary procedures to be employed during the hearing.

d. The judicial officer and the charged student shall make opening remarks outlining the general nature of the case and the types of evidence to be presented. The charged student’s advisor may advise the charged student, but may not participate in the hearing, for example by questioning witnesses or addressing the committee.

e. The parties may summon and cross-examine witnesses, produce evidence, address the committee, and inspect and copy the committee's findings and determinations. Each party shall have the right to testify. However, the charged student may not be required to testify. Any person testifying shall be subject to cross-examination. The charged student shall be afforded an opportunity to obtain necessary witnesses and documentary or other evidence, and the university shall assist in securing the cooperation of witnesses and make available any necessary documents and other evidence within its control.

2. Procedures for Violations with a Student Complainant

a. Investigation: In the case of an alleged violation with a student complainant, the Director of Student Rights and Responsibilities, or their designee, investigates the complaint, not as a representative of the complainant, but as an impartial party.
The investigator will interview the complainant and other persons who may have pertinent factual information related to the complaint. The investigator will also meet with the charged student, provide them with a copy of the complaint and give them an opportunity to respond. The charged student may, but is not required to, submit a written response to the allegations in the time prescribed by the investigator.

The investigator may also gather and examine documents relevant to the complaint and may consult with appropriate personnel for advice and guidance as applicable.

Case complexity will vary and the length of the investigation will depend on case circumstances; however, the investigation will normally conclude within 20 business days. It is incumbent upon the investigating official to document a reasonable justification for extending an investigation beyond 20 business days.

The university reserves the right to take any action as may be reasonably appropriate upon receipt of a complaint to protect the complainant or university community pending outcome of the investigation.

b. Report of Findings and Recommendations: The investigator is responsible for preparing a report responding to each allegation that the complainant has made. This report should include a brief overview of the investigative process including the category and number of individuals interviewed (excluding names), timelines, and a summary of each allegation. In addition, this report should describe the investigator’s findings and recommendations relative to each allegation.

The investigator will submit this report to the assistant dean of student affairs for support services (assistant dean), or designee, with copies provided to the Title IX and/or ADA coordinator, if applicable.

Within five (5) days of the conclusion of the investigation, the assistant dean shall review the findings and recommendations of the investigator and take such action deemed appropriate, communicating the findings to both the charged student and the complainant to the extent allowed by law, with copies to the Title IX or ADA coordinator, if applicable.

c. Appeal Process: If the decision of the assistant dean is not satisfactory to the complainant or the charged student, that individual has five (5) business days in which to request a formal hearing before the Student
Conduct Committee (committee). This request will be considered an appeal and must be made in writing to the chair of the Student Conduct Committee.

If the charges are deemed serious enough to require suspension, expulsion or removal from campus housing, the charged student may be removed from class or the residence halls pending final disposition of the appeal.

The committee will hear the appeal generally utilizing the same hearing process outlined for formal hearings without a student complainant.

The following procedures outline the conduct of the Student Conduct Committee appeal hearing:

i. Summary of investigation and findings by the director of student rights and responsibilities or designee
ii. Opening statement by complainant (5 minutes)
iii. Opening statement by charged student (5 minutes)
iv. Presentation evidence and/or witnesses by complainant
v. Presentation evidence and/or witnesses by charged student
vi. Closing statement by charged student (5 minutes)
vii. Closing statement by complainant (5 minutes)

The burden will be on the complainant to prove by a preponderance of the evidence that the charged student is responsible for the charges against them. Cross examination of the witnesses is allowed by both parties. In cases of alleged sexual harassment/assault, the parties shall not be permitted to directly question each other. The conduct committee is permitted to question the parties and/or witnesses at any time during the proceeding.

Hearings are closed to the public. The general counsel may be consulted in procedural matters of the conduct committee and may be present at meetings. All information presented in the hearing is confidential and restricted to only those who have an absolute need to know.

In addition to the procedures outlined elsewhere, the following will also apply:

i. Both the charged student and the complainant will receive the notice of the hearing.
ii. Both the charged student and the complainant will have the opportunity to exclude/strike one member of the Student Conduct Committee from participation in the hearing. This selection must be made prior to the hearing.

iii. Both the charged student and the complainant have the right to have an advisor present.

iv. Both the charged student and the complainant may ask for a continuance.

v. Both the charged student and the complainant will have the same opportunity to obtain witnesses and evidence and have the assistance of the university as described.

vi. Both the charged student and the complainant will have the right to testify or refuse to testify.

vii. Both the charged student and the complainant will have the opportunity to cross-examine all witnesses and are subject to cross-examination if choosing to give testimony. An intercom or other remote audio or video device may be used in hearings to allow a complainant to testify and respond to questions and cross-examinations without face-to-face contact with the charged student.

viii. Both the charged student and the complainant will have the ability to submit a written response to the charges.

The Student Conduct Committee shall promptly consider the appeal on its merits, summarize its findings and make a written recommendation to the dean of student affairs within two (2) working days.

The dean of student affairs will have access to all evidence, both parties, and witnesses as deemed appropriate, and may accept, reject, or modify the recommendation of the committee. The dean of student affairs will normally have five (5) days after receiving the recommendation of the Student Conduct Committee to make a decision. The decision of the dean of student affairs is final. No further appeal is permitted. Final disposition of the case will be communicated by letter to both the charged student and the complainant to the extent allowed by law.

3. Scope of the Committee

The Student Conduct Committee may:

a. permit a stipulation of facts by the judicial officer and the charged student involved;
b. permit the incorporation in the record by a reference to any document, affidavit or other thing produced and desired to be incorporated in the record by the university or the charged student;

c. question witnesses or other evidence introduced by either the university or the charged student;

d. hear from the judicial officer about dispositions made in similar cases and any dispositions offered to the charged student appearing before the committee;

e. call additional witnesses or require additional investigation;

f. dismiss, amend or add any action or charges or permit informal disposition upon request of the charged student;

g. bring charges against additional students as a result of the evidence presented in a hearing;

h. dismiss any person from the hearing who interferes with or obstructs the hearing or fails to abide by the rulings of the chair of the committee.

i. In cases involving more than one student, which arise out of the same transaction or occurrence, the committee may hear the cases together, but shall make separate findings and determinations for each charged student.

4. Determinations and Official Report of the Student Conduct Committee

The Student Conduct Committee shall then make its findings and determinations in executive-closed session, out of the presence of the judicial officer and the charged student/parties. Separate findings are to be made as to the conduct of the charged student and the recommended sanction, if any, to be imposed. No sanction shall be imposed on the charged student unless a majority of the committee present is reasonably convinced by the evidence that the charged student has committed a violation and should therefore be sanctioned by the university. The committee shall promptly consider the case on its merits and inform the charged student and the judicial officer within two (2) working days of the findings and any sanctions to be imposed.

5. Other Procedural Questions for a Formal Hearing of Student Conduct Code Violations
Procedural questions which arise during the hearing not covered by these general rules shall be determined by the chair, whose ruling shall be final unless the chair shall present the question to the committee at the request of a member of the committee, in which event the ruling of the committee by majority vote shall be final.


All requests to address the committee shall be addressed to the chair. The chair shall rule on all requests and may consult with the committee's legal counsel prior to any ruling. The chair's ruling shall be final and all participants shall abide thereby, unless the chair shall present the question to the committee, in which event the ruling of the committee by majority vote shall be final.

The committee's sessions shall be conducted in a manner consistent with the ascertainment of the truth and the orderly process of justice. Each person in attendance shall therefore exhibit proper dignity, courtesy, and respect.

7. **Right of Appeal for a Formal Hearing of Student Conduct Code Violations**

*For cases without a student complainant, a charged student may appeal the decision of the Student Conduct Committee to the vice president for university affairs within five (5) working days of the committee's notice.* Grounds for an appeal are limited to the following: procedural irregularities severe enough to have denied the student a fair hearing; lack of clear and convincing evidence to support the hearing outcome; new information pertinent to the case that was unknown to the student at the time of the hearing; or an excessive or inappropriate sanction. In cases of suspension or expulsion, a student must remain off campus until his/her appeal is accepted by the vice president for university affairs or designee and permission is granted to continue to reside on campus and/or to attend classes until the completion of the appeal process.

The student must file a signed and dated written appeal in office of the vice president for university affairs no later than 5 p.m. on the day of the deadline. The written appeal must contain the charged student's university identification number, date of the disciplinary action being appealed, the nature of the charges, the grounds which merit an appeal, any extenuating circumstances the charged student wishes to have considered, and, in cases of suspension or expulsion, a request(s) to continue to reside on campus and/or attend classes during the appeal process. The vice president shall review the full record of the case and the appeal documents and may
affirm, reverse or remand the case for further proceedings and shall notify the charged student, the conduct committee chair, and the judicial officer of the decision on the appeal. The vice president may assign the appeal to the dean of student affairs. In this case, the dean of student affairs will serve as the final level of appeal.

8. Status During Appeal for a Formal Hearing of Student Conduct Code Violations

In cases of suspension or expulsion where an appeal is filed within the required time, a charged student may petition the vice president for university affairs in writing for permission to continue to reside on campus and/or attend classes pending final determination of the appeal. The vice president for university affairs, or their designee, may permit either or both of these requests under such conditions as may be designated pending completion of appellate procedures provided such continuance will not seriously disrupt the university or constitute a danger to the health, safety or welfare of the university community. In cases of other sanctions where an appeal is filed within the required time, the terms of the sanction are not enforced pending final determination of the appeal. In the event the sanction is upheld, any final disciplinary action imposed shall be effective from the date of the final appellate authority decision.

9. Record of Hearing for a Formal Hearing of Student Conduct Code Violations

The university shall maintain a video or audio record of the hearing before the Student Conduct Committee. The hearing record shall be maintained according to the university's retention schedule. The notice, exhibits, video or audio record, the findings and sanctions of the committee shall become the hearing record and shall be filed in the office of the Office of Student Rights and Responsibilities. The hearing record may be stored electronically in part or in whole. For the purpose of appeal, the record shall be accessible at reasonable times and places to both the appropriate university officials and the student charged.

Cross Reference: Student Code of Conduct (D-34.1)

Responsible for Implementation: Vice President for University Affairs

Contact for Revision: Dean of Student Affairs

Forms: None

Board Committee Assignment: Academic and Student Affairs