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5-403 Disciplinary Procedures

A. Initiation of Charges Investigation

1. A disciplinary investigation may be initiated by submitting a written referral to the Dean of Students. The Dean also may initiate an investigation based on media reports or other reliable information.
2. A written referral must state sufficient facts, including specific names(s), date(s), locations and descriptions of the alleged act(s) of misconduct to enable the Dean of Students to decide whether further fact-finding is necessary.
3. Where the alleged misconduct is related to discrimination or harassment, the Dean of Students will consult with the Affirmative Action Office to determine whether an affirmative action investigation is warranted. A determination by the Dean of Students will be made following consultation with the Affirmative Action Office.
4. Each university may adopt policies and procedures for reviewing allegations of academic dishonesty. If the sanction imposed includes expulsion, suspension, or revocation of a degree, then the student is entitled to a hearing according to the procedures set forth in ABOR Policy 5-403D, with the following modifications: each university may develop policies to define academic dishonesty, and procedures for resolution of allegations each university may determine the composition of its academic integrity hearing boards, and has the discretion to determine the final decision-maker in matters of academic integrity.

B. Interim Action

1. The Dean of Students may restrict or suspend a student for an interim period prior to the resolution of a disciplinary proceeding if the Dean becomes aware of reliable information that supports an allegation of misconduct, and determines that the continued presence of the student on the university campus or at university sponsored events poses a threat of harm or substantial disruption.

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2. The decision to restrict or suspend a student for an interim period will be communicated in writing to the student, and will become effective immediately as of the date of the written decision.
3. A student who is restricted or suspended for an interim period will be provided an opportunity to respond to the allegations of misconduct no later than 5 days following the effective date of the interim action.
4. The interim action will remain in effect until a final decision has been made on the pending charges or until the Dean determines that the reasons for imposing the interim action no longer exist.
5. The Dean of Students may impose other forms of interim action, such as immediate removal from university housing or exclusion from one or more classes or other locations.

C. Review and Decision by Dean of Students

1. The Dean of Students will make an initial determination as to whether there is a sufficient basis to believe that a violation of the Student Code of Conduct may have occurred. The Dean may decide to interview the complainant and other witnesses or to request additional information from the complainant.
2. If the Dean determines that there is a sufficient basis to believe that a violation of the Student Code of Conduct may have occurred and chooses to pursue the violation under the student code of conduct then the Dean of Students will timely notify the student in writing of the alleged violation and will gather further information, if needed, by interviewing witnesses and reviewing documents. Prior to concluding that a student has violated the Student Code of Conduct, the Dean of Students will provide the student with an opportunity to respond to information gathered in the investigation that the dean believes supports the conclusion that the student may have violated the Student Code of Conduct. Members of the university community will be expected to comply with any request or directive issued by the Dean in connection with a disciplinary proceeding, unless compliance would result in significant personal hardship or substantial interference with normal university functions.

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3. A student who is charged in a Student Code of Conduct referral will be provided an opportunity to meet with the Dean of Students. Students may accept responsibility for Student Code of Conduct violations and waive their rights to procedures provided by this policy. A student who fails to attend the meeting with the Dean will forfeit his/her right to respond on his/her behalf regarding the alleged violation, unless the student can demonstrate that an extraordinary circumstance prevented his/her appearance. If the student fails to attend the meeting, the Dean may proceed as described in paragraph 6 of this subsection.
4. The student will be provided with the following:
 - a. An explanation of the charges which have been made;
 - b. A summary of the information gathered;
 - c. A reasonable opportunity for the student to reflect upon and respond on his/her own behalf to the charges; and
 - d. An explanation of the applicable disciplinary procedures, including the student's right to request a hearing before a University Hearing Board if suspension, expulsion, or degree revocation is imposed.
5. If necessary any further information gathered will be presented to the student and an additional opportunity to respond will be provided.
6. The Dean of Students will determine whether it is more likely than not that a violation of the Student Code of Conduct has occurred and, if so, the appropriate disciplinary sanction to apply. In determining the sanction, the Dean will consider any mitigating or aggravating factors, including any prior violations of the Student Code of Conduct.
7. The Dean of Students will inform the student of the decision, in writing, within 7 days of the student's last opportunity to respond. When feasible, this information will also be communicated in a face-to-face meeting.
8. The written decision will include a statement of the charges, the determination, and the sanction to be imposed, if any. This decision is final, unless the student requests a hearing to review a decision to

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suspend, expel, or revoke a degree. The effective date of a suspension (except for interim suspension) or expulsion may be no sooner than 20 days following the date of the notice.

9. If the sanction imposed includes either expulsion, suspension, or degree revocation, the student will be informed of his/her right to request a hearing before a University Hearing Board by filing a written request with the Dean of Students no later than 20 days following the date on the notice. The student may request a hearing related to the determination that a violation occurred, related to the sanctions imposed, or both.
10. The filing of a timely written request for a hearing will suspend the imposition of the disciplinary sanction, except for interim suspension, pending the outcome of the hearing. If the sanction is suspension or expulsion, and the student requests a hearing, the student will not be permitted to graduate until the hearing process has been concluded. If the sanction is degree revocation, the university may refuse to release an official transcript until the hearing process has been concluded. If the student elects not to request a review of the Dean's decision, then that decision is a final decision which becomes effective immediately.

D. Review by University Hearing Board

1. Purpose of the Hearing Board

The Hearing Board is the body that conducts hearings concerning suspensions, expulsions, and degree revocations. The Hearing Board is advisory to the Provost who will make the final decision. The purpose of the Hearing Board is to formulate a recommendation to the Provost regarding the student's appeal. This recommendation may have two parts depending on the nature of the appeal. First, the Hearing Board may make a recommendation as to whether a violation of the Student Code of Conduct was more likely than not to have been committed by the student. Second, the Hearing Board may make a recommendation as to whether the imposed sanctions should remain as imposed or should be modified if appropriate.

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2. Composition of the Hearing Board

- a. Student disciplinary hearings will be conducted by a Hearing Board composed of 5 members, including 2 students, 2 faculty members, and 1 non-faculty employee. One member, designated the Chair, will serve as the presiding officer.
- b. Each university will establish its own rules to govern the selection process for Hearing Board members.

3. Pre-Hearing Procedures

- a. The Hearing Board members will be notified in writing of their selection.
- b. Based on the availability of Hearing Board members, the Chair will convene the Hearing Board within a reasonable time following receipt of the student's written request for a hearing.
- c. The Chair will prepare and send a written notice of the hearing to the student and the Dean of Students no less than 20 days prior to the date set for the hearing. The notice will be delivered personally or by mail directed to the address furnished by the student on his/her hearing request. The notice will include:
 - (1) A statement of the date, time, location, and nature of the hearing;
 - (2) A written statement of the charges which specifies the allegations of misconduct in sufficient detail to enable the student to respond;
 - (3) Notice of the right to be assisted by an advisor, who may be an attorney;
 - (4) A copy of or link to the Student Code of Conduct and these Student Disciplinary Procedures; and
 - (5) A list of the names of all Hearing Board members, and the university address of the Chair.
- d. If the student cannot attend the hearing on the date scheduled for the hearing due to extraordinary circumstances, he/she must notify

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the hearing board Chair in writing. The Chair will determine whether to approve or deny the request to reschedule the hearing.

- e. No later than 5 days prior to the hearing, the parties will exchange the following information in writing:
 - (1) A list of the names and addresses of the witnesses who may be called to speak at the hearing;
 - (2) A concise summary of the anticipated statements of each witness;
 - (3) Copies of all documents to be presented at the hearing; and
 - (4) The name and title of the University Representative who will present the evidence on behalf of the university, and the name of the advisor, if any, who will be present to assist the student.
- f. A student may challenge the participation of any member of the Hearing Board on the grounds of personal bias by submitting a written statement to the Chair setting forth the basis for the challenge no later than 7 days prior to the hearing. The Chair will determine whether to sustain or deny the challenge. If the challenge is sustained, a replacement member will be appointed to serve on the Hearing Board. If a challenge is filed against the Chair, the President will rule on the challenge.
- g. Members of the university community will be expected to comply with any request or directive issued by the Chair in connection with a disciplinary proceeding, unless compliance would result in significant personal hardship or substantial interference with normal university functions.
- h. For good cause shown by either party, the Chair may extend the times and deadlines required by these rules.

4. Conduct of the Hearing

- a. In order to preserve the confidential nature of the disciplinary process, and to protect the privacy interests of the student who is charged with the violation and the witnesses who may be called to testify, the hearing conducted by the Hearing Board will be closed.

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- b. The Chair will preside at the hearing and will rule upon all procedural matters. The formal rules of evidence will not apply, although objections to the introduction of specific statements or documents may be considered by the Chair. Irrelevant, immaterial, privileged, or unduly repetitious information will be excluded. The Chair may establish reasonable limits upon the time allotted to the student and the University Representative for oral presentation and examination of witnesses.
- c. The University Representative will present the information that supports the charges and sanction imposed, consistent with general principles of administrative law, the University Representatives will have the burden of showing that a violation of the Student Code of Conduct was more likely than not to have been committed by the student. If the student accepts responsibility for the violation charged, then the Hearing Board may focus the hearing on the appropriate sanction. A student may request that evidence regarding the appropriate sanction not be presented until after the Hearing Board has reached a decision regarding violation of the Student Code of Conduct.
- d. Information regarding prior misconduct will not be used as proof of a current violation, but may be admitted for other purposes, such as to show that the student had prior experience relevant to the charge or to show that the student had previously been informed that the conduct was not acceptable. Evidence of prior misconduct may be considered by the Hearing Board in determining an appropriate sanction.
- e. A student who fails to appear at the hearing will be deemed to have abandoned his/her request for an appeal, unless the student can demonstrate that an extraordinary circumstance prevented his/her appearance.
- f. The student who is charged with the misconduct may be assisted throughout the proceeding by an advisor. If the student is represented by an attorney, the University Representative may also be represented by an attorney.
- g. The hearing will be recorded manually or by a recording device and will be transcribed in whole or in part on request of the student

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charged with the misconduct. The cost of such transcript will be paid by the student unless assessment of the cost is waived by the Provost.

- h. Except as otherwise permitted by the Hearing Board Chair, witnesses will be excluded from the hearing except during their own testimony. However, a victim, as defined by applicable law and provided rights to attend such hearings by law, will be permitted to attend the hearing.
- i. The order of presentation will be as follows:
 - (1) The University Representative will present an opening statement, which summarizes what the information that has been gathered is expected to show.
 - (2) The student or his/her legal representative may present an opening statement, or may reserve it until the presentation of his/her case.
 - (3) The University Representative will call witnesses to provide statements under oath. Witnesses will be questioned by means of direct examination with no leading questions permitted. A leading question is one which suggests the desired response.
 - (4) At the conclusion of each witness's statements, he or she may be questioned by the student or his/her legal representative, at which time leading questions are permitted.
 - (5) Following the questioning by the student or his/her legal representative, the University Representative and the members of the Hearing Board may ask further questions of each witness.
 - (6) Following the testimony of all witnesses called by the University Representative, the student then presents his/her case.
 - (7) Each witness for the student is called to testify. The procedure remains the same as described above.

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- (8) Following the close of the student's presentation, the University Representative may call witnesses to refute statements made by the student or the student's witnesses. If such witnesses are called, they will be subject to the same procedure outlined above.
- (9) Throughout the proceeding, the parties may introduce written documents or other evidence previously disclosed.
- (10) Following the presentation of witnesses, the parties will be allowed to present closing statements which summarize the information that has been presented. The University Representative presents his/her closing statement first, followed by the student.

E. Hearing Board Deliberations and Recommendation

1. Following the presentation of information and closing statements, the members of the Hearing Board will discuss the information that has been presented and the reasonable inferences to be drawn from this information prior to reaching their decision. Only the members of the hearing board and its legal advisor, if any, may be present during the deliberations.
2. Based solely upon the information presented during the hearing, the Hearing Board will formulate a recommendation to the Provost and others permitted to receive this information consistent with applicable law or policy, as to whether a violation of the Student Code of Conduct was more likely than not to have been committed by the student and what the appropriate sanction should be. At least three votes are necessary to make any recommendation.
3. The Hearing Board will not deliberate on the appropriate sanction unless and until it determines that a violation of the student code of conduct occurred or the student has accepted responsibility for the violation. In determining the appropriate sanction, the hearing board may consider any mitigating or aggravating circumstances.
4. The Hearing Board will render its recommendation after conclusion of hearing and deliberations, and will communicate the recommendation to the student, the Dean of Students, and to the Provost in writing no later than 3 days following the conclusion of the

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hearing. The written recommendation will include findings of fact and a statement of the reasons for the recommendation, and will be signed by the Chair.

F. Review and Decision by Provost

Following a review of the Hearing Board's recommendation, the Provost will render a decision which either affirms, denies or modifies the recommendation of the Hearing Board. If the Provost does not accept the recommendation of the Hearing Board, the Provost will explain any variance from the recommendation in the final decision. If the final decision does not support the student's position, the letter from the Provost will also provide notice to the student of the right to seek judicial review pursuant to

A.R.S. § 12-904. The Provost will issue a written decision no later than 20 days following receipt of the Hearing Board's recommendation, except when it becomes necessary to conduct further investigation or to remand the matter to the Hearing Board, in which case the written decision will be transmitted no later than 20 days following completion of the investigation or the subsequent recommendation of the Hearing Board. Copies of the written decision will be promptly transmitted to the parties and to all members of the Hearing Board.

G. Request for Review or Rehearing

1. A student who is dissatisfied with the decision reached by the Provost may request a rehearing or review by filing a written request with the Provost no later than 15 days following the date of delivery of the written decision. The decision of the Provost is a final decision from the date it is issued, unless the student requests review or rehearing within 15 days after it is issued. a review or rehearing is not an appeal; it is an opportunity for the student to make the decision-maker aware of irregularities or illegalities in the proceedings or of significant new evidence that could not have been provided to the Hearing Board for consideration prior to decision. The request shall be based on one or more of the following grounds:
 - a. Irregularities in the proceedings, including but not limited to any abuse of discretion or misconduct by the Hearing Board or by the Dean, which has deprived the student of a fair and impartial disciplinary process;

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- b. Newly discovered material evidence which could not have been presented during the fact-finding or hearing process;
 - c. Excessive severity of the sanction; or
 - d. The decision is not reasonably justified by the evidence or is contrary to law.
2. Following receipt of the student's request for review, the Provost will first determine whether the student's request sets forth a proper ground for review or rehearing and then will make whatever review is deemed necessary to resolve the issues that have been raised.
 3. The Provost will respond in writing to the student's request for review or rehearing within 15 days of receipt of the request. The Provost may uphold or modify the previous decision, or grant a rehearing on the issues raised by the request. The decision of the Provost is final.