



# Handbook Of Operating Procedures

## DISCIPLINARY HEARING AND APPEALS PROCEDURES

### A. Purpose

The following will advise students of the procedures to be followed where disciplinary action may be taken.

### B. Authority

#### 1. Student Conduct

The Dean of Students or his or her designee shall have primary authority and responsibility for the administration of student discipline at The University of Texas at Brownsville and Texas Southmost College (UTB/TSC). The Dean of Students has the duty to investigate allegations that a student has violated the Regents' *Rules and Regulations*, the rules and regulations of the University, or specific orders and instructions issued by an administrative official of the University in the course of his or her authorized duties, or any provisions of federal, state and/or local laws.

#### 2. Scholastic Dishonesty

The UTB/TSC recognizes the responsibility of the entire campus community in furthering the standards of scholastic integrity and the important, traditional role of the faculty member in maintaining academic honesty in the classroom.

In light of these principles, under authority delegated by the Dean of Students a faculty member who has reason to suspect that a student has engaged in scholastic dishonesty may immediately refer the matter to the Dean of Students for investigation or may proceed as follows:

- a. Meet with the student(s) involved and discuss the alleged violation and the evidence that supports the charge. If after conferring with the student, the faculty member believes that disciplinary charges should be pursued he/she may refer the allegations to the Dean of Students.

or

- b. In a case where a student accused of scholastic dishonesty admits the facts upon which the charges are based and executes a written waiver of hearing procedures, the faculty member may recommend an academic penalty authorized in section F(8), and must report the disposition of the incident to the Dean of Students, who will review the matter and if the Dean approves the disposition, inform the student of the final decision via US mail. A form for the waiver of hearing procedures and the assessment of academic penalty



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is available from the office of the Dean of Students. In all other cases, including a case where a student accused of scholastic dishonesty disputes the facts upon which the charges are based or chooses not to waive the right to a hearing before a hearing officer, the faculty member shall refer the matter to the Dean of Students.

## C. Investigation

It shall be the Dean of Student's duty to investigate allegations of misconduct including allegations that a student has engaged in conduct that is prohibited by the Regents' *Rules and Regulations*, the rules and regulations of the institution, specific instructions issued by an administrative official of the institution in the course of his or her authorized duties, or any provisions of federal, state, and/or local laws. The Dean may summon any student for purposes of discussing the allegations and/or investigating by mailing to the address appearing in the Registrar's records a written request for the student to appear at a certain place and time at least three weekdays after the date of the letter or at least two weekdays after the date of the request if it is sent by e-mail or hand delivered. The Dean may bar or cancel the enrollment or otherwise alter the status of a student (or of a former student) who fails without good cause to comply with a summons. A letter sent to the local address listed in the Registrar's records, a letter hand delivered to the student, or an e-mail message sent to the address in the Registrar's records shall constitute full and adequate notice. The failure of a student to provide current addresses, refusal to accept delivery of a letter, or failure to receive an e-mail message because the mailbox is full or the message is inappropriately forwarded, shall not constitute good cause for failure to comply with the summons. After completing a preliminary investigation, the Dean may dismiss the allegations as unfounded. If the Dean determines that such allegations are not unfounded, the Dean may proceed with disciplinary action notwithstanding any action taken by other authorities.

## D. Immediate Interim Disciplinary Action

Pending a hearing or other disposition of the allegations against a student, the Dean of Students may take such immediate interim disciplinary action as is appropriate to the circumstances when such action is in the best interest of the institution. This includes but is not limited to a suspension or bar from the campus when it reasonably appears to the Dean from the circumstances that the continuing presence of the student poses a potential danger to persons or property or a potential threat for disrupting any activity authorized by the university.



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## E. Withholding Transcripts, Grades, Degrees

Notwithstanding the above, the Dean may withhold the issuance of an official transcript, grade, diploma, certificate, or degree to a student alleged to have violated a rule or regulation of the U. T. System or the institutions that would reasonably allow the imposition of such penalty. The Dean may take such action pending a hearing, resolution by administrative disposition, and/or exhaustion of appellate rights if the Dean has provided the student an opportunity to provide a preliminary response to the allegations and in the opinion of the Dean, the best interests of the U. T. System or the institution would be served by this action.

## F. Hearing Procedures

1. a. In any case where the accused student elects not to dispute the facts upon which the charges are based and agrees to the sanctions the Dean assesses, the student may execute a written waiver of the hearing procedures specified in this section. This administrative disposition shall be final and there shall be no subsequent proceedings regarding the charges.
- b. In any case where the accused student elects not to dispute the facts upon which the charges are based, but does not agree with the sanctions assessed by the Dean, the student may execute a written waiver of the hearing procedures yet retain the right to appeal the decision only on the issue of penalty. The appeal must be in writing and submitted to the President's Office within fourteen (14) days of the Dean's decision as specified in the appeal procedures below.
2. In those cases in which the accused student disputes the facts upon which the charges are based, such charges shall be heard and determined by a fair and impartial Hearing Officer. The Hearing Officer shall be appointed by the Dean of Students or his or her designee. Except in those cases where immediate interim disciplinary action has been taken, the accused student shall be given at least ten days' notice of the date, time, and place for such hearing and the name of the Hearing Officer. The notice shall include a statement of the charge(s) and a summary statement of the evidence supporting such charges(s). The notice shall be delivered in person to the student or mailed to the student at the address appearing in the registrar's records. A notice sent by mail will be considered to have been received on the third day after the date of mailing, excluding any intervening Sunday. The date for a hearing may be postponed by the Hearing Officer for good cause or by agreement of the student and Dean.

A hearing following interim disciplinary action will generally be held within 10 days after the interim disciplinary action was taken; however, at the discretion



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of the Dean of Students the 10-day period may be extended for a period not to exceed an additional 10 days.

3. At least five days prior to the hearing, the Dean of Students shall give the student by certified mail, return receipt requested, at the address shown on his or her permanent records at the University.
  - a. A list of witnesses appearing against the student and a brief summary of the testimony to be given by each;
  - b. A copy of documents to be introduced at the hearing.
4. The student may have witnesses appear on his or her behalf. The student will give the Dean of Students a list of witnesses that will appear on his or her behalf and a copy of documents to be introduced at the hearing at least five days before the hearing.
5. If the student will have legal counsel present, he or she must notify the Dean of Students at least three days prior to the hearing. Each party shall have the right to appear, present testimony of witnesses and documentary evidence, cross-examine witnesses, and be assisted by an advisor of choice. The advisor may be an attorney. If the accused student's advisor is an attorney, the Dean's advisor may be an attorney from the Office of General Counsel of the University of Texas System. An advisor may confer with and advise the Dean or accused student, but shall not be permitted to question witnesses, introduce evidence, make objections or present argument to the Hearing Officer.
6. The hearing will be recorded under the supervision of the Dean of Students. If either party desires to appeal the decision of the Hearing Officer, the official record will consist of the recording of the hearing, the documents received in evidence, and the decision of the Hearing Officer. At the request of the president of an institution the recording of the hearing will be transcribed and both parties will be furnished a copy of the transcript.
7. Should the student fail to appear for the hearing without the grant of a continuance, hearing shall be held in his or her absence.
8. The accused student may challenge the impartiality of the Hearing Officer up to three days prior to the hearing. The challenge must be in writing, state the reasons for the challenge, and be submitted to the Hearing Officer through the Office of the Dean. The Hearing Officer shall be the sole judge of whether he or she can serve with fairness and objectivity. In the event the Hearing Officer disqualifies himself or herself, another Hearing Officer will be appointed.



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9. The hearing is informal and the hearing shall provide reasonable opportunities for witnesses to be heard. The hearing is closed except that, at the request of the student, the Hearing Officer may allow, at his or her discretion, other persons to attend. Only the accused student, the Dean of Students, their respective representatives, and witnesses may participate in the hearing. Witnesses shall testify one at a time and leave the hearing room after their testimony. The hearing officer shall have and exercise such power and authority as may be deemed appropriate or necessary to insure that a fair and impartial hearing of the charges is conducted in accordance with the provisions of this policy.
10. The Hearing Officer shall proceed generally as follows during the hearing:
  - a. The Dean of Students reads the statement of charges;
  - b. The Hearing Officer informs the accused student of his or her rights as listed above;
  - c. The Dean of Students presents the University's case;
  - d. The accused student presents his or her defense;
  - e. The Dean of Students and the accused student present rebuttal evidence and argument;
  - f. After the evidence is closed, the Hearing Officer deliberates and decides whether the accused student is responsible for the violations as charged and assesses a penalty or penalties;
  - g. The Hearing Officer informs the Dean of Students and the student in writing of the decision and the penalty, if any, in accordance with Section F of this policy.
11. The Hearing Officer shall abide by the following:
  - a. Legal rules of evidence do not apply to disciplinary hearings and the Hearing Officer may admit and give probative effect to evidence that possesses probative value and is commonly accepted by a reasonable person in the conduct of their affairs.
  - b. Upon a hearing of the charges, the University has the burden of going forward with the evidence and the burden of proving the charges by the greater weight of the credible evidence.



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12. The Hearing Officer shall render and send to both parties a written decision which shall contain findings of facts and conclusions as to the finding of responsibility of the accused student and shall assess a penalty or penalties.
13. The Hearing Record consists of:
  - a. A copy of the Official Summons and other related correspondence;
  - b. The recording and transcript of the recording, if made, together with all documentary and other materials offered and admitted in evidence; and
  - c. The decisions of the Hearing Officer.

## **F. Disciplinary Action**

The Hearing Officer shall render and send to both parties a written decision which shall contain findings of facts and conclusions as to the finding of responsibility of the accused student and shall assess a penalty or penalties as follows:

1. Oral reprimand. The student may be issued an oral reprimand in cases of minor infractions.
2. Written warning. The student may be issued a written warning, indicating future violations may result in more severe disciplinary action.
3. Disciplinary probation. Probation is a period of trial in which the student is required to show improved changes in attitude and behavior. Furthermore, the student is not eligible to represent the University in any event or campus-wide organization, such as intercollegiate competition, student government, cheerleading, etc. The length of probation will be determined according to the seriousness of the infraction. Probation may include other conditions and/or terms, including counseling, restitution, suspension from the residence hall, etc.
4. Withholding of grades, official transcript, or degree.
5. Bar from readmission.
6. Restitution or reimbursement for damage to or misappropriation of property. Restitution requires a student to reimburse the University for loss from, damage to, or unauthorized taking or use of property owned or leased by the University when the conduct of the student has caused or contributed to cause such loss. Restitution also may apply to the property of others in University-related incidents.



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7. Suspension of rights and privileges, including participation in athletic or extracurricular activities. This means that a student shall not be eligible to participate in official events or activities of the University, whether athletic or nonathletic, shall not join a registered student organization or participate in any meeting or activities of a registered student organization of which he or she may already be a member, and shall not be appointed or elected to or continue to function in any office or position within student government or official student publications. Students also may be barred from entering specified buildings or restricted from using particular facilities. This penalty may be enforced in part or in full.
8. The sanctions for a student found guilty of academic dishonesty may include a written warning; resubmit assignment, paper or program; retake exam; reduce credit or zero on exam, assignment, paper or program; and/or reduced final grade or failing grade for the course.
9. Denial of degree.
10. Suspension from the institution for a period of time. Suspension from the University prohibits, during the period of suspension, the student on whom it is imposed from entering the University campus without prior written approval from the Dean of Students; from being initiated into an honorary or service organization; and from receiving credit for scholastic work done during the period of the suspension. Any special conditions outlined in the suspension notice must be met before readmission can be granted.
11. Expulsion from the institution
12. Revocation of degree and withdrawal of diploma.
13. Other penalties may be imposed, when, in the opinion of the Dean of Students or the Hearing Officer, the best interests of the University would be served.
14. When an accused student is found responsible for the illegal use, possession, or sale of a drug narcotic on campus, the assessment of a minimum penalty provided in section 2.3 of Rule 50101 of the University of Texas System Regents' *Rules and Regulations* is required.

## **G. Appeal Procedures**

1. The appealing party must submit a written appeal stating the specific reasons for the appeal and any argument to the president of the institution with a copy to the other party. The appeal must be stamped as received by the President's Office no



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later than 14 days after the appealing party has been notified of the sanction assessed by the Dean or the decision of the Hearing Officer. If the notice of penalty assessed by the Dean or the decision of the Hearing Officer is sent by mail, the date the notice or decision is mailed initiates the 14-day period for the appeal. The non-appealing party may submit a response to the appeal, which must be received by the President's Office no later than five days after receipt of the appeal, with a copy to the other party. An appeal of the sanction assessed by the Dean in accordance with Section 4.4(b) above will be reviewed solely on the basis of the written argument of the student and the Dean. The appeal of the decision of the Hearing Officer will be reviewed solely on the basis of the record from the hearing. The Dean will submit the record from the hearing to the president as soon as it is available to the Dean. At the discretion of the president, both parties may present oral argument in an appeal from the decision of the Hearing Officer.

2. At the discretion of the President, both parties may present oral argument.
3. The President may approve, reject, or modify the decision in question, or may require that the original hearing be reopened for the presentation of additional evidence and reconsideration of the decision
4. The President shall communicate his or her decision to the accused student and the Dean of Students in writing within 30 days after the appeal and related documents have been received. **THE DECISION OF THE PRESIDENT SHALL BE THE FINAL APPELLATE REVIEW.**
5. Notice of appeal timely given by a student appellant suspends the imposition of penalty until the appeal is finally decided, but interim action may be taken as authorized under Section D. Further, grades, degrees, or official transcripts also may be withheld pending conclusion of the appeal.

## **H. Disciplinary Records**

1. The hearing record, notice of appeal, all documentation, including written arguments, and the petition for review shall be treated as confidential. Personally identifiable contents shall not be revealed except upon request of the student or in accordance with applicable state or federal laws.
2. The Dean of Students may destroy the hearing recording and digest, notice of appeal, all documentation including written arguments, and petition for review five years after the case is finally disposed of. Prior to destroying the record, the Dean of Students shall keep a permanent written disciplinary record of the case that shall reflect the name of the student involved, the nature of the charge, the disposition of the charge, the penalty assessed, if any, final disposition of the case, and such other



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information as may be deemed pertinent. This disciplinary record shall be separate from the student's academic record and shall be treated as confidential.

## I. Notification of Penalty

1. The Dean of Students shall notify the Registrar when one of the following penalties is assessed in a disciplinary case:
  - a. Withholding of grades, official transcript, or degree;
  - b. Bar against readmission;
  - c. Drop from enrollment and bar against readmission;
  - d. Failing grade;
  - e. Denial of degree;
  - f. Suspension from the University;
  - g. Expulsion from the University; and/or
  - h. Revocation of degree and withdrawal of diploma.
2. The Registrar shall make such entries upon or corrections to the academic record as required to comply with the assessment of penalty, but shall make no permanent notation upon the academic record to indicate that any disciplinary action has been taken.

## J. Review

This policy shall be reviewed each academic year by the Associate Vice President and Dean of Students.