

Subject: **UNIVERSITY REGULATIONS- Chapter X**

CODE OF STUDENT RIGHTS AND RESPONSIBILITIES (“STUDENT CODE”)

SECTION III: STUDENT BEHAVIOR

A. Standards of Behavior

In order to promote personal development, to protect the University community, and to maintain order and stability on campus, students who engage in any of the following acts of behavioral misconduct may be subject to behavioral sanctions:

1. Acts of dishonesty, including but not limited to the following:
 - a. Furnishing false or misleading information to any University official.
 - b. Forgery, alteration or misuse of any University document, record, fund or identification.
2. Intentional disruption or obstruction of teaching, research, administration, disciplinary proceedings or other University activities.
3. Physical or verbal assault, sexual harassment⁽¹⁾, hazing, threats, intimidation, coercion or any other behavior which threatens or endangers the health or safety of any member of the University community or any other person while on University premises, at University activities, or on premises over which the University has supervisory responsibility pursuant to state statute or local ordinance.
4. Attempted or actual theft, damage or misuse of University property or resources.
5. Sale or distribution of information representing the work product of a faculty member to a commercial entity for financial gain without the express written permission of the faculty member responsible for the course. (“Work product” means original works of authorship that have been fixed in a tangible medium and any works based upon and derived from the original work of authorship.)
6. Unauthorized or improper use of any University property, equipment, facilities, or resources, including unauthorized entry into any University room, building or premises.
7. Possession or use on University premises or at University activities of any firearm or other dangerous weapon, incendiary device, explosive or chemical, unless such possession or use has been authorized by the University.
8. Use, possession or distribution of any narcotic or other controlled substance on University premises, at University activities, or on premises over which the

University has supervisory responsibility pursuant to state statute or local ordinance, except as permitted by law and University regulations.

9. Use, possession or distribution of alcoholic beverages of any type on University premises except as permitted by law and University regulations.

10. Violation of published University policies, rules or regulations.

11. Violation of federal, state or local civil or criminal laws on University premises, while participating in University activities, or on premises over which the University has supervisory responsibility pursuant to state statute or local ordinance.

B. Initial Oral or Written Complaint

1. Any person directly aggrieved by an alleged violation of the Standards of Behavior or any faculty member, student, or staff member may submit an oral⁽²⁾ or written complaint to the dean of students, or designee, within forty-five (45) business days of the date of discovery of the alleged violation.

2. A complaint that is frivolous, that fails to state facts that constitute a violation of the Standards of Behavior, or that is not timely, may be dismissed by the dean of students, or designee, after an initial review. A person who knowingly and intentionally files a false complaint may be referred to the appropriate committee or office within the University for possible disciplinary action as described in Policy and Procedures No. 2-9 (staff), Policy and Procedures No. 8-12 (faculty) or this code (students).

C. Initial Inquiry and Informal Resolution

1. After an oral or written complaint has been submitted, the dean of students, or designee, shall, within ten (10) business days, give written notice to the student against whom the complaint was lodged (the responding student) of the allegations of the complaint and the procedures under the Student Code to resolve the issue.

2. Within twenty (20) business days of receipt of the complaint, the dean of students, or designee, shall begin an initial inquiry to determine whether there is a reasonable basis for believing that the responding student violated the Standards of Behavior. The dean of students, or designee, shall interview the complaining party, the responding student and any other persons believed to have pertinent factual knowledge of the allegations. The dean of students, or designee, may also review any other relevant evidence, including documentary material.

3. At the conclusion of the initial inquiry the dean of students, or designee, shall determine whether there is a reasonable basis for believing that the responding student violated the Standards of Behavior. The dean of students, or designee, shall notify the student and the complaining party in writing of his or her decision.

4. If the dean of students, or designee, determines that there is a reasonable basis for believing that the responding student violated the Standards of Behavior, he/she shall determine whether efforts at informal resolution are appropriate and, if so, shall take whatever steps are useful to that end. Efforts to informally resolve the dispute shall occur within ten (10) business days of the conclusion of the initial inquiry or within thirty days (30) business days of receipt of the initial complaint (whichever is later). If an informal resolution is reached and the responding student complies with the terms and conditions, if any, of the resolution, no further action against the responding student will be taken and the matter will be closed.

D. Formal Written Complaint and Referral to Student Behavior Committee

1. If informal resolution is inappropriate, or if efforts at informal resolution are not successful within the allowed time period, the dean of students, or designee, shall determine whether the initial written complaint (if any) is sufficiently detailed to submit to the Student Behavior Committee. If the initial complaint was oral, or was not sufficiently detailed, the dean of students shall instruct the complaining party to prepare and submit, within five (5) business days of this instruction, a detailed formal written complaint of the circumstances giving rise to the complaint.

2. If a complaining party elects not to pursue a matter before the Student Behavior Committee, the dean of students, or designee, or another University official, may submit a formal written complaint against the responding student and pursue the matter before the Student Behavior Committee.

3. The dean of students, or designee, shall provide the responding student with a copy of the formal written complaint.

4. Within five (5) business days of receiving the formal written complaint, the responding student may submit a written response to the complaint to the dean of students, or designee.

5. The dean of students, or designee, shall refer the formal written complaint and any written response from the responding student to the Student Behavior Committee.

E. Proceedings Before the Student Behavior Committee

1. Makeup of the Committee. The Student Behavior Committee shall be composed of seven (7) members. Two members shall be faculty appointed by the president of the University upon nomination by the Personnel and Elections Committee of the Academic Senate. Two members shall be staff appointed by the president upon nomination by the vice president for student affairs. Three members shall be students appointed by the president upon nomination by the vice president for student affairs, in consultation with the president of ASUU. At least one of the students shall be a graduate student. The president shall appoint three alternates to the Committee: one student, one faculty member, and one staff member. Student members shall serve staggered two-year terms. Faculty and staff members shall

serve staggered three-year terms. The Committee chair shall be appointed by the president. The Committee shall establish internal procedures consistent with the Student Code.

2. Conflict of Interest. Upon written request of one of the parties or Committee members, the dean of students may excuse any member of the Committee if the dean determines that the member has a conflict of interest. The dean shall notify the appropriate alternate member (i.e., student, faculty member, or staff member) to replace the excused member.

3. Proceedings Before the Committee. When a timely complaint and response are filed, the Committee chair shall schedule a hearing date if:

- a. The documents raise material issues of disputed fact;
- b. The Committee chair determines that a hearing is necessary or otherwise desirable to aid in the resolution of the issues; or
- c. The possible sanctions against the responding student may include dismissal from the University, suspension from the University for longer than ten (10) business days, or revocation of the student's degree or certificate.

If the Committee chair determines that no circumstances exist that require a hearing, as provided above, the chair shall notify the complaining party and the student in writing of this determination and convene a closed meeting of the Committee to consider the documentation submitted by the complaining party and the student. The Committee chair shall prepare a written report of the Committee's findings and recommendations and present it to the vice president for student affairs, or designee, within ten (10) business days after the Committee meeting.

4. Notice of Hearings Before Committee. If the Committee chair determines that a hearing is required, the chair shall schedule a hearing date and notify the parties⁽³⁾ in writing of the date of the hearing, the names of the Committee members, and the procedures outlined below at least fifteen (15) business days prior to the hearing.

5. Hearing Procedures. Hearings shall be conducted according to the following procedures:

- a. Hearings shall be conducted within a reasonable time after the Committee's receipt of the complaint.
- b. At least five (5) business days prior to the date of the hearing, the parties shall make available to each other and to the Committee a list of their witnesses and a list of the documents to be offered at the hearing. In exceptional circumstances, the Committee may allow a party to call witnesses not listed or submit additional documents at the hearing.

- c. The parties have a right to be accompanied by any person as advisor, including legal counsel, who will be permitted to attend, but not directly participate in, the proceedings.
- d. Hearings shall be closed to the public.
- e. The hearing, except for Committee deliberations and voting, shall be recorded and a copy made available to any party upon request. Committee deliberations and voting shall take place in closed sessions.
- f. The Committee must have a quorum present to hold a hearing. A quorum consists of five (5) members, including at least one (1) student. If there is more than one hearing in a matter, or if the hearing continues over more than one session, the same five members must be present for all sessions. All findings and recommendations of the Committee shall require a majority vote of the Committee members present at the hearing.
- g. At the hearing, the parties shall have the right to present questions to witnesses through the Committee chair, to present evidence and to call witnesses in their own behalf, in accordance with the Committee's internal procedures.
- h. The Committee shall not be bound by strict rules of legal evidence or procedure and may consider any evidence it deems relevant.
- i. University legal counsel shall serve as a resource to the Committee and may be present at the hearing to provide guidance on substantive law and procedural matters.
- j. If a majority of the Committee members find, by a preponderance of the evidence that the responding student violated the Standards of Behavior, the Committee may recommend any behavioral sanction it deems appropriate given the entire circumstances of the case, including but not limited to a written reprimand, the imposition of a fine or payment of restitution, community service, probation, suspension, or dismissal from the University.
- k. The Committee shall make its findings and recommendations based only on evidence and testimony presented by the parties at the hearing. Committee members shall not conduct their own investigations, rely on prior knowledge of the facts or develop their own evidence.
- l. If the complaining party or the responding student fails to attend the hearing without good cause, the Committee may proceed with the hearing and take testimony and evidence and report its findings

and recommendations to the vice president for student affairs, or designee, on the basis of such testimony and evidence.

m. The Committee chair shall prepare a written report of the Committee's findings and recommendations and present it to the vice president for student affairs, or designee, within ten (10) business days after the conclusion of the hearing.

F. Review and Decision by the Vice President for Student Affairs or Designee

1. The vice president for student affairs, or designee, shall consider the documentation submitted to the Committee and the findings and recommendations of the Committee in making a decision. Based upon such review, and without conducting further hearings, the vice president, or designee, shall, within ten (10) business days, take one of the following actions:

- a. Accept the Committee's findings and recommendations;
- b. Return the report to the Committee chair, requesting that the Committee reconvene to reconsider or clarify specific matters, materials, and issues, and forward to the vice president, or designee, a second report of its findings and recommendations relating to the specific matters referred by the vice president, or designee, for further consideration; or
- c. Reject all or parts of the Committee's findings and recommendations, stating reasons and actions to be taken therefore. The vice president may impose a greater or lesser sanction than recommended by the Committee.

2. Written notification of the vice president's, or designee's, decision shall be communicated to the parties concerned within ten (10) business days of receipt of the recommendation.

3. The vice president's, or designee's, decision is final unless appealed to the president within ten (10) business days of receipt of the decision.

G. Appeal to President

Within ten (10) business days of receipt of the vice president's or designee's decision, any party may appeal the decision by filing a written notice of appeal with the president and delivering a copy to the other party. The other party may file a response to the appeal with the president within five (5) business days of receipt of the appeal. In the case of an appeal:

1. The president shall consider the appeal and the response and may solicit whatever counsel and advice the president deems appropriate to arrive at a final decision. The president may also convene an ad hoc committee composed of students and faculty members from outside the Student Behavior Committee to determine if there were substantial defects that denied basic fairness and due process. After receiving the appeal,

the president shall, within ten (10) business days, or twenty (20) business days if an ad hoc committee is formed, take one of the following actions:

- a. Accept the decision of the vice president for student affairs or his/her designee;
 - b. Return the report to the vice president, or his/her designee, requesting that he/she clarify specific matters, materials, and issues, and forward to the president a second report of his/her decision relating to the specific matters referred by the president for further explanation; or
 - c. Reject all or parts of the vice president's, or designee's, decision, stating reasons and actions for either imposing a greater or lesser sanction than determined by the vice president.
2. Written notification of the president's decision and the basis for that decision shall be communicated to the parties concerned within ten (10) business days after receipt of the appeal, or within twenty (20) business days after receipt of the appeal if an ad hoc committee is formed.
 3. The decision of the president is final.

H. Suspension or Dismissal from the University for Behavioral Misconduct

The sanctions of suspension or dismissal from the University for behavioral misconduct may be imposed: (1) if agreed upon in informal resolution between the responding student and the dean of students or designee; (2) if recommended by the Student Behavior Committee to the vice president for student affairs or designee; (3) by the vice president for student affairs or designee notwithstanding the recommendation of the Committee; or (4) by the president notwithstanding the decision of the vice president for student affairs. A student who has been suspended or dismissed from the University shall be denied all privileges accorded to a student.

1. Suspension.

- a. Suspension from the University shall be for a minimum time of one semester following the semester the student is found responsible for the behavioral misconduct.
- b. The office of the dean of students shall notify the student in writing of the suspension, conditions for reinstatement, and of the obligation of the student to petition for reinstatement. Notice of the suspension shall also be provided to the student's department chair.
- c. Petitions for reinstatement shall be submitted to the office of the dean of students and shall explain how the conditions for reinstatement have been met.

d. The office of the dean of students shall consider the petition and shall issue a decision regarding the student's reinstatement within fifteen (15) business days of receipt of the petition.

e. The office of the dean of students may grant conditional reinstatement contingent upon the student meeting written requirements specified by the office of the dean of students or by the chair of the Student Behavior Committee in the original sanction to the extent that such conditions pertain to the original offense in the original sanction.

2. Dismissal.

a. Dismissal from the University is final. A student dismissed from the University for behavioral misconduct may not petition for reinstatement.

b. Permanent records of dismissal shall be kept in the office of the dean of students. Notice of the dismissal shall be provided to the student's department chair.

c. The dismissed student's transcript will reflect his/her dismissal.

d. Dismissal should be reserved for only the most egregious of offenses.

I. Administrative Suspension to Protect the University Population

The vice president for student affairs (or designee) or the senior vice president for academic affairs (or designee) or the senior vice president for health sciences (or designee) may suspend a student from the University prior to an initial inquiry and hearing before the Student Behavior Committee if such action appears necessary to protect the health or well-being of any member of the University community, any member of the public, or to prevent serious disruption of the academic process. Prior to, contemporaneous with, or immediately after the suspension, the vice president shall give the student written notice of the suspension specifying the alleged misconduct and setting forth briefly the relevant facts and supporting evidence. The vice president shall then provide the student with an opportunity to meet with him/her to present the student's views and object to the suspension. This meeting shall take place prior to the suspension taking effect or as soon as possible thereafter. The vice president shall thereafter immediately refer the complaint to the appropriate University administrator for proceedings under the code, and the suspension will be in effect pending a final determination of the matter. The vice president shall notify other University administrators of the suspension as appropriate.

J. Other University Proceedings

If the filing of a complaint or an appeal concerning behavioral misconduct under the Student Code raises issues of academic misconduct or professional misconduct, the dean of students, or designee, shall immediately notify the involved faculty member, dean or cognizant senior vice president and these individuals shall determine the appropriate procedure(s) for processing the complaint or the appeal.

K. Retention of Records of Proceedings

Records of proceedings under the Student Code shall be confidential to the extent permitted by law. Records of behavioral misconduct shall be kept in the office of the dean of students, and a copy may be retained in other academic departments as appropriate.

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- (1) Allegations of sexual harassment generally will be handled by OEO/AA in accordance with Policy and Procedures No. 2-32. However, allegations of student to student sexual harassment may be handled under the Student Code, rather than by the office of OEO/AA.
 - (2) Oral complaints presented to the dean of students shall be recorded by the dean's office either electronically or in transcribed form.
 - (3) The parties to a complaint before the Student Behavior Committee are the responding student, the complaining party, and the dean of students.