Section 24 Existing Rule


Conduct standards at the university are set forth in writing in order to give students general notice of prohibited conduct. These rules should be read broadly and are not designed to define prohibited conduct in exhaustive terms.

24.1 Definitions. When used in this code:

24.1.1 the term “university” or “institution” means Texas A&M University.

24.1.2 the term “student” means any person admitted to the university, pursuing undergraduate, graduate or professional studies, whether full-time or part-time, and who is either currently enrolled or was enrolled the previous semester and registered for a future semester.

24.1.3 the term “university official” means any administrator, instructor, staff member (including, but not limited to, graduate assistants, graduate/assistant/hall director, resident advisor, and commanding officer) and other authorized individuals of the university.

24.1.4 the term “university premises” means buildings or grounds owned, leased, operated, controlled or supervised by the university.

24.1.5 the term “university-affiliated activity” means any activity on or off campus that is initiated, aided, authorized or supervised by the university or by a recognized student organization of the university.

24.2 Violations of the “Basic Rule” and/or University Student Rules may result in disciplinary sanction as defined in section 27 of this publication. Any disciplinary sanction imposed by the university may precede and shall be in addition to any penalty that might be imposed by any off-campus authority.

24.3 The following are examples of prohibited conduct. This list is not designed to be all-inclusive or exhaustive.

24.3.1 **Physical abuse.** Attempting or causing injury to an individual. Causing physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.

24.3.2 **Sexual Misconduct.**

24.3.2.1 **Sexual Assault/Rape.** Sexual assault is the oral, anal, or vaginal penetration by a sexual organ of another or anal/vaginal penetration by any means against the victim’s will or without his/her consent. An individual who is mentally incapacitated, unconscious, or unaware that the sexual assault is occurring is considered unable to give con-
sent. The type of force employed may involve physical force, coercion, intentional impairment of an individual’s ability to appraise the situation through the administering of any substance, or threat of harm to the victim. (see Sexual Violence Response Protocol - Department of Student Life).

24.3.2.2 Sexual abuse. Attempting or making sexual contact, including but not limited to inappropriate touching or fondling, against the person’s will, or in circumstances where the person is physically, mentally or legally unable to give consent.

24.3.3 Hazing. Any act that endangers the mental or physical health or safety of a student, or that destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. Previously relied upon “traditions,” whether Corps, fraternity/sorority or other group-related terms, intent of such acts, or consent or cooperation of the recipient will not suffice as a justifiable reason for participation in such acts. Such behavior includes but is not limited to:

- Misuse of authority by virtue of one’s class rank or leadership position
- Striking another student by hand or with any instrument
- Any form of physical bondage of a student
- Taking of a student to an outlying area and dropping him/her off
- Forcing a student into a violation of the law or a university rule such as indecent exposure, trespassing, violation of visitation, etc.
- Any form of “quadding”
- Having firsthand knowledge of the planning of such activities or firsthand knowledge that an incident of this type has occurred and failing to report it to appropriate university officials is also a violation under this section. (See Appendix VI, Hazing).

24.3.4 Harassment. Conduct (physical, verbal, graphic, written, or electronic) that is sufficiently severe, pervasive or persistent so as to threaten an individual or limit the ability of an individual to work, study or participate in the activities of the university.

24.3.4.1 Sexual Harassment. (See Texas A&M University Policy on Sexual Harassment, Sec.47)

24.3.4.2 Racial and Ethnic Harassment. (See Racial and Ethnic Harassment, Sec. 31)

24.3.4.3 Stalking. Any repeated conduct directed specifically at another person that causes that person [or a member of that person’s family or household] to fear his/her safety. Such conduct in-
cludes follo wing another person and acts that threaten or intimidate another person through fear of bodily injury or death of self or members of that person’s family or household or an offense being committed against that person’s property.

24.3.4.4 Retaliation. Harassment of complainant or other person alleging misconduct, including but not limited to intimidation and threats.

24.3.5 Breaching campus safety or security. to include but not limited to:

- Unauthorized access to university facilities; intentionally damaging door locks; unauthorized possession of university keys or access cards; duplicating university keys or access cards; or propping open of exterior residence hall doors;
- Tampering with fire safety equipment such as fire extinguishers, smoke detectors, alarm pull stations or emergency exits;
- Placement of equipment or vehicles (including bicycles) so as to obstruct the means of access to/from university buildings.

24.3.6 Unauthorized use, possession or storage of any weapon, fireworks or explosive on university premises or at any university-sponsored activity. The term weapon may be defined as any object or substance designed to inflict a wound, cause injury or incapacitate. Weapons may include, but are not limited to, all firearms, pellet guns, slingshots, martial arts devices, switchblade knives and clubs.

24.3.7 Illegal drugs and controlled substances. Manufacturing, possessing, having under control, selling, transmitting, using or being party thereto any dangerous drug, controlled substance or drug paraphernalia on university premises or at university-sponsored activities. (See Appendix VII, Texas A&M University Drug Rules)

24.3.8 Alcohol. Drinking or having in possession any alcoholic beverage in public areas of university premises not approved for such activity; and possession and/or consumption by a minor; and public intoxication; and driving while intoxicated. (See Appendix VIII, Texas A&M University Alcohol Rules)

24.3.9 Theft of public or private property or of services on university property or at university-sponsored activities. This includes knowingly possessing such stolen property.

24.3.10 Destroying, damaging or littering of any property of the university, of another institution or of another person on university premises or at university-sponsored activities.

24.3.11 Conduct that is disorderly, lewd, indecent or a breach of peace on university premises or at university-sponsored activities.
24.3.12 **Disruptive activity.** Participation in promoting disruptive activity that would interfere with teaching, research, disciplinary proceedings or other university activities. Such activity may include, but is not limited to:

Classroom behavior that seriously interferes with either (a) the instructor’s ability to conduct the class or (b) the ability of other students to profit from the instructional program. (See Texas A&M University Rule on Classroom Behavior, section 21 of this publication.)

Activity or conduct that violates the Texas A&M University Rules on Freedom of Expression (See Appendix XI).

24.3.13 **Misuse of Computing Resources.** Failure to comply with laws, license agreements, and contracts governing network, software and hardware use. Abuse of communal resources. Use of computing resources for unauthorized commercial purposes or personal gain. Failure to protect your password or use of your account. Breach of computer security, harmful access or invasion of privacy. (See Appendix V, Individual Responsibility for Use of Computing Resources)

24.3.14 **Furnishing false information.** Forgery, unauthorized alteration or misuse of any document, record or instrument of identification. Also includes withholding material information from the university, misrepresenting the truth before a hearing of the university and making false statements to any university official. The submission of false information at the time of admission or readmission is grounds for rejection of the application, withdrawal of any offer of acceptance, cancellation of enrollment, dismissal or other appropriate disciplinary action.

24.3.15 **Failure to comply with the proper and lawful directions of a university official;** failure to present identification upon the request of a university official.

24.3.16 **Intentionally initiating or causing to be initiated any false report,** warning, threat of fire, explosion or other emergency concerning the university and university-sponsored activities.

24.3.17 **Action or conduct that hinders, obstructs or otherwise interferes** with the implementation of this Discipline Code.

24.3.18 **Failure to appear for a university disciplinary proceeding** to respond to allegations or to testify as a witness when reasonably notified to do so.

24.3.19 **Knowingly violating the terms of any disciplinary sanction** imposed in accordance with university rules.

24.3.20 **Violation of published university rules.** Such rules include residence hall contracts and rules, university motor vehicle rules, rules relating to the use of student identification cards, entry and use of university facilities and dining hall conduct.

24.3.21 **Violation of NCAA Regulations.**
24.3.22 Violation of any law of the United States, law of the State of Texas or municipal ordinance.

24.3.23 Attempting, aiding, abetting, conspiring, hiring or being an accessory to any act prohibited by this code shall be considered to the same extent as completed violations.

24.4 Bias-Related Violations—Violations of 24.3 of this Student Conduct Code that are motivated by prejudice toward a person or group because of factors such as race, religion, ethnicity, disability, national origin, age, gender or sexual orientation may be assessed an enhanced sanction as prescribed in section 27 of this publication.

24.5 Off-Campus Conduct—When a student violates 24.3 of this Student Conduct Code by an offense committed off the campus and that is not associated with a university-connected activity, the disciplinary authority of the university will not be used merely to duplicate the penalty involved for such an act under applicable ordinances and laws. The university will take disciplinary action against a student for such an off-campus offense only when the nature of the offense is such that, in the judgment of the vice president for student affairs, the continued presence of the student on campus is likely to interfere with the educational process and the orderly operation of the university.

If the vice president for student affairs determines that the offense affects the university as stated above, then Student Conflict Resolution Services in the Department of Student Life, or if the student is a member of the Corps of Cadets, the Office of the Commandant, shall hold a prompt administrative hearing to consider whether the offense is of such nature as set out above, whether or not the student committed the offense, and take appropriate action. The action of the university administrative hearing officer shall be made independent of any off-campus authority.

Proposed Change:


Conduct standards at the university are set forth in writing in order to give students general notice of prohibited conduct. These rules should be read broadly and are not designed to define prohibited conduct in exhaustive terms.

24.1 Definitions. When used in this code:

24.1.1 the term “university” or “institution” means Texas A&M University.

24.1.2 the term “student” means any person admitted to the university, pursuing undergraduate, graduate or professional studies, whether full-
24.1.3 the term “university official” means any administrator, instructor, staff member (including but not limited to graduate assistants, graduate/assistant/hall director, resident advisor, and commanding officer) and other authorized individuals of the university.

24.1.4 the term “university premises” means buildings or grounds owned, leased, operated, controlled or supervised by the university.

24.1.5 the term “university-affiliated activity” means any activity on or off campus that is initiated, aided, authorized or supervised by the university or by a recognized student organization of the university.

24.2 Violations of the “Basic Rule” and/or University Student Rules may result in disciplinary sanctions as defined in section 27 of this publication. Any disciplinary sanction imposed by the university may precede and shall be in addition to any penalty that might be imposed by any off-campus authority.

24.3 The following are examples of prohibited conduct. This list is not designed to be all-inclusive or exhaustive.

24.3.1 Physical abuse. Attempting or causing injury to an individual. Causing physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.

24.3.1 Physical abuse. Any attempt to cause injury or inflict pain; or causing injury or inflicting pain. Also causing physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative. It is not a defense that the person (or group) against whom the physical abuse was directed consented to, or acquiesced to, the physical abuse.

The physical abuse rule is not intended to prohibit the following conduct:

a. Customary public athletic events, contests, or competitions that are sponsored by the university or the organized and supervised practices associated with such events; or

b. Any activity or conduct that furthers the goals of a legitimate educational curriculum, a legitimate extracurricular program or a legitimate military training program as defined and approved by the university.
24.3.2 Sexual Misconduct.

24.3.2.1 Sexual Assault/Rape. Sexual assault is the oral, anal, or vaginal penetration by a sexual organ of another or anal/vaginal penetration by any means against the victim’s will or without his/her consent. An individual who is mentally incapacitated, unconscious, or unaware that the sexual assault is occurring is considered unable to give consent. The type of force employed may involve physical force, coercion, intentional impairment of an individual’s ability to appraise the situation through the administering of any substance, or threat of harm to the victim. (see Sexual Violence Response Protocol - Department of Student Life).

24.3.2.2 Sexual abuse. Attempting or making sexual contact, including but not limited to inappropriate touching or fondling, against the person’s will, or in circumstances where the person is physically, mentally or legally unable to give consent.

24.3.3 Hazing. Prohibited acts committed for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization; or as part of any activity of a recognized student organization, student group, Corps of Cadets, Corps outfit, Corps unit, or Corps Special Activities. Prohibited behavior includes any act that endangers the mental or physical health or safety of a student, or that destroys or removes public or private property; and/or assisting, directing, or in any way causing others to participate in degrading behavior and/or behavior that causes ridicule, humiliation, or embarrassment; and/or engaging in conduct which tends to bring the reputation of the organization, group, or university into disrepute. Previously relied upon “traditions,” whether Corps, fraternity/sorority or other group-related terms, (including Corps, fraternity/sorority, or any other group or organization activity, practice or tradition) intent of such acts, or coercion by current or former student leaders of such groups, or former students consent or cooperation of the recipient will not suffice as a justifiable reason for participation in such acts. It is not a defense that the person (or group) against whom the hazing was directed consented to, or acquiesced to, the behavior in question.

Examples of such behavior includes but is not limited to:

- Misuse of authority by virtue of one’s class rank or leadership position
- Striking another student by hand or with any instrument
• Any form of physical bondage of a student

• Taking of a student to an outlying area and dropping him/her off

• Forcing a student into a violation of the law or a university rule such as indecent exposure, trespassing, violation of visitation, etc.

• Any form of “quadding”

• Having firsthand knowledge of the planning of such activities or firsthand knowledge that an incident of this type has occurred and failing to report it to appropriate university officials (The Dean of Student Life and/or the University Police Department) is also a violation under this section. (See Appendix VI, Hazing).

Students who are recipients and/or victims of hazing (and who have not perpetrated hazing behavior on others involved in the fact pattern for which they are reporting) and who report the activities to the Dean of Student Life and/or the University Police Department, will not be charged with a violation of the hazing rule.

The hazing rule is not intended to prohibit the following conduct:

a. **Customary public athletic events, contests, or competitions that are sponsored by the university or the organized and supervised practices associated with such events; or**

b. **Any activity or conduct that furthers the goals of a legitimate educational curriculum, a legitimate extracurricular program or a legitimate military training program as defined and approved by the university.**

Hazing is also a violation of Texas state law. See the Texas Education Code, sections 37.151 and 51.936 and/or Appendix VI of the Student Rules.

24.3.4 **Harassment.** Conduct (physical, verbal, graphic, written, or electronic) that is sufficiently severe, pervasive or persistent so as to threaten an individual or limit the ability of an individual to work, study or participate in the activities of the university.

24.3.4.1 **Sexual Harassment.**
(See Texas A&M University Policy on Sexual Harassment, Sec. 47)

24.3.4.2 **Racial and Ethnic Harassment.**
(See Racial and Ethnic Harassment, Sec. 31)
24.3.4.3 **Stalking.** Any repeated conduct directed specifically at another person that causes that person [or a member of that person’s family or household] to fear his/her safety. Such conduct includes following another person and acts that threaten or intimidate another person through fear of bodily injury or death of self or members of that person’s family or household or an offense being committed against that person’s property.

24.3.4.4 **Retaliation.** Harassment of complainant or other person alleging misconduct, including, but not limited to, intimidation and threats.

24.3.5 **Breaching campus safety or security.** This includes but is not limited to:

- Unauthorized access to university facilities; intentionally damaging door locks; unauthorized possession of university keys or access cards; duplicating university keys or access cards; or propping open of exterior residence hall doors;
- Tampering with fire safety equipment such as fire extinguishers, smoke detectors, alarm pull stations or emergency exits;
- Placement of equipment or vehicles (including bicycles) so as to obstruct the means of access to/from university buildings;
- **Obstruction of the free flow of pedestrian or vehicular traffic on University premises or at University-sponsored or supervised functions.**

24.3.6 **Weapons and explosives.** Unauthorized use, possession or storage of any weapon, fireworks or explosive on university premises or at any university-sponsored activity. The term weapon may be defined as any object or substance designed to inflict a wound, cause injury or pain, or to incapacitate. Weapons may include, but are not limited to, all firearms, pellet guns, slingshots, martial arts devices, switchblade knives and clubs.

24.3.7 **Illegal drugs and controlled substances.** Manufacturing, possessing, having under control, selling, transmitting, using or being party thereto any dangerous drug, controlled substance or drug paraphernalia on university premises or at university-sponsored activities. (See Appendix VII, Texas A&M University Drug Rules)

24.3.8 **Alcohol.** Drinking or having in possession any alcoholic beverage in public areas of university premises not approved for such activity; and possession and/or consumption by a minor; and public intoxication; and
driving while intoxicated. (See Appendix VIII, Texas A&M University Alcohol Rules)

24.3.9 **Theft. Unauthorized removal or stealing** of public or private property or **unauthorized use or acquisition** of services on university premises or at university-sponsored activities. This includes knowingly possessing such stolen property.

24.3.10 **Destroying, damaging, or littering of any property. Behavior that destroys, damages, or litters any property** of the university, of another institution, or of another person, on university premises or at university-sponsored activities.

24.3.11 **Disorderly Conduct.** Conduct that is disorderly, lewd, indecent or a breach of peace on university premises or at university-sponsored activities.

24.3.12 **Disruptive activity.** Participation in promoting disruptive activity that would interfere with teaching, research, administration, disciplinary proceedings, other University missions, processes, or functions including public-service functions or other university activities. Such activity may include, but is not limited to:

- Leading or inciting others to disrupt scheduled and/or normal activities on university premises.

- Classroom behavior that seriously interferes with either (a) the instructor’s ability to conduct the class or (b) the ability of other students to profit from the instructional program. (See Texas A&M University Rule on Classroom Behavior, section 21 of this publication.)

- **Any behavior in class or out of class, which for any reason materially disrupts the class work of others, involves substantial disorder, invades the rights of others, or otherwise disrupts the regular and essential operation of the University.**

- Activity or conduct that violates the Texas A&M University Rules on Freedom of Expression (See Appendix XI).

24.3.13 **Misuse of Computing Resources.** Failure to comply with laws, license agreements, and contracts governing network, software and hardware use. Abuse of communal resources. Use of computing resources for unauthorized commercial purposes or personal gain. Failure to protect your password or use of your account. Breach of computer security, harmful access or invasion of privacy. (See Appendix V, Individual Responsibility for Use of Computing Resources)
24.3.14 **Furnishing false information and/or withholding information.** Forgery, unauthorized alteration or misuse of any document, record or instrument of identification. Also includes withholding material information from the university, misrepresenting the truth before a hearing of the university and making false statements to any university official. The submission of false information at the time of admission or readmission is grounds for rejection of the application, withdrawal of any offer of acceptance, cancellation of enrollment, dismissal or other appropriate disciplinary action.

24.3.15 **Failure to comply with the proper and lawful directions of a university official.** Action or conduct that fails to comply with proper and lawful direction of a university official.

24.3.16 **Failure to present identification.** Failing to present identification upon the request of a university official.

24.3.17 **False reporting.** Intentionally initiating or causing to be initiated any false report, warning, threat of fire, explosion or other emergency concerning the university and university-sponsored activities.

24.3.18 **Hindering, obstructing or interfering.** Action or conduct that hinders, obstructs or otherwise interferes with the implementation of this Discipline Code.

24.3.19 **Failure to appear.** Failure to appear for a university disciplinary proceeding to respond to allegations, or to testify as a witness when reasonably notified to do so. **This includes disciplinary hearings, university investigations, and appeals hearings.**

24.3.20 **Violating terms of disciplinary sanctions.** Knowingly violating the terms of any disciplinary sanction (including failing to meet deadlines and/or committing a violation of university rules while serving a probationary sanction) imposed in accordance with university rules.

24.3.21 **Violation of published university rules.** Such rules include residence hall contracts and rules, **Corps of Cadets rules,** university motor vehicle rules, rules relating to the use of student identification cards, entry and use of university facilities and dining hall conduct.

24.3.22 **Violation of NCAA Regulations.**

24.3.23 **Violation of any law** of the United States, law of the State of Texas or municipal ordinance.
24.3.24 Complicity. Attempting, aiding, abetting, conspiring, hiring or being an accessory to any act prohibited by this code shall be considered to the same extent as completed violations.

24.4 Bias-Related Violations – Violations of 24.3 of this Student Conduct Code that are motivated by prejudice toward a person or group because of factors such as race, religion, ethnicity, disability, national origin, age, gender or sexual orientation may be assessed an enhanced sanction as prescribed in section 27 of this publication.

24.5 Off-Campus Conduct. When a student is alleged to have violated 24.3 of this Student Conduct Code by an offense committed off of university premises, the university reserves the right to investigate and adjudicate. The University may take action in situations occurring off university premises involving: student misconduct demonstrating flagrant disregard for any person or persons; or when a student’s or student organization’s behavior is judged to threaten the health, safety, and/or property of any individual or group; or any other activity which adversely affects the University community and/or the pursuit of its objectives. This action may be taken for either affiliated or non-affiliated activities.

When a student violates 24.3 of this Student Conduct Code by an offense committed off the campus and that is not associated with a university affiliated activity, the disciplinary authority of the university will not be used merely to duplicate the penalty involved for such an act under applicable ordinances and laws. The right to extend the disciplinary authority of the university shall be at the discretion of the university. The university will take disciplinary action against a student for such an off-campus offense only when the nature of the offense is such that, in the judgment of the vice president for student affairs, the continued presence of the student on campus is likely to interfere with the educational process and the orderly operation of the university.

If the vice president for student affairs determines that the offense affects the university as stated above, then Student Conflict Resolution Services in the Department of Student Life, or if the student is a member of the Corps of Cadets, the Office of the Commandant, shall hold a prompt administrative hearing to consider whether the offense is of such nature as set out above, whether or not the student committed the offense, and take appropriate action. The action of the university administrative hearing officer shall be made independent of any off-campus authority.

Justification for Proposed Change:
Advise of Office of General Counsel

Submitted by: Jerry Brown, Office of General Counsel; David W. Parrott, Dean of Student Life

Approved by the Rules and Regulations Committee on 4/15/04
Section 25 Existing Rule:

25. Student Conduct System (Revised: 1995)

The university views the student conduct system as an educational experience that can result in growth in personal understanding of one’s responsibilities and privileges in the university community. Acceptable standards of conduct have been established to protect the rights of others and the orderly operation of the university. Individuals are encouraged to discuss their concerns at the lowest level possible for effective resolution of the situation. Should such attempts prove ineffective, the student conduct system provides a student judicial process to resolve the matter. The focus of student judicial proceedings is to determine whether the university’s standards of conduct have been violated, and not criminal guilt. To this end, student judicial proceedings attempt to balance an understanding and knowledge of the students with the needs of the university community.

25.1 Reporting. Any member of the university community may initiate a complaint against a student for an alleged violation of University Student Rules. Such complaints are generally submitted in writing to Student Conflict Resolution Services, the Office of the Commandant or the Department of Residence Life.

25.2 Mediation Services. Matters involving a personal dispute between two or more students may be referred to Mediation Services in the Department of Student Life to mediate the dispute. Students involved in incidents referred to Mediation Services are required to attend a mediation session and to proceed in a good faith effort to resolve the dispute on a basis that is fair and just for all parties. The mediator is authorized to inform the administrative hearing officer only that the case did or did not settle.

25.3 Notice. If circumstances surrounding the complaint indicate that a violation of the Student Conduct Code may have occurred, disciplinary charges may be issued. Students are notified of disciplinary charges in writing. A letter of charges is issued to the student’s address of record (See 1.2, ). Disciplinary action may be taken against a student for failure to appear after proper notice.

25.4 Hearing. A disciplinary hearing may be conducted in one of the following forms, depending on the nature of the violation:

25.4.1 Administrative Hearing–The student meets with an administrative hearing officer to discuss the charges, the student’s involvement in the incident or lack thereof and any other information relevant to the charges. Based on the information presented and discussed in the hearing, the administrative hearing officer will determine whether a violation has occurred and issue sanctions accordingly.

25.4.2 Residence Halls Judicial Board–The judicial board functions in cases of minor disciplinary infractions by on-campus residents. The judicial board comprises residence hall students and staff who make decisions in the matters presented before them and issue sanctions if the finding is that a violation has occurred. An administrative hearing shall be
required when the judicial board is not in session, i.e. finals week, between semesters and summer.

25.4.3 Cadet Honor Board–The Cadet Honor Board shall have the power to try cases referred to it under the guidelines set up in The Standard of the Corps of Cadets.

See Grievance Procedures, Part III: 51. Disciplinary Action

Proposed Change:

25. Student Conduct System (Revised:2004)

The university views the student conduct system as an educational experience that can result in growth in personal understanding of one’s responsibilities and privileges in the university community. Acceptable standards of conduct have been established to protect the rights of others and the orderly operation of the university. Individuals are encouraged to discuss their concerns at the lowest level possible for effective resolution of the situation. Should such attempts prove ineffective, the student judicial conduct system provides a student judicial conduct process to resolve the matter. The focus of student judicial conduct proceedings is to determine whether the university’s standards of conduct have been violated, and not criminal guilt. To this end, student judicial conduct proceedings attempt to balance an understanding and knowledge of the students with the needs of the university community.

25.1 Reporting. Any member of the university community may initiate a complaint against a student for an alleged violation of University Student Rules. Such complaints are generally submitted in writing to Student Conflict Resolution Services, the Office of the Commandant or the Department of Residence Life.

25.2 Mediation Services. Matters involving a personal dispute between two or more students may be referred to Mediation Services in the Department of Student Life to mediate the dispute. Students involved in incidents referred to Mediation Services are required to attend a mediation session and to proceed in a good faith effort to resolve the dispute on a basis that is fair and just for all parties. The mediator is authorized to inform the administrative hearing officer only that the case did or did not settle.

25.3 Notice. If circumstances surrounding the complaint indicate that a violation of the Student Conduct Code may have occurred, disciplinary charges may be issued. Students are notified of disciplinary charges in writing. A letter of charges is issued to the student’s address of record (See 1.2.). Disciplinary action may be taken against a student for failure to appear after proper notice.

25.4 Hearing. A disciplinary hearing may be conducted in one of the following forms, depending on the nature of the violation:
25.4.1 Administrative Hearing–The student meets with an *one or more* administrative hearing officer(s) to discuss the charges, the student’s involvement in the incident or lack thereof, and any other information relevant to the charges. Based on the information presented and discussed in the hearing, the administrative hearing officer(s) will determine whether a violation has occurred and issue sanctions accordingly.

25.4.2 Residence Halls Judicial **Student Conduct** Board–The judicial **student conduct** board functions in cases of minor disciplinary infractions by on-campus residents. The judicial **student conduct** board is comprised of residence hall students and staff who make decisions in the matters presented before them and issue sanctions if the finding is that a violation has occurred. An administrative hearing shall be required when the judicial student conduct board is not in session, i.e. finals week, between semesters and summer.

25.4.3 Cadet Honor Board–The Cadet Honor Board shall have the power to try hear cases referred to it under the guidelines set up in *The Standard* of the Corps of Cadets.


**Justification for Proposed Change:**

Advice of Office of General Counsel

**Submitted by:** Jerry Brown, Office of General Counsel; David W. Parrott, Dean of Student Life

Approved by the Rules and Regulations Committee on 4/15/04.
Section 26 Existing Rule:


26.1 The following rights apply to a student conduct proceeding that might result in expulsion, dismissal or suspension. Accused students subject to less severe sanctions may, at the discretion of the hearing officer, be afforded but are not guaranteed the following rights:

26.1.1 Right to be informed in writing of all charges at least three class days before any hearing may proceed.

26.1.2 Right to waive the three-day notice of charges.

26.1.3 Right to reasonable access to the case file, which shall be maintained by Student Conflict Resolution Services or, if the student is a member of the Corps of Cadets, the Office of the Commandant.

26.1.4 Right to remain silent.

26.1.5 Right to have a personal advisor/counselor present during the student conduct proceedings. A personal advisor or counselor or an attorney may appear at an administrative hearing with the accused student to provide advice, but may not represent the accused student or directly question or cross-examine witnesses, except in a case where the university is represented by an attorney.

26.1.6 Right to question witnesses.

26.1.7 Right to review all evidence.

26.1.8 Right to present witnesses.

26.1.9 Right to request an open proceeding.

26.1.10 Right to a written statement of the outcome of the proceeding.

26.1.11 Right to make a nonintrusive record of the proceeding at the accused student’s own expense.

26.1.12 Right to appeal the decision through the appropriate university panel. (See Part III, sections 58 and 59) A student subjected to any minor disciplinary sanction shall have the right to an appropriate administrative appeal. For members of the Corps of Cadets, appeals of minor disciplinary sanction not assigned by the commandant will be reviewed by the commandant.

26.2 The following rights apply to the victim in student conduct proceedings:
26.2.1 Right not to have to be in attendance at the student conduct proceeding.

26.2.2 Right to submit a victim impact statement that details the alleged consequences suffered by the victim.

26.2.3 Right to have a personal advisor/counselor accompany her/him during the student conduct proceeding. An attorney may appear at a student conduct proceeding with the victim to provide advice, but may not represent the victim or directly question or cross-examine witnesses, except in a case where the university is represented by an attorney.

26.2.4 Right to request immediate on-campus housing relocation (based on available space), transfer of classes or other steps to prevent unnecessary or unwanted contact or proximity to the accused, when such contact is likely to place the victim in danger of bodily injury and/or cause the victim severe emotional distress.

26.2.5 Right to be informed of the outcome of the hearing upon request. The proceedings and outcome of all student conduct proceedings are considered confidential information in accordance with the Family Educational Rights and Privacy Act of 1974. Such information should not be shared outside the proceedings, unless the proceeding has been declared an open proceeding.

26.2.6 Right to not have her/his past behavioral history discussed during the student conduct proceeding. Questions of relevancy shall be determined by the hearing officer.

26.2.7 Right to make a nonintrusive record of the proceeding at the victim’s own expense.

26.3 The focus of inquiry in student conduct proceedings shall be the determination of whether a violation of university rules occurred. Formal rules of evidence shall not be applicable, nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding unless significant prejudice to the student or university may result.

26.4 In all student conduct proceedings, the accused shall be presumed innocent until it is proven that a violation of university rules occurred.

26.5 In all initial student conduct proceedings, the burden of proof shall rest with those bringing the charges, and said burden of proof shall be by a preponderance of the evidence.

26.6 A student may not be expelled, dismissed or suspended prior to a student conduct proceeding. When, however, the Dean of Student Life or, if the student is a member of the Corps of Cadets, the commandant, believes that the presence of a student on campus poses a continuing danger to persons or property or presents a threat of disrupting the academic process, an interim suspension may be imposed. A student conduct proceeding will be scheduled as soon thereafter as practicable.
26.7 An open hearing may be held only if all students involved provide written consent to disclose any and all information which might be released from their educational record during the course of the hearing.

Proposed Change:


26.1 The following rights apply to a student conduct proceeding that might result in expulsion, dismissal or suspension. Accused students subject to less severe sanctions may, at the discretion of the hearing officer(s), be afforded but are not guaranteed the following rights:

26.1.1 Right to be informed in writing of all charges at least three class days before any hearing may proceed.
26.1.2 Right to waive the three-day notice of charges.
26.1.3 Right to reasonable access to the case file, which shall be maintained by Student Conflict Resolution Services or, if the student is a member of the Corps of Cadets, the Office of the Commandant.
26.1.4 Right to remain silent. Right to know that there will be no finding of responsibility solely because a student remains silent during conduct proceedings.
26.1.5 Right to have one person serve as a personal advisor/counselor present to consult during the student conduct proceedings. (Students who are charged in the same fact pattern, or who are not in good standing with the university are not eligible to serve as an advisor/counselor at conduct proceedings). A personal advisor or counselor (who may be an attorney) or an attorney may appear at student conduct proceedings an administrative hearing with the accused student to provide advice, but may not represent the accused student or directly question or cross-examine witnesses, except in a case where the university is represented by an attorney. There is no restriction on who a student may consult or seek advice from; the restriction pertains to the student conduct proceedings only.
26.1.6 Right to question witnesses.
26.1.7 Right to review all evidence.
26.1.8 Right to present witnesses. (Character witness information shall be accepted in written form only.)

26.1.9 Right to request an open proceeding. (See 26.7)

26.1.10 Right to a written statement of the outcome of the proceeding.

26.1.11 Right to make a nonintrusive record of the proceeding at the accused student’s own expense. Right to request the university make an audio recording of the student’s own proceedings. The record will then become part of the student’s conduct file.

26.1.12 Right to appeal the decision through the appropriate university panel channels. (See Part III, sections 58 and 59) A student subjected to any minor disciplinary sanction shall have the right to an appropriate administrative appeal. For members of the Corps of Cadets, appeals of minor disciplinary sanctions not assigned by the Corps commandant will be reviewed by the commandant, or designees.

26.2 The following rights apply to the alleged victim of sexual misconduct in student conduct proceedings:

26.2.1 Right not to have to be in attendance at the student conduct proceeding.

26.2.2 Right to submit a victim impact statement that details the alleged consequences suffered by the victim.

26.2.3 Right to have a personal advisor/counselor accompany her/him during the student conduct proceeding. (Students who are charged in the same fact pattern, or who are not in good standing with the university are not eligible to serve as an advisor/counselor at conduct proceedings). An attorney may appear at a student conduct proceeding with the alleged victim to provide advice, but may not represent the alleged victim or directly question or cross-examine witnesses, except in a case where the university is represented by an attorney.

26.2.4 Right to request immediate on-campus housing relocation (based on available space), transfer of classes or other steps to prevent unnecessary or unwanted contact or proximity to the accused, when such contact is likely to place the alleged victim in danger of bodily injury and/or cause the alleged victim severe emotional distress.

26.2.5 Right to be informed of the outcome of the hearing upon request. The proceedings and outcome of all student conduct proceedings are considered confidential information in accordance with the Family Educational Rights and Privacy Act of 1974. Such information should not be
26.2.6 Right to not have her/his past sexual history discussed during the student conduct proceeding.

26.2.7 Right to make a nonintrusive record of the proceeding at the victim's own expense. Right to request the university make an audio recording of the accused student's proceedings at the alleged victim's expense. The record will then become part of the accused student's conduct file.

26.3 The focus of inquiry in student conduct proceedings shall be the determination of whether a violation of university rules occurred. Student conduct proceedings shall be informal in nature and need not comply with the formal processes associated with the criminal and civil courts. Formal rules of evidence shall not be applicable, nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding unless significant prejudice to the student or university may result.

26.4 In all student conduct proceedings, the accused shall be presumed innocent not responsible until it is proven that a violation of university rules occurred.

26.5 In all initial student conduct proceedings, the burden of proof shall rest with those bringing the charges, and said burden of proof shall be by a preponderance of the evidence. Preponderance of the evidence is defined as the greater weight and degree of credible evidence admitted in the hearing.

26.6 A student may not be expelled, dismissed or suspended prior to a student conduct proceeding. When, however, except when the Dean of Student Life or, if the student is a member of the Corps of Cadets, the commandant, believes that the presence of a student on campus poses a continuing danger to persons or property or presents a threat of disrupting the academic process, an interim suspension may be imposed. A student conduct proceeding will be scheduled as soon thereafter as practicable.

26.7 An open hearing may be held only if all students involved provide written consent to disclose any and all information which might be released from their educational record during the course of the hearing. Final determination shall be at the sole discretion of the hearing officer(s).

Justification of Proposed Change:

Advice of the Office of General Counsel

Submitted by: Jerry Brown, Office of General Counsel; David W. Parrott, Dean of Student Life

Approved by the Rules and Regulations Committee on 4/15/04.
Section 27 Existing Rule:

27. Sanctions (Revised: 2004)

Student conduct sanctions are categorized as primary and secondary. More than one primary sanction or any combination of primary sanctions and secondary sanctions may be imposed for any single violation. Once a student has been finally assessed a disciplinary sanction, however, no more severe primary sanctions may be assessed against him or her by any higher university authority.

27.1 Primary Sanctions (in order of severity):

27.1.1 **Expulsion**: Separation of the student from the university whereby the student is not eligible for readmission to this university.

27.1.2 **Dismissal**: Separation of the student from the university for an indefinite period of time. Readmission to the university may be possible in the future, but no specific time for a decision is established.

27.1.3 **Suspension**: Separation of the student from the university for a definite period of time. The student is not guaranteed readmission at the end of such period of time, but is guaranteed a review of the case and a decision regarding eligibility for readmission.

27.1.4 **Deferred Suspension**: The sanction of Suspension may be placed in deferred status. If the student is found in violation of any university rule during the time of Deferred Suspension, the Suspension takes effect immediately without further review. Additional student conduct sanctions appropriate to the new violation also may be taken. A student who has been issued a Deferred Suspension sanction is deemed “not in good standing” with the university. A student who is not in good standing is subject to the following restrictions:

- Ineligibility to hold an office in any student organization recognized by the university or to hold any elected or appointed office of the university.

- Ineligibility to represent the university to anyone outside the university community in any way, including representing the university at any official function, intercollegiate athletics or any forms of intercollegiate competition or representation.

- Ineligibility to receive a university-administered scholarship when the length of the Deferred Suspension is greater than one semester. Some scholarships adhere to more strict guidelines, and, therefore, ineligibility may result from a lesser length of Deferred Suspension. This sanction implies a serious offense and must
be uniformly applied by the office administering the scholarship upon notification by the university disciplinary officer.

- Additional restrictions or conditions also may be imposed, depending on the nature and seriousness of the misconduct.

27.1.5 Conduct Probation: An official warning that the student’s conduct is in violation of Texas A&M University Student Rules, but is not sufficiently serious to warrant expulsion, dismissal or suspension. A student on conduct probation is deemed “not in good standing” with the university. This sanction includes the same restrictions listed in 27.1.4, Deferred Suspension.

27.1.6 Loss of Campus Housing Privilege: Removal from university housing for disciplinary reasons.

27.1.7 Deferred Loss of Campus Housing Privilege: The sanction of Loss of Campus Housing Privilege may be placed in deferred status. If a student is found in violation of any university rule during the time of the deferred sanction, removal from housing takes effect immediately without further review. Additional student conduct sanctions appropriate to the new violation also may be taken.

27.1.8 Hall Probation: An official notice that the student’s conduct is in violation of residence hall rules and/or university rules and that more stringent student conduct sanctions, including removal from housing, may result if future violations occur. In addition, a student is ineligible to hold an elected or appointed office in any affiliated residence hall organization. This includes but is not limited to the following offices/positions: president, vice president, secretary, treasurer, RHA delegate.

27.1.9 Letter of Enrollment Block: A letter stating that the student may not reenter Texas A&M University without prior approval through the Department of Student Life or the vice president for student affairs if enrollment has been blocked for a previous student conduct problem or for medical reasons.

27.1.10 Letter of Reprimand: A letter that makes a matter of record any incident that reflects unfavorably on the student or the university.

27.1.11 Warning: Admonition of a student for actions unbecoming to the university community.

27.2 Secondary Sanctions (no order of severity is established for secondary actions):

27.2.1 Community/University Service: A student may be offered an opportunity to complete a specified number of hours of Community/University Service in lieu of other sanctions. The type of Community/University Service must be approved by the hearing officer/panel.

27.2.2 Educational Requirements: A provision to complete a specific educational requirement directly related to the violation committed. The provision will be clearly de-
fined. Such educational requirements may include, but are not limited to, completion of an alcohol education workshop, a diversity awareness workshop, essays, reports, etc.

27.2.3 Restrictions: The withdrawal of specified privileges for a definite period of time, but without the additional stipulations contained in the imposition of conduct probation. The restrictions involved will be clearly defined.

27.2.4 Restitution: A payment for financial injury to an innocent party in cases involving theft, destruction of property or deception. The assessed costs to be paid may be in addition to receipt of any of the above sanctions.

27.2.5 Loss of Parking Privileges on Campus: Revocation of campus vehicle registration, and forfeiture of permit and all refund rights to said permit.

27.3 The occupants of each residence hall, by majority vote, have the power to establish additional “in house” rules as approved by the area coordinator. Generally, “in house” rule infractions are handled by residence life staff or the Residence Halls Judicial Board.

27.4 In addition to any of the sanctions listed in this section, members of the Corps of Cadets are subject to disciplinary action in accordance with *The Standard*.

**Proposed Change:**

27. Sanctions (Revised: 2004)

Student conduct sanctions are categorized as primary and secondary. More than one primary sanction or any combination of primary sanctions and secondary sanctions may be imposed for any single violation. Once a student has been finally assessed a disciplinary sanction, however, no more severe primary sanctions may be assessed against him or her by any higher university authority.

27.1 Primary Sanctions (in order of severity):

27.1.1 Expulsion: Separation of the student from the university whereby the student is not eligible for readmission to this university.

27.1.2 Dismissal: Separation of the student from the university for an indefinite period of time. Readmission to the university may be possible in the future, but no specific time for a decision is established.

27.1.3 Suspension: Separation of the student from the university for a definite period of time. The student is not guaranteed readmission at the end of such period of time, but is guaranteed a review of the case and a decision regarding eligibility for readmission.
27.1.4 Deferred Suspension: The sanction of Suspension may be placed in deferred status. If the student is found in violation of any university rule during the time of Deferred Suspension, the Suspension takes effect immediately without further review. Additional student conduct sanctions appropriate to the new violation also may be taken. A student who has been issued a Deferred Suspension sanction is deemed “not in good standing” with the university. A student who is not in good standing is subject to the following restrictions:

- Ineligibility to hold an office in any student organization recognized by the university or to hold any elected or appointed office of the university.
- Ineligibility to represent the university to anyone outside the university community in any way, including representing the university at any official function, intercollegiate athletics or any forms of intercollegiate competition or representation.
- Ineligibility to receive a university-administered scholarship when the length of the Deferred Suspension is greater than one semester. Some scholarships adhere to more strict guidelines, and, therefore, ineligibility may result from a lesser length of Deferred Suspension. This sanction implies a serious offense and must be uniformly applied by the office administering the scholarship upon notification by the university disciplinary officer.
- Ineligibility to serve as an advisor/counselor during student conduct proceedings and/or appeal proceedings.
- Additional restrictions or conditions also may be imposed, depending on the nature and seriousness of the misconduct.

27.1.5 Conduct Probation: An official warning that the student’s conduct is in violation of Texas A&M University Student Rules, but is not sufficiently serious to warrant expulsion, dismissal or suspension. A student on conduct probation is deemed “not in good standing” with the university. This sanction includes the same restrictions listed in 27.1.4, Deferred Suspension.

27.1.6 Conduct Review: An official warning that the student’s conduct is in violation of Texas A&M University Student Rules, but is not sufficiently serious to warrant expulsion, dismissal, suspension, or conduct probation. A student on conduct review shall have their conduct under review for a specified period of time. This sanction may require regular meetings with an appropriate official to ascertain and evaluate compliance with student rules. Additional restrictions or conditions also may be imposed, depending on the nature and seri-
ousness of the misconduct. Students placed on this sanction remain in good standing with the university. If there is a finding of responsibility for subsequent violations of the student rules during this period of time, more severe sanctions will be administered.

27.1.7 Loss of Campus Housing Privilege: Removal from university housing for disciplinary reasons.

27.1.8 Deferred Loss of Campus Housing Privilege: The sanction of Loss of Campus Housing Privilege may be placed in deferred status. If a student is found in violation of any university rule during the time of the deferred sanction, removal from housing takes effect immediately without further review. Additional student conduct sanctions appropriate to the new violation also may be taken.

27.1.9 Hall Probation: An official notice that the student’s conduct is in violation of residence hall rules and/or university rules and that more stringent student conduct sanctions, including removal from housing, may result if future violations occur. In addition, a student is ineligible to hold an elected or appointed office in any affiliated residence hall organization. This includes but is not limited to the following offices/positions: president, vice president, secretary, treasurer, RHA delegate, Bonfire Yellow Pot and Bonfire crew chief.

27.1.10 Letter of Enrollment Block: A letter stating that the student may not reenter Texas A&M University without prior approval through the Department of Student Life or the vice president for student affairs if enrollment has been blocked for a previous student conduct problem or for medical reasons.

27.1.11 Letter of Reprimand: A letter that makes a matter of record any incident that reflects unfavorably on the student or the university.

27.1.12 Warning: Admonition of a student for actions unbecoming to the university community.

27.2 Secondary Sanctions (no order of severity is established for secondary actions):

27.2.1 Community/University Service: A student may be offered an opportunity to complete a specified number of hours of Community/University Service in lieu of other sanctions. The type of Community/University Service must be approved by the hearing officer/panel.

27.2.2 Educational Requirements: A provision to complete a specific educational requirement directly related to the violation committed. The provision will be clearly defined. Such educational requirements may include,
but are not limited to, completion of an alcohol education workshop, a diversity awareness workshop, essays, reports, etc.

27.2.3 Restrictions: The withdrawal of specified privileges for a definite period of time, but without the additional stipulations contained in the imposition of conduct probation. The restrictions involved will be clearly defined.

27.2.4 Restitution: A payment for financial injury to an innocent party in cases involving theft, destruction of property or deception. The assessed costs to be paid may be in addition to receipt of any of the above sanctions.

27.2.5 Loss of Parking Privileges on Campus: Revocation of campus vehicle registration, and forfeiture of permit and all refund rights to said permit.

27.3 The occupants of each residence hall, by majority vote, have the power to establish additional “in house” rules as approved by the area coordinator. Generally, “in house” rule infractions are handled by residence life staff or the Residence Halls Judicial Board.

27.4 In addition to any of the sanctions listed in this section, members of the Corps of Cadets are subject to disciplinary action in accordance with The Standard.

Justification for Proposed Change:

Advise of Office of General Counsel

Submitted by: Jerry Brown, Office of General Counsel; David W. Parrott; Dean of Student Life

Approved by the Rules and Regulations Committee on 4/15/04.
Section 28 Existing Rule:

28. Student Conduct Files and Records (Revised: 1995)

Case referrals may result in the development of a student conduct file in the name of the accused student. The student conduct file of the accused shall be destroyed should it be found that no violation of university rules occurred. The file of a student found to have violated university rules shall be retained as a student conduct record for four years from the date of the sanction or until the student’s graduation from the university, whichever comes first. Student conduct records may be retained for longer periods of time or permanently if the student was expelled, dismissed, suspended or blocked from reenrollment and in situations that may result in future litigation.

Student conduct records may be voided by the Dean of Student Life or the commandant of the Corps of Cadets, dependent upon which office imposed the sanction, for good cause, upon receipt of a written request by the student. Factors to be considered in review of such petitions shall include:

28.1 the present demeanor of the student;

28.2 the conduct of the student subsequent to the violation;

28.3 the nature of the violation and the severity of any damage, injury or harm resulting from it.

Proposed Change:

28. Student Conduct Files and Records (Revised: 2004)

Case referrals may result in the development of a student conduct file in the name of the accused student. The student conduct file of the accused shall be destroyed should it be found that no violation of university rules occurred. The file of a student found to have violated university rules shall be retained as a student conduct record for five years from the date of the sanction or until the student’s graduation from the university, whichever comes first. Student conduct records may be retained for as long as administratively valuable longer periods of time or permanently if the student was expelled, dismissed, suspended or blocked from reenrollment and in situations that may result in future litigation.
Student conduct records may be voided for good cause by the Dean of Student Life or the commandant of the Corps of Cadets, dependent upon which office imposed the sanction, for good cause, upon receipt of a written request by the student. Factors to be considered in review of such petitions shall include:

28.1 the present demeanor of the student;
28.2 the conduct of the student subsequent to the violation; and
28.3 the nature of the violation and the severity of any damage, injury or harm resulting from it.

**Justification for Proposed Change:**

Advise of Office of General Counsel

**Submitted by:** Jerry Brown, Office of General Counsel; David W. Parrott, Dean of Student Life

**Approved by the Rules and Regulations Committee on 4/14/04**
Section 51 Existing Rule:

51. Disciplinary Action (Revised: 1995)

Rules
Rules regarding the University Discipline Code and related actions are listed in Part II, Student Life Rules.

Grievance Procedures

51.1 A student who has been assessed a disciplinary sanction of expulsion, dismissal, suspension or deferred suspension from the university by the Department of Student Life or the Office of the Commandant may file an appeal with the chair of the University Disciplinary Appeals Panel. An appeal must be based upon some specific aspect of the previous hearing, for example, unjust sanctions or violations of due process. Following the notification of intent to appeal and pending the hearing, the disciplinary action taken by the university shall be stayed unless the university disciplinary officer has determined in a case involving suspension, dismissal or expulsion that the continued presence on campus of the charged student poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process.

51.2 A student who has been assessed a disciplinary action other than those listed above may file an appeal within five working days of the delivery of that decision with the Department of Student Life or the Office of the Commandant, dependent upon which office imposed the sanction. The appeal will be heard administratively by the appropriate official or panel.

Proposed Change:


Rules
Rules regarding the University Discipline Code and related actions are listed in Part II, Student Life Rules.
Grievance Procedures

51.1 A student who has been assessed a disciplinary sanction of expulsion, dismissal, suspension or deferred suspension from the university by the Department of Student Life or the Office of the Commandant may file an appeal with the chair of the University Disciplinary Appeals Panel. An appeal must be based upon some specific aspect of the previous hearing, for example, unjust sanctions or violations of due process. Following the notification of intent to appeal and pending the hearing, the disciplinary action taken by the university shall be stayed unless the university disciplinary officer has determined in a case involving suspension, dismissal or expulsion that the continued presence on campus of the charged student poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process.

51.2 A student who has been assessed a disciplinary action other than those listed above may file an appeal within five working days of the delivery of that decision with the Department of Student Life or the Office of the Commandant, dependent upon which office imposed the sanction. The appeal will be heard administratively by the appropriate official or panel.

Justification for Proposed Change:

Advice of General Counsel

Submitted by: Jerry Brown, Office of General Counsel; David W. Parrott, Dean of Student Life

Approved by the Rules and Regulations Committee on 4/15/04
Section 58 Existing Rule:

58. University Disciplinary Appeals Panel (Revised: 1995)

Scope

The University Disciplinary Appeals Panel will hear all cases of a disciplinary nature including, in the case of undergraduates, scholastic dishonesty.

Membership

The panel includes the chair, four faculty members, two undergraduate students, one graduate student, one undergraduate student alternate and one graduate student alternate. A quorum consists of three faculty members and two students.

Procedures

58.1 The student must file a written request for an appeal hearing with the chair within five working days of delivery of the decision regarding disciplinary action taken by the university. The student should identify in the request the specific aspect of the previous hearing, for example, unjust sanction or a violation of due process, which is the basis of the appeal. The request for appeal should also indicate whether the student desires an open or closed hearing. The chair shall forward a copy of the written request for appeal to the administrative hearing officer upon its receipt. Following the filing of the written appeal and pending the appeal hearing, the disciplinary action taken by the university shall be stayed, unless the Dean of Student Life or, if the student is a Corps member, the Commandant has determined in a case involving suspension, dismissal or expulsion that the presence on campus of the student poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process.

58.2 Upon receipt of the written request for a hearing, the chair shall set a time and place for the hearing as soon as practicable.

58.3 The chair shall sit as a hearing officer and shall not take part in the vote or otherwise participate in the deliberations of the panel except to cast the tie breaking vote. It shall be the duty of the chair to rule on procedural matters and the admissibility of evidence. The informal nature of the proceeding requires strict adherence to formal courtroom procedures or the rules of evidence only to the extent necessary to provide a fair hearing.

58.4 In all cases where the disciplinary officer of the university has conducted an administrative hearing and rendered a decision, the burden of proof in an appeal shall be upon the student to prove his or her case by a preponderance of the evidence. In all other cases, the burden of proof shall be on the university to prove its case by a preponderance of the evidence.

58.5 The student shall have the right to consult with counsel of his or her own choosing, to present such witnesses and documentary evidence as may be pertinent, and to cross-
examine witnesses offered by other parties. An attorney or an individual acting as an advisor may not represent the student or directly question or cross-examine witnesses, except in a case where the university is represented by an attorney.

58.6 All parties shall be afforded the opportunity for reasonable oral argument and shall be permitted to file typewritten or reproduced material.

58.7 Upon the request of either party, the chair shall cause the testimony presented at the hearing to be recorded. A copy of the recording may be obtained from the chair at the expense of the requesting party.

58.8 Immediately after hearing an appeal, the panel will go into closed session to deliberate. Upon conclusion of its deliberation, the panel shall inform the student of its decision. A formal letter outlining the decision of the panel shall be sent to the student, the president of the university and all parties indicated on the original disciplinary sanction letter.

Proposed Change:

58. University Disciplinary Appeals Panel (Revised: 1995)

Scope

The University Disciplinary Appeals Panel will hear all cases of a disciplinary nature including, in the case of undergraduates, scholastic dishonesty.

Membership

The panel includes the chair, four faculty members, two undergraduate students, one graduate student, one undergraduate student alternate and one graduate student alternate. A quorum consists of three faculty members and two students.

Procedures

58.1 The student must file a written request for an appeal hearing with the chair within five working days of delivery of the decision regarding disciplinary action taken by the university. The student should identify in the request the specific aspect of the previous hearing, for example, unjust sanction or a violation of due process, which is the basis of the appeal. The request for appeal should also indicate whether the student desires an open or closed hearing. The chair shall forward a copy of the written request for appeal to the administrative hearing officer upon its receipt. Following the filing of the written appeal and pending the appeal hearing, the disciplinary action taken by the university shall be stayed, unless the Dean of Student Life or, if the student is a Corps member, the Commandant has determined in a case involving suspension, dismissal or expulsion that the presence on campus of the student poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process.
58.2 Upon receipt of the written request for a hearing, the chair shall set a time and place for the hearing as soon as practicable.

58.3 The chair shall sit as a hearing officer and shall not take part in the vote or otherwise participate in the deliberations of the panel except to cast the tie breaking vote. It shall be the duty of the chair to rule on procedural matters and the admissibility of evidence. The informal nature of the proceeding requires strict adherence to formal courtroom procedures or the rules of evidence only to the extent necessary to provide a fair hearing.

58.4 In all cases where the disciplinary officer of the university has conducted an administrative hearing and rendered a decision, the burden of proof in an appeal shall be upon the student to prove his or her case by a preponderance of the evidence. In all other cases, the burden of proof shall be on the university to prove its case by a preponderance of the evidence.

58.5 The student shall have the right to consult with counsel of his or her own choosing, to present such witnesses and documentary evidence as may be pertinent, and to cross-examine witnesses offered by other parties. An attorney or an individual acting as an advisor may not represent the student or directly question or cross-examine witnesses, except in a case where the university is represented by an attorney.

58.6 All parties shall be afforded the opportunity for reasonable oral argument and shall be permitted to file typewritten or reproduced material.

58.7 Upon the request of either party, the chair shall cause the testimony presented at the hearing to be recorded. A copy of the recording may be obtained from the chair at the expense of the requesting party.

58.8 Immediately after hearing an appeal, the panel will go into closed session to deliberate. Upon conclusion of its deliberation, the panel shall inform the student of its decision. A formal letter outlining the decision of the panel shall be sent to the student, the president of the university and all parties indicated on the original disciplinary sanction letter.

58. University Disciplinary Appeals Panel (Revised: 2004)

Scope

The University Disciplinary Appeals Panel will hear all appeals concerning deferred suspension, suspension, dismissal, and expulsion that are the result of a finding of responsibility for violation of the Student Code of Conduct. For all other sanctions imposed for a violation of the Student Code of Conduct an administrative officer, appointed by the Dean of Student Life, shall hear the case. Decisions made by a lower level hearing body shall not be final.
until an appeal deadline is passed, or when the appeal process is exhausted, or when a student chooses not to appeal.

Membership

Members are appointed by the university president, and a panel assembled to hear an appeal will consist of the chair, three faculty representatives, and two student representatives.

Procedures

58.1 The student must complete an appeal request form (available from the chair of the panel) within five university business days of the decision regarding disciplinary action taken by the university.

The following are the only accepted bases for appeal.

58.1.1 A violation of due process rights: To determine whether the original hearing was conducted fairly in light of the charges and evidence presented, and in conformity with prescribed procedures giving the accused student a reasonable opportunity to prepare and present rebuttal of allegations.

58.1.2 The finding of responsibility: To determine whether the decision reached regarding the accused student was based on a preponderance of the evidence, that is, whether the facts in the case were sufficient to establish that a violation of the Student Code of Conduct occurred.

58.1.3 Severity of the sanction(s): To determine whether the sanction(s) imposed were appropriate for the violation of the Student Code of Conduct which the student was found to have committed.

58.1.4 Information not available at the time of the original hearing: To consider new information, sufficient to alter a decision or other relevant facts not brought out in the original hearing, because such information and/or facts were not known to the person appealing at the time of the original hearing.

58.2 Upon receipt of the written request for a hearing, the chair shall set a time and place for the hearing as soon as practicable.

58.3 The chair shall sit as a hearing officer and shall not take part in the vote or otherwise participate in the deliberations of the panel except to cast the tie breaking vote.
58.4 The proceedings of the appeal process shall be informal in nature and need not comply with the formal processes associated with the criminal and civil courts.

58.5 Right to have one person serve as a personal advisor/counselor to consult during the appeal proceedings. (Students who are charged in the same fact pattern, or who are not in good standing with the university are not eligible to serve as an advisor/counselor at appeal proceedings). A personal advisor or counselor (who may be an attorney) may appear at the appeal proceedings with the accused student to provide advice, but may not represent the accused student or directly question or cross-examine witnesses, except in a case where the university is represented by an attorney. There is no restriction on who a student may consult or seek advice from, the restriction pertains to the appeal proceedings only.

58.6 The appropriate university representative and the appealing student shall be afforded the opportunity for a reasonable oral presentation and shall be permitted to file typewritten or reproduced material.

58.7 The chair shall cause all portions of the hearing to be recorded, except for the panel’s deliberations. The appealing student may obtain a copy of the recording at his/her own expense.

58.8 The panel may take any of the following actions in response to an appeal: they may review the case and uphold the findings and/or sanctions from the previous level; they may review the case and reverse a finding of responsibility for any or all charges; they may review the case and reduce the sanction(s); they may review the case and require that it be heard again by the original hearing body.

58.9 After hearing an appeal, the panel will go into closed session to deliberate. Upon conclusion of its deliberation (which may take place over the course of several days), the panel shall inform the student of its decision. A letter outlining the decision of the panel shall be sent to the appealing student.

Justification for Change:

Advice of Office of General Counsel

Submitted by: Wynn Rosser, Office of Vice President for Student Affairs; Jerry Brown, Office of General Counsel; David W. Parrott, Dean of Student Life

Approved by the Rules and Regulations Committee on 4/15/04