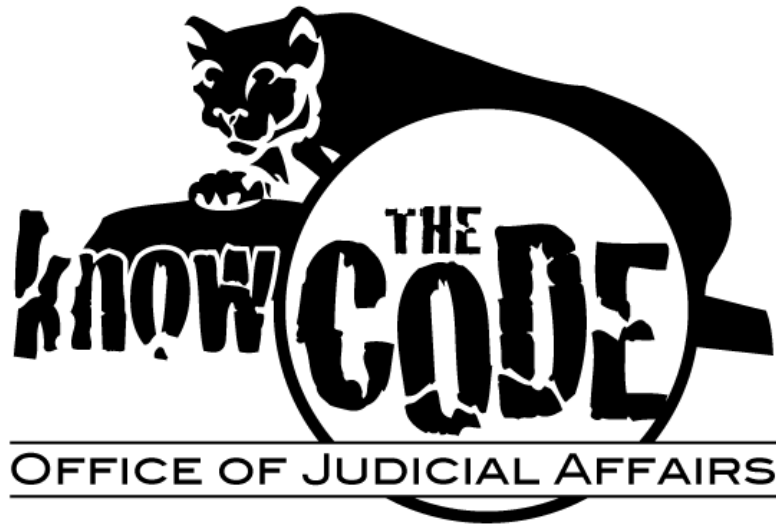


**THE PENNSYLVANIA STATE UNIVERSITY
OFFICE OF JUDICIAL AFFAIRS**

**PROCEDURAL GUIDELINES FOR THE
UNIVERSITY DISCIPLINE PROCESS**



2009-2010

INTRODUCTION

This document was developed to highlight the standard procedures and practices of the University discipline process. To be fully aware of individual rights and responsibilities, students are encouraged to review all of the materials on the Office of Judicial Affairs' website (<http://www.sa.psu.edu/ja>).

The Office of Judicial Affairs is dedicated to supporting students by maintaining a system that is just, equitable, effective, educational and expeditious; a system that promotes student growth through individual responsibility; and a system in which the success of its educational endeavors is characterized by increased civility.

The Office encourages the expression of diverse views and opinions, validates healthy life choices, and supports the concept of community respect. Through programs and services, we help students become responsible and contributing citizens within Penn State and the local communities.

Our goal is to support the University's educational mission by promoting a safe, orderly and positive University climate through enforcing behavioral standards, managing disciplinary proceedings, mentoring students, developing leadership, and fostering peer education. We hope to create a University culture that is self-disciplined, where civility is embraced, and the norms and foundational beliefs validate the essential values of Penn State University that are:

- Personal and academic integrity;
- Respect for the dignity of all persons and a willingness to learn from the differences in people, ideas, and opinions;
- Respect for the rights, property and safety of others;
- Concern for others and their feelings and their need for conditions that support an environment where they can work, grow and succeed at Penn State.

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THE CODE OF CONDUCT

The Code of Conduct describes behaviors that are inconsistent with the essential values of the University community. Intentionally attempting or assisting in these behaviors may be considered as serious as engaging in the behavior. A person commits an attempt when, with intent to commit a specific violation of the Code of Conduct, he/she performs any act that constitutes a substantial step toward the commission of that violation. Links are provided for University policy statements that inform the Code of Conduct. The Code of Conduct behaviors include, but are not limited to:

1. ABUSE/ENDANGERMENT/HAZING OF A PERSON: Physically harming or threatening to harm any person, intentionally or recklessly causing harm to any person or reasonable apprehension of such harm or creating a condition that endangers the health and safety of self or others, including through the facilitation of or participation in any mental or physical hazing activity (also see [Policy Statement 8](#)).

2. SEXUAL MISCONDUCT OR ABUSE: The University does not tolerate sexual misconduct or abuse, such as sexual assault, rape or any other forms of nonconsensual sexual activity. Sexual misconduct and abuse can occur between acquaintances or parties unknown to each other. Sexual abuse is attempted or actual unwanted sexual activity, such as sexual touching and fondling. This includes the touching of an unwilling person's intimate parts (defined as genitalia, groin, breast or buttock, or clothing covering them), or forcing an unwilling person to touch another's intimate parts. Sexual misconduct includes, but is not limited to, sexual assault, rape, forcible sodomy or sexual penetration with an inanimate object, intercourse without consent, under conditions of force, threat of force, fear or when a person is unable to give consent because of substance abuse, captivity, sleep or disability (also see [Policy AD-12](#)).

3. HARASSMENT CREATING HOSTILE ENVIRONMENT, AND HARASSMENT OR STALKING OF ANY PERSON: Harassment creating a hostile environment is a violation of University policy. Such harassment is a form of discrimination consisting of physical or verbal conduct that (a) is directed at an individual because of the individual's age, ancestry, color, disability or handicap, national origin, race, religious creed, sex, sexual orientation, gender identity or veteran status; and (b) is sufficiently severe or pervasive so as to substantially interfere with the individual's employment, education or access to University programs, activities and opportunities.

To constitute harassment creating a hostile environment, the conduct must be such that it detrimentally affects the individual in question and would also detrimentally affect a reasonable person under the same circumstances. This harassment may include, but is not limited to, verbal or physical attacks, threats, slurs, or derogatory comments or threats of such conduct, that meet the definition set forth above. Whether the alleged conduct constitutes prohibited harassment depends on the totality of the particular circumstances, including the nature, frequency and duration of the conduct in question, the location and context in which it occurs and the status of the individuals involved.

General harassment or stalking of any person is a violation of University policy. A person violates this section when, with the intent to harass or alarm another, the person (a) subjects the other person or group of persons to unwanted physical contact or threat of such contact; or (b) engages in a course of conduct, including following the person without proper authority, under circumstances which demonstrate intent to place the other person in reasonable fear of bodily injury or to cause the other person substantial emotional distress (also see [Policy Statement 7](#), and [Policies AD-41](#) and [AD-42](#)).

4. WEAPONS, FIREARMS, AND PAINTBALL DEVICES: The possession, storing, carrying, or use of any weapon, ammunition, or explosive by any person is prohibited on all University property except by authorized law enforcement officers and other persons specifically authorized by the University. No person shall possess, carry, or use any fireworks on University property, except for those persons authorized by University and local governments to discharge such fireworks as part of a public display. Paintball guns and paintball markers may

only be used on the property of the University in connection with authorized University activities and only at approved locations (also see [SY-12](#)).

5. FIRE SAFETY VIOLATIONS: Tampering with fire or other safety equipment or setting unauthorized fires.

6. ALCOHOL AND/OR DRUGS: Illegally possessing, using, distributing, manufacturing, selling or being under the influence of alcohol or other drugs. Use, possession or distribution of beverages containing alcohol on University property shall comply with the laws of the Commonwealth of Pennsylvania and University Policies and Rules. Note: Anyone, including those under 21, serving alcohol to persons under 21 is in violation of both University regulations and state law. Excessive consumption occurs when a person is intoxicated to the degree that the person may endanger self, other persons, or property, or annoy persons in the vicinity. (also see [Policies AD-18](#), [AD-33](#) and [Policy Statement 3](#)).

It is also a violation a violation of the residence hall contract for a student to be in the presence of the presence of the use of illegal drugs or if under 21 years of age, alcohol, in any residential area. (also see <http://www/hfs.psu.edu/housing/firstyear/policies.shtml>).

7. FALSE INFORMATION: Intentionally providing false or inaccurate information or records to University or local authorities. Providing a false report of an emergency, University rule and/or Code violation. Knowingly providing false statements or testimony during a University investigation or proceeding.

8. THEFT AND OTHER PROPERTY OFFENSES: Stealing, vandalizing, damaging, destroying, or defacing University property or the property of others.

9. DISRUPTION OF OPERATIONS: Obstruction or disruption of classes, research projects, or other activities or programs of the University; or obstructing access to University facilities, property, or programs. Disruption is defined as an action or combination of actions by one or more individuals that unreasonably interferes with, hinders, obstructs, or prevents the operation of the University or infringes on the rights of others to freely participate in its programs and services (also see [Policy Statement 1](#)).

10. ACADEMIC DISHONESTY: Academic integrity is the pursuit of scholarly activity in an open, honest and responsible manner. Academic integrity is a basic guiding principle for all academic activity at The Pennsylvania State University, and all members of the University community are expected to act in accordance with this principle. Consistent with this expectation, students should act with personal integrity, respect other students' dignity, rights and property, and help create and maintain an environment in which all can succeed through the fruits of their efforts. Academic integrity includes a commitment not to engage in or tolerate acts of falsification, misrepresentation or deception. Such acts of dishonesty violate the fundamental ethical principles of the University community and compromise the worth of work completed by others.

Academic dishonesty includes, but is not limited to, cheating, plagiarism, fabrication of information or citations, facilitation of acts of academic dishonesty by others, unauthorized possession of examinations, submitting work of another person or work previously used without informing the instructor, and tampering with the academic work of other students (also see [Faculty Senate Policy 49-20](#) and [G-9 Procedures](#)).

11. FAILURE TO COMPLY: Failing to comply with reasonable directives from University or other officials when directed to do so. Failure to provide identification or to report to an administrative office or, when reasonable cause exists, failing to leave University-controlled premises or dangerous situations when directed to do so by properly authorized persons, including police and/or other University staff. This charge may be added to other charges, e.g., when a student fails to leave a residence hall during a fire drill and refuses to leave when directed to do so by a University official.

12. FORGERY/ALTERATION: Making, using or possessing any falsified University document or official record; altering or forging any University document or record, including identification, meal or access cards.

This includes but is not limited to; forging (signing another's name and/or ID number) key request forms, manufacturing IDs or tickets, altering permits, misuse of forms (letterhead stationery, University forms), and keys to mislead.

13. UNAUTHORIZED ENTRY OR USE: Unauthorized entry into or use of property or University facilities including residence halls, classrooms, offices, and other restricted facilities. Unauthorized entry or use of facilities is referred to in University policy regarding the rights of individuals and the rights of the institution. Specifically, policy refers to an “obligation not to infringe upon the rights of all members of the campus to privacy in offices, laboratories and residence hall rooms, and in the keeping of personal papers, confidential records and effects, subject only to the general law and University regulations.” The University also has the right to control use and entry into facilities for reasons of security, safety or protection of property. This includes closing facilities at specified times. It should also be recognized that an open or unlocked door is not an invitation to enter and use facilities. The same concept applies to computer entry or misuse, including violation of any University computer policy (also see [Policy AD-20](#) and [Policy Statement 4](#)).

14. DISORDERLY CONDUCT: Engaging in disorderly, disruptive, lewd or indecent conduct. The item includes but is not limited to: inciting or participating in a riot or group disruption; failing to leave the scene of a riot or group disruption when instructed by officials; disruption of programs, classroom activities or functions and processes of the University; creating unreasonable noise; or creating a physically hazardous or physically offensive condition.

15. VIOLATIONS OF UNIVERSITY REGULATIONS: Violating written University policy or regulations contained in any official publications, administrative announcements, contracts and/or postings.

16. VIOLATION OF LAW: When it is established that a student has violated federal, state, or local law and the violation of law affects a *Substantial University Interest*, the student may be charged within the Code of Conduct for VIOLATION OF LAW.

RESPONDING TO OFF-CAMPUS MISCONDUCT

While the University has a primary duty to supervise behavior on its premises, there are many circumstances where the off-campus behavior of students affects a Substantial University Interest and warrants disciplinary action.

The Pennsylvania State University expects students to conduct themselves in accordance with the law. Student behavior off the premises of the campus that may have violated any local, state, or federal law, or yields a complaint from others alleging law violations or student misconduct will be reviewed by the University. Upon receipt of a complaint alleging off-campus student misconduct the Director of Judicial Affairs will review the allegations and if necessary consult with a Senior Student Affairs Administrator to determine the appropriate course of action by the University. When students are found responsible for behavior off-campus that both meets the definition of affecting Substantial University Interest, and violates the Code of Conduct, sanctions will be applied.

Under normal circumstances, the Off-Campus Misconduct Policy will be reviewed simultaneously by the University. However, the University may defer action until the proceedings of the criminal or civil action have been completed when requested to do by the student. Such a request will be considered by Judicial Affairs following an initial review of the circumstance and the basis for the student's request. Whether or not such a request is made and approved, students may also delay action by Judicial Affairs by seeking a Disciplinary

Withdrawal, whereby they would withdraw from the University until the criminal matter has been resolved. At the same time, where there is a compelling reason (such as concern for the safety of other students), Judicial Affairs may, after an initial review of the of the evidence, impose the sanction of Interim Suspension, requiring that the student leave the campus pending disciplinary proceedings or medical evaluation. Student conduct committed off the campus which affects a Substantial University Interest is conduct which:

- Constitutes a violation of local, state or federal law. Included are repeat violations of any local, state or federal law committed in the municipality where the University is located.
- Indicates that the student may present a danger or threat to the health or safety of him/herself or others.
- Significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder.
- Is detrimental to the educational interests of the University.

Any off-campus student behavior that affects a Substantial University Interest (as previously defined) violates the Code of Conduct and is subject to disciplinary action following standard University procedures ([http://www.sa.psu.edu/ja/Discipline Procedures.pdf](http://www.sa.psu.edu/ja/Discipline%20Procedures.pdf)).

In accordance with University disciplinary procedures, students are entitled to contest any allegations and/or sanction and may request a hearing or review before an Administrative Hearing Officer or the University Hearing Board. The hearing body will review the referred incidents for off-campus misconduct in the same manner they do for violations that have occurred on University premises. The hearing body may also consider whether or not the referred off-campus misconduct affects Substantial University Interest and whether the behavior should be subject to University disciplinary action.

The University has established sanctioning guidelines for University Code of Conduct violations. Specific sanctions established for off-campus misconduct will vary just as sanctions do for on campus violations depending upon the individual nature of each situation including the student's prior misconduct record.

The sanctions for off-campus misconduct range from a Disciplinary Warning to Expulsion. The following is a sample list of misconduct behaviors and/or law violations in each of the University's sanctioning categories of Minor, Moderate and Major. This listing does not take into consideration a student's prior disciplinary record. Therefore, those students with a history of prior misconduct may receive firmer sanctions than those listed below for any particular act of misconduct. Also, this list is not designed to be comprehensive and the University reserves the right to respond to any off-campus misconduct that affects a Substantial University Interest as defined above.

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MAJOR STUDENT MISCONDUCT BEHAVIORS /LAW VIOLATIONS:

The University Student Code of Conduct violations committed off the campus that typically would fall into the MAJOR category and yield a sanction range of Suspension to Expulsion are:

Homicide; Manslaughter; Kidnapping; Delivery of Illegal Drugs; Assault and Abuse of a Person; Sexual Assault; Rape; Incest; Ethnic Intimidation; Crimes Motivated by Intolerance; Child Pornography; Confining Others; Domestic Violence; Burglary; Robbery; Major Thefts; Arson; Resisting Arrest or Detainment; Creating or Contributing to a Dangerous Condition; Engaging in acts which encourage, prolong or contribute to a public disturbance (e.g. riot, failure to disperse); Distribution of Illegal Drugs; and Serious cases of: Hazing, Harassment and Stalking; Direct Threat of Harm; Unlawful Use or Possessions of Weapons.

Procedural Guidelines for the University Discipline Process
<http://www.sa.psu.edu/ja/pdf/JAProcedures.pdf>

MODERATE STUDENT MISCONDUCT BEHAVIORS/LAW VIOLATIONS:

The University Student Code of Conduct violations committed off the campus that typically would fall into the MODERATE category and yield a sanction range of Probation* to Indefinite Expulsion are:

Simple Assaults; Fights with Injury; Driving Under the Influence; Furnishing Alcohol to Minors; Endangering Self or Others; Unlawful Entry; Theft; False Swearing, Reports, Witness and Identification; Impersonating a Public Servant; Obstructing an Official in their Duties; Aiding or Abetting in a Crime; Public Lewdness; Firearms Violations; Obstructing a Public Throughway; Public Drunkenness; Disrupting Meetings or Operations of Others and Processions; and Corruption of Minors.

**Probation may include a notation on the student's transcript*

MINOR STUDENT MISCONDUCT BEHAVIORS/LAW VIOLATIONS AT UNIVERSITY PARK AND OTHER LOCATIONS AS DESIGNATED BY UNIVERSITY PARK, ALTOONA AND BERKS.

The University Student Code of Conduct violations committed off the campus that typically would fall into the MINOR category and yield a sanction range of Disciplinary Warning to Probation* are:

Disorderly Conduct; Retail Theft; Criminal Mischief; Loitering; Public Nuisances; State Alcohol Violations, except Furnishing Alcohol to Minors and Driving Under the Influence (included in the Moderate category); Possession of Illegal Drugs and Public Damage.

**Probation may include a notation on the student's transcript*

The University will review all second or subsequent student misconduct behaviors stated above in the Minor category. Although the continuum of sanctioning for behaviors under the Minor category range from Disciplinary Warning to University Probation, because these are repeat acts of misconduct, sanctions would typically include sanctions greater than probation.

THE DISCIPLINE PROCESS

The purpose of the student discipline process is to maintain a healthy community where shared values, expectations and behavioral standards set by the campus community are embraced. The goal of the University discipline process is to provide all students with a fair and just system of adjudication. The discipline process at Penn State reflects the values, norms and community expectations developed and implemented by the students, faculty and staff of the University community.

Penn State is an educational institution. At educational institutions, discipline processes, informal conduct interventions, discipline conferences, hearings and other proceedings do not follow the same procedures used in courtrooms. The University does not employ lawyers to “prosecute” students, or apply the rules of evidence used in civil or criminal trials. Instead, University staff who work with the discipline system have a major role in educating students in regard to what is expected of them as members of a civil and disciplined community. We expect that students shape and support community values, norms, and expectations. When it is alleged that a student has engaged in inappropriate behavior, staff meet with the student and determine if formal disciplinary charges are warranted. If it is determined that the Code of Conduct, Community Standards or University Policy have been violated, the incident will be further investigated and resolved in a respectful atmosphere of candor, Procedural Guidelines for the University Discipline Process

<http://www.sa.psu.edu/ja/pdf/JAProcedures.pdf>

truthfulness, and civility. Students accused of violating University disciplinary regulations are encouraged to discuss the allegations with parents, guardians, legal counsel, and/or appropriate University Staff Members.

NOTICE OF CHARGES

A complaint filed with the Office of Judicial Affairs should state the date, time, and place of the alleged occurrence. The Office of Judicial Affairs or designees of the Senior Director of Judicial Affairs (e.g. Residence Life staff, Non-University Park College/Campus Designees) will contact the student to schedule a Disciplinary Conference to discuss alleged involvement in a reported incident.

Students have the right to be assisted by an advisor of their choice. All students contacted by the Office of Judicial Affairs will be notified that trained advisors are available to assist in judicial proceedings (Disciplinary Conference, Administrative/UHB Hearings, Sanction Reviews and formal Appeals) and where the list of advisors can be found. An advisor must be a regular administrative official, regular faculty member or student of the University. As used in this paragraph, the words “regular” shall have the same meaning as defined in Human Resources Policy HR-05.

THE DISCIPLINARY CONFERENCE

The Disciplinary Conference is an informal, non-adversarial meeting between a student and a Judicial Affairs staff member or designee. The purpose of the Disciplinary Conference is to examine the complaint, listen to the student, discuss circumstances regarding the incident, and hear student concerns. The student will also be informed of the specific documents containing his/her rights, the hearing procedures, and sanctions. Typically, the Judicial Affairs staff will not file formal charges prior to the Disciplinary Conference, except under unusual circumstances such as Interim Suspension. In most cases, the Judicial Affairs staff or the designee will discuss the incident fully with the student before it is determined whether or not formal charges will be filed. The Disciplinary Conference will ultimately result in the Judicial Affairs Designee deciding whether or not to formally charge and sanction the student for violating the Code of Conduct.

If the Judicial Affairs Designee decides to not charge and sanction the student, the case is closed.

If the Judicial Affairs Designee decides that a charge and sanction is warranted, the student will be informed of the charge and sanction/intervention and/or educational activity that would be assigned if he/she does not contest the charges. The student will then decide whether to accept responsibility for any charges and/or sanctions assigned, request a hearing, or appeal a sanction. If he/she decides to contest the charge(s), the student will be notified of the hearing date, time and location in writing no less than five (5) business days in advance (to afford a reasonable opportunity to prepare). A student has the right to waive the five (5) day notice time period.

If after the discussion, the student is still unsure as to whether or not he/she wants to take responsibility for the allegation of misconduct discussed, the student may have an additional three (3) business days to further investigate the situation or contemplate his/her involvement in the incident or decide on his/her action regarding the choices outlined in the Disciplinary Conference. In some situations, the student may wish to have additional statements submitted to the Office of Judicial Affairs and/or additional investigation on the part of the Office of Judicial Affairs to clarify the behavior or circumstances surrounding the complaint. Because of the nature of this process, most conferences do not deal with contested facts and most incidents will be resolved at the first meeting.

When a student leaves a conference, he/she will have a copy of the Student Conference Summary Form which includes charges, sanctions, and/or other methods of resolution. If the student fails to respond within three (3) business days, the sanction previously discussed in the conference may be assigned. If the student contests the charges and/or sanction and requests a hearing of his/her case, the case will be referred either to an Administrative Hearing, a University Hearing Board, or a Sanction Review.

THE ADMINISTRATIVE HEARING

If, in the Disciplinary Conference, the student contests the charges, he/she may be assigned to an Administrative Hearing. This informal hearing will be conducted by an Administrative Hearing Officer appointed by Judicial Affairs. The Administrative Hearing provides due process required when a student may be given formal administrative sanctions and/or assigned an educational initiative for less than a Disciplinary Suspension.

If a student elects to have a hearing, the University must provide notice of the time, date and location of the hearing and the specific charges to be reviewed a minimum of five business (5) days in advance of the hearing. Only the student may elect to waive the five business day requirement.

The Office of Judicial Affairs recognizes that participating in an Administrative Hearing can be a challenging experience for any student, and the student is encouraged to seek the assistance of an advisor for this hearing. The advisor, if he/she wishes, can be with the student during the entire proceeding. During the hearing, the student may present witnesses, ask questions, provide written statements, and explain his/her version of the event(s). The hearing could occur at one time or over several meetings to accommodate schedules at the discretion of the Hearing Officer.

The Administrative Hearing is not used in any case which may result in a Suspension to Expulsion unless specifically requested by the student. Cases with the potential for expulsion from the University would normally be referred to the University Hearing Board (UHB).

It should be noted that Administrative Hearings are not audio taped.

THE UNIVERSITY HEARING BOARD

The University Hearing Board (UHB) is the designated entity for hearing cases for which there is the potential for a student to be suspended or expelled from the University. However, a student may choose to have an Administrative Hearing instead of having the case heard before the University Hearing Board.

a) General Board Composition

When hearing or reviewing a case, the Board is composed of one (1) chairperson (faculty or administrator), two (2) students, one (1) faculty, and one (1) administrative member. With the exception of the Chairperson, a hearing or review may proceed with not more than one (1) of the five (5) members absent.

b) University Hearing Board (UHB) at University Park

The Faculty Senate Committee on Committees and Rules will appoint eight (8) faculty to serve as University Hearing Board Chairpersons. Each college (Academic Deans) will appoint two (2) faculty members to the UHB. The Vice President for Student Affairs will appoint 15 administrative staff members some of whom may serve as UHB Chairpersons. Members of the Student Judiciary will serve in dual roles as Student Judiciary members and as undergraduate members of the UHB. The Graduate Student Association will appoint four (4) graduate student members to serve on the UHB.

c) University Hearing Board (UHB) at Other Locations

The Campus Chancellor, in consultation with the faculty and with the recognized student government organization, will appoint four (4) faculty, four (4) students, and two (2) administrative staff members to the University Hearing Board (UHB). Current Board membership for all locations will be forwarded to the Senior Director of Judicial Affairs at the University Park Campus by the **Second Friday of September**.

d) At all Locations

Additional Board members may be appointed as required by the caseload. Members of the Board will serve for one (1) year or until successors are named.

Members may be appointed for additional terms and may continue their appointments at their request if continuation is accepted by the appointing authority. Vacancies may be filled at any time by the respective appointing entity.

HEARING BOARD PROCEDURES

a) Conduct of Hearings

The hearing shall be conducted in such a manner that is fundamentally fair and shall not be restricted unduly by rules of procedure or evidence. Evidence not directly related to the matter at hand will not be considered for review. It is the responsibility of the Chairperson of a hearing body to rule on the admissibility of evidence and on relevant and irrelevant matters. The focus of inquiry in disciplinary proceedings shall be whether or not the accused person was in violation of a community expectation and/or the Code of Conduct. Formal rules of evidence are not applicable; nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding, unless significant prejudice to a student respondent of the University may result.

The hearing shall be closed unless the student charged requests that the hearing be open. An open hearing means that only members of the University community who are able to show a current PSU identification card will be admitted. A closed hearing means that no one beyond the persons involved in the hearing will be admitted. It ensures the confidentiality of the accused and the complainant. In all hearings, the Chairperson shall determine the number of persons to be admitted to the hearing. Under no circumstances shall the hearing be open to more than the normal capacity of the typical hearing room. The Chairperson, with the concurrence of the Board, may rule that a hearing be closed if, in the opinion of the Board, an open hearing would have an adverse impact on any witness; would disclose personal, psychological or medical information of a sensitive nature; or would otherwise jeopardize the privacy or welfare of any witness or accused student.

b) Bias

The accused student may challenge any member of the Board on grounds of bias and ask that he/she not be present to hear the case. If this occurs, the Board shall deliberate in private and determine by majority vote (excluding the member being challenged) whether the member should be replaced by an alternate Board member who would be designated by the Chairperson. In an Administrative Hearing, the student may challenge for bias. In this case, the Senior Director shall determine the validity of the challenge. Should the grounds for challenge be sufficient, the hearing will be referred to another staff member/designee or to a Hearing Board.

c) Presenter

On behalf of the University, the charges and evidence may be presented by the Judicial Affairs Designee assigned to the case also known as the Presenter.

d) Hearing Advisors

The student shall have the right to be assisted by an advisor of his/her choice. An advisor must be a regular administrative official, regular faculty member, or student of the University. As used in this paragraph, the words "regular" shall have the same meaning as defined in [Human Resources Policy HR-05](#). A list of trained advisors and their contact information will be provided to students requesting a hearing. The advisor, upon request of the student, may: (1) advise the student in the preparation and presentation of a defense; (2)

accompany the student to all discipline hearings; and (3) advise the student in the preparation of any appeals.

The advisor shall not assume responsibility for conducting the defense of the accused student, but rather assist the student in his/her opening and closing statements and questioning of witnesses.

If the accused student is charged with a criminal offense by the courts, he/she may have an attorney present as well as an advisor. The attorney is limited to advising the student about answering questions that may be self-incriminating. The attorney may not question any individual, raise objections or otherwise participate in the hearing.

e) Hearing Witnesses

On his/her own behalf, the student shall have the right to call a reasonable number of witnesses of fact who shall be subject to questioning by members of the Board and the Presenter. The student charged shall have the right to question all witnesses. The testimony of unknown or unidentified witnesses shall not be admissible.

f) Victim/Witness Advocate

A Victim/Witness Advocate may accompany a witness to a discipline hearing. The representative may: (1) assist the victim/witness in the preparation and presentation of his/her testimony; (2) accompany the victim/witness to all discipline hearings; and (3) assist in the preparation of a victim/witness impact statement. The representative shall not assume responsibility for presenting the case against the accused student. A Victim/Witness Advocate may be present throughout the entire hearing or procedure.

g) Questioning Procedures

The Board and/or the Presenter may address questions to any party or to any witness called by the parties. However, the student charged shall not be compelled against his/her wishes to testify or answer any questions and his/her silence shall not be held against him/her. The scope of the testimony shall be limited to matters relevant to the charges and the defense thereto. The Office of Judicial Affairs, the UHB, and/or the accused student may request the presence or testimony of any University community member at the hearing.

The University believes community members have a responsibility to uphold community expectations and support the discipline system. Any student who witnesses a Code of Conduct or Community Standards violation is obligated to give hearing testimony to such an occurrence. Failure to comply with this request from the University may lead the Office of Judicial Affairs to file a complaint against such a witness. Judicial Affairs records or other exhibits may also be requested. In the event any person, including the accused student and/or his/her advisor, disrupts the hearing, that person shall be excluded and the hearing will proceed in his/her absence.

h) Burden of Proof

The University has the burden of providing clear and convincing evidence (not beyond a reasonable doubt, as in the courts) to show that the accused student has violated the Code of Conduct. No imposition of sanctions shall be based solely upon the failure of a person charged to answer the charges. In the event of the refusal of the accused person to appear at the hearing, the evidence in support of the charges shall be presented, considered, and adjudicated without the accused present.

i) Board Report

A written report of the original hearing shall be made consisting of: (1) the notice of charges and other hearing documents; (2) a summary of the testimony and evidence presented; (3) the findings; (4) rationale for the

decision; and, (5) the sanction(s) or intervention(s) imposed. The report constitutes the official record of the hearing and shall be placed on file in the Office of Judicial Affairs. At the request of the accused student, the Senior Director or Judicial Affairs Designee, will provide a copy of the Board Report for review. Note: Please visit the Office of Judicial Affairs' web site for rights of the accused student (<http://www.sa.psu.edu/ja>).

APPEALS

a) Accused Student Appeals:

Appeals are granted only when a sanction involves Disciplinary Suspension to Expulsion from the University. A student who wishes to appeal the decision of the University Hearing Board must submit a written request for an appeal within five (5) business days after receiving the notification of the results of the hearing. The request at University Park is directed to the Vice President for Undergraduate Education or to the Senior Vice President for Research and Dean of the Graduate School and at other locations by a person designated by the Chancellor. The original decisions may be sustained, modified or reversed. No University Hearing Board decision should be overturned without consultation with the VP for Student Affairs or Chancellor.

The appeal is submitted to the Office of Judicial Affairs at the appropriate location. A student may request an appeal on one or more of the following grounds: (1) the student has been deprived of his/her rights and/or stated procedures were not followed that affected the hearing outcome; (2) new evidence is presented that was not available during the time of the original hearing that is relevant to establish that he/she may not be responsible for any misconduct; and/or (3) the sanction(s) imposed was outside the University's sanction range for such violations and/or not justified by the nature of the offense.

The Vice President for Undergraduate Education or Senior Vice President for Research and Dean of the Graduate School at University Park or Campus Chancellor or designee assigned by the Campus Chancellor will review the records from the Disciplinary Conference, Administrative Hearing, or University Hearing Board and any written submission or oral arguments as may be requested by the Vice President, Campus Chancellor, or JA Designee.

When appeals are granted on the grounds that the student has been deprived of his/her rights and/or stated procedures were not followed that affected the outcome for the student, the person reviewing the appeal information shall send the case to a new hearing board to be reheard on the facts.

When appeals are granted on the grounds that new evidence is presented, that was not available during the time of the original hearing (that is relevant to establish that he/she may not be responsible for any misconduct), the person reviewing the appeal information shall return the case to the original hearing board to be reheard with the new evidence.

When appeals are granted on the grounds that the sanction (s) imposed was outside the University's sanction ranges for such violations and/or not justified by the nature of the offense the person reviewing the appeal information shall sustain or modify the hearing board's original sanction.

The person reviewing the appeal will forward the decision and rationale in writing to the Senior Director of Judicial Affairs or Designee within ten (10) business days of the appeal request, regardless if the appeal is denied or granted. No sanction will be overturned on appeal without consultation with the Vice President for Student Affairs or campus Chancellor. A copy of the Appeal Report will be provided to the student at his/her request. If an appeal is denied no further review will occur concerning the original hearing board findings.

b) Victim Appeals:

If a discipline case involves a victim, the victim may appeal a University Hearing Board (UHB) decision. Appeals may be forwarded only during the appeal period and on the following grounds: (1) stated procedures

were not followed that affected the hearing outcome, (2) new evidence is presented, that was not available during the time of the original hearing, relevant to establish that the accused student may be responsible for any misconduct, and/or (3) the sanction(s) imposed was outside the University's sanction range for such violations and/or not justified by the nature of the offense.

When appeals are granted on the grounds that stated procedures were not followed that affected the outcome for the victim, the person reviewing the victim appeal shall send the case to a new board to be reheard on the facts.

When appeals are granted on the grounds that new evidence is presented that was not available during the time of the original hearing (that is relevant to establish that the accused student may be responsible for any misconduct) the person reviewing the appeal information shall return the case to the original board to be reheard with the new evidence.

When appeals are granted on the grounds that the sanction (s) imposed was outside the University's sanction range for such violations and/or not justified by the nature of the offense the person reviewing the appeal information shall sustain or modify the board's original sanction.

The person reviewing the appeal information will forward the decision and rationale in writing to the Senior Director of Judicial Affairs or Designee within ten (10) business days of the appeal request regardless if the appeal is denied or granted. If an appeal is denied no further review will occur concerning the original board findings.

SANCTION REVIEWS

When a student accepts responsibility for the Code of Conduct violation (charges), but contests the sanction recommended by the Judicial Affairs Designee and the sanction is a Suspension to Expulsion, the student may request that the sanction be reviewed by the Vice President of Student Affairs, the Campus Chancellor, or person designated by the Campus Chancellor. The Sanction Review will be conducted by a hearing officer appointed by the Office of Judicial Affairs for cases which result in a sanction less than a Suspension.

The sanction review will ordinarily be a review on the record of the case, unless otherwise determined by the person reviewing the sanction. The person reviewing the sanction may sustain or modify the sanction set by the Judicial Affairs Designee when he/she determines that the sanction recommended was outside the University's sanction range for such violations and/or not justified by the nature of the offense. The person conducting the sanction review will forward a written decision and rationale to the Senior Director of Judicial Affairs or designee within ten (10) business days of receiving the sanction review request.

CASES OF ACADEMIC DISHONESTY (Policy G-9 of the Faculty Senate)

a) Introduction

Recognizing the intrinsic nature of academic integrity as a linchpin of the Penn State Community, the University Faculty Senate adopted a new Academic Integrity Policy in Spring 2000. The shared conviction represented in the procedures that follow is that academic integrity is best taught and reinforced by faculty as an element of the teaching and learning process. Only in the limited instances in which faculty believe that disciplinary, as well as academic, sanctions are called for should the process move from the realm of faculty and students to the Office of Judicial Affairs.

The associate dean or campus director of academic affairs maintains and makes available to students and faculty the academic integrity procedures adopted by the college's Academic Integrity Committee.

College/campus committees maintain guidelines on ranges of appropriate sanctions for given types of infractions. Academic sanctions range from a warning to removal from the academic program.

b) Procedures:

When Academic Dishonesty is Suspected

1. The faculty member informs the student of the allegations while taking into account the need to respect each student's privacy and the goal of maintaining an environment that supports teaching and learning.
2. The faculty member next conveys to the student the grade or grade and academic action to be taken and asks the student to sign the college's academic integrity form.
3. The faculty member may provide additional time after confronting a student with the allegation for the student to accept or contest the charge and sanction.
4. The faculty member may opt also to pursue a disciplinary action in conjunction with the college\campus Academic Integrity Committee and Judicial Affairs. Normally, however, it is preferable to settle issues between faculty and student, which means relying on the awarding of grades and course-related activities to support the learning process, rather than requesting additional disciplinary sanctions.
5. Throughout the academic integrity process, grading authority remains the responsibility of the instructor.
6. Once a student has been informed that academic dishonesty is suspected, a drop or withdrawal from the course will be reversed. A student whose grade has been adjusted or assigned as a result of a violation of academic integrity, may not drop or withdraw from the course at any time (includes regular drop, late drop, withdrawal, retroactive late drop and retroactive withdrawal). Any such drop action of the course will be reversed.
7. If, after notification of a violation of academic integrity, a student fails to sign the academic integrity conduct disposition form, the adjudication process will go forward as defined by college\campus procedures.

c) If the Student Accepts Responsibility for the Violation and the Proposed Academic Sanction

1. The faculty member has the student sign the college\campus academic integrity form. This closes the academic sanction element of the case. The form is forwarded, through the appropriate associate dean, to the Office of Judicial Affairs for record keeping.
2. The faculty member recommends an Office of Judicial Affairs consideration of disciplinary sanctions, the student is informed at this time and it is indicated on the form that the disciplinary issues remain open.
3. The signed admission of responsibility is forwarded to the associate dean for administrative review of:
 - a. *An instructor recommendation that a disciplinary sanction be applied by the Office of Judicial Affairs.* The associate dean forwards the case to the college\campus Academic Integrity Committee for review (without formal fact finding) of the faculty disciplinary sanction recommendation. When the college\campus Academic Integrity Committee feels it is appropriate, the request for a disciplinary sanction is forwarded to the Office Judicial Affairs for review.
 - b. *The existence of past academic integrity violations.* When a record of such violations exists (the dean checks with the Office of Judicial Affairs, which is the only body that maintains such university-wide records), the case will be forwarded to the Office of Judicial Affairs, which may levy a disciplinary sanction based on the cumulative record of repeat offenses.

d) If the Student Does Not Admit Responsibility for an Academic Integrity Violation

1. The instructor forwards the case to the college\campus Academic Integrity Committee.
 - a. When the instructor has not recommended disciplinary sanctions, the college\campus Academic Integrity Committee conducts fact finding in accordance with due process procedures. If the Committee finds that the student violated standards of academic integrity, the Office of Judicial Affairs is notified for record-keeping purposes. The college\campus Academic Integrity Committee notifies the faculty member to carry out academic sanction, as approved.
 - b. If after administrative review, which does not include formal hearings or the questioning of witnesses, the committee is in agreement that a disciplinary sanction may be warranted, then the case is forwarded to the Office of Judicial Affairs which conducts formal fact finding and seeks relevant input from the instructor and college\campus Academic Integrity Committee.

c. Office of Judicial Affairs will notify the faculty member to (1) carry out the proposed academic sanction if the Office of Judicial Affairs finding warrants, or (2) grade the student based on a finding that no violation of academic integrity has occurred.

e) The "XF" Grade

1. An "XF" grade is a formal University disciplinary sanction.
2. "XF" sanctions are only issued with the concurrence of the instructor, the college\campus Academic Integrity Committee, and the Office of Judicial Affairs. Reliance on the "XF" should be a rare occurrence and reserved for the most serious breaches of academic integrity.
3. In any instance in which the instructor believes an "XF" sanction is warranted, and whether or not the student has admitted responsibility, the case is forwarded to the college\campus Academic Integrity Committee for review and then to the Office of Judicial Affairs for appropriate fact finding and judgment.
4. The college\campus Academic Integrity Committee must include with any recommendation of an "XF" grade to the Office of Judicial Affairs, conditions under which it would approve the removal by Judicial Affairs of the "XF" sanction from the transcript (with an academic F remaining). Such conditions must reflect both the circumstances of the individual case and consultation among the instructor, the college\campus Academic Integrity Committee, and the Office of Judicial Affairs.

RECORDKEEPING

Judicial Affairs will only disclose student discipline record information to third parties in accordance with federal law (FERPA) and the University policy on managing Student Discipline Records (<http://www.sa.psu.edu/ja/StudentDisciplinaryRecords.shtml>).

The Senior Director may also release information concerning the status of a discipline case to persons involved in the case and/or appropriate University officials with legitimate educational interests in such information.

DISCIPLINARY SANCTIONS FOR VIOLATIONS OF THE CODE OF CONDUCT AND REGULATIONS

The range of official action that may be imposed for violation of the Code of Conduct and regulations shall comprise the following disciplinary sanctions:

DISCIPLINARY WARNING: A disciplinary warning is a warning to a student that his/her conduct was questionable and/or inappropriate and that further misconduct will result in more severe disciplinary action. The warning is maintained as part of a student's disciplinary record.

DISCIPLINARY PROBATION: Disciplinary probation is assigned for a specified period of time and is intended to foster reflection, responsibility, and improved decision-making. Additional conditions and/or educational programs may be assigned as a component of the probation. Future established misconduct, failure to comply with any conditions or to complete any assignments may lead to a more severe disciplinary action, including suspension or expulsion.

Disciplinary probation may be recorded on the official University transcript when, either due to the serious nature of the offense or when a student's disciplinary history is significant, the Office of Judicial Affairs determines a notation is merited.

RESTITUTION: Restitution requires a student to pay for damages or misappropriation of property. Restitution may be imposed separately or in addition to other sanctions.

LOSS OF PRIVILEGE: Loss of Privilege involves the withdrawal of the use of service, participation in an activity, or withdrawal of privileges consistent with offense(s). Loss of privilege may be imposed separately or in addition to other sanctions.

DISCIPLINARY SUSPENSION: Disciplinary suspension from the University is assigned for a specified period of time. A suspended student is precluded from registration, class attendance, residence on campus, and use of University facilities. In addition, the student is prohibited from using or visiting University facilities unless special permission is obtained from the Senior Director of Judicial Affairs or designee. During the period of the suspension, a notation will appear on the student's official University transcript.

INDEFINITE EXPULSION: Indefinite expulsion from the University is for a period of not less than one calendar year, and re-enrollment must be approved by the Vice President for Student Affairs at University Park or by the Chancellor at other campus locations. During a period of indefinite expulsion, a student is prohibited from using or visiting University facilities unless special permission is obtained from the Senior Director of Judicial Affairs or designee. If a student wishes to return to the University after the period of his or her indefinite expulsion, he/she must request re-enrollment (in writing) from the Senior Director of Judicial Affairs or designee. During the period of the expulsion, a notation will appear on the student's official University transcript.

INTERIM SUSPENSION: Interim suspension requires a student to immediately leave campus pending disciplinary proceedings (or medical evaluation). During a period of the interim suspension, a student is prohibited from using or visiting University facilities unless special permission is obtained from the Senior Director of Judicial Affairs or designee. Any student who returns to campus during his or her interim suspension shall be subject to an Indefinite Expulsion or Permanent Expulsion.

The Senior Director of Judicial Affairs or other University Officials designated by the Vice President for Student Affairs may invoke an Interim Suspension.

The Interim Suspension may be imposed when there is reasonable cause to believe the student is an immediate threat to the safety of himself/herself or other persons or property or is an immediate threat to disrupt essential campus operations.

The Senior Director or designated official may rely upon information supplied to him/her by others in determining the imposition of Interim Suspension.

A hearing before the appropriate Hearing Board shall normally be held within five (5) business days of the notice of Interim Suspension.

EXPULSION: Expulsion of a student from the University is permanent. An expelled student is prohibited from using or visiting University facilities unless special permission is obtained from the Senior Director of Judicial Affairs or designee. Expulsion requires administrative review and approval by the President. The sanction of expulsion is permanently noted on a student's official University transcript.

OTHER SANCTIONS: The University reserves the right to impose alternative sanctions instead of or in addition to those listed above. For example, a student may be removed from University housing for violations of the Code of Conduct or the housing contract conditions that they agreed upon when choosing to live in the residence halls.

EDUCATIONAL SANCTIONS: Educational sanctions are sanctions that the University reserves the right to assign to students in lieu of, in conjunction with, or in addition to administrative sanctions.

XF Grade: See page 15

PARENTAL NOTIFICATION

Under the Family Educational Rights and Privacy Act (FERPA), colleges and universities are afforded certain liberties relative to notifying parents or guardians of information concerning their student. In July 2000, the Department of Higher Education Rules instructed institutions further by giving them greater latitude to notify parents of rules violations stating that schools could determine their own process and were *not required* to alert students of notification as long as the institution kept such activity in the students' educational file to which the student has access. It was also noted that colleges and universities *do not* have to hold hearings before contacting parents.

The goals of Penn State University's parental notification policy are to:

- Identify additional supportive points of intervention for students.
- Become better partners with parents/guardians in support of their student.
- To identify at risk behavior thresholds for which notification would be effectively applied.
- To education students about the negative impact that dangerous, unhealthy and inappropriate choices have on their education and on others.
- To utilize the impacts of family/guardian intervention for deterring further misconduct.

Disclosure of Discipline Records of Dependent Students

Disciplinary records are maintained as part of each student's educational records. The University reserves the right to report general discipline information to parents and guardians of dependent students. A "dependent student" as defined by Section 152 of the Internal Revenue Code of 1986 is a person who has attended an educational institution full-time for any five (5) calendar months of a tax year and who was provided more than one-half of his or her support as claimed by his or her parent(s) on their income tax statement.

A student is *not a dependent student* if he or she:

- is or will be 24 years old during the academic year.
- is enrolled in a graduate or professional program.
- is married.
- has a child or other dependent who receives more than half of his or her support from the student.
- is an orphan or ward of the court.
- is a veteran of the U.S. Armed Forces.
- is an international student.

For purposes of this policy, the assumption, unless individually certified to the contrary, is that University students are not dependent students. Absent unusual circumstances, the University *does not* disclose disciplinary records to parents and guardians of students who are not dependent students.

Disclosure of Discipline Records Concerning Violations of Local, State or Federal Law Governing the Use or Possession of Alcohol or Controlled Substances

Federal legislation authorizes the University to disclose disciplinary records to parents and guardians of students who are under the age of 21, regardless of dependency, when the records concern violations

of local, state or federal law governing the use or possession of alcohol or controlled substances. ***However, absent unusual circumstances, the University does not disclose disciplinary records to parents and guardians of students who are not dependent students as defined by the Internal Revenue Code.***

Parental Notification of General Discipline Information

Accordingly, where federal legislation authorizes the University to disclose disciplinary records to parents and guardians, the University reserves the right to do so under any of the following circumstances:

1. The parent or guardian inquires about a specific Code of Conduct violation for which the student was found responsible of committing;
2. The student exhibits a pattern of established misconduct and has exhausted or failed to complete required conditions of assigned discipline sanctions or other performance requirements;
3. The Code of Conduct violation constitutes a situation where the student's status at the University may be in jeopardy (i.e., housing or academic standing);
4. The student has been involved or has involved others in a potentially life-threatening situation and there is reason to believe that notifying parents and guardians may reduce the imminent risk.

See the University websites for additional information: (<http://www.sa.psu.edu/ja/parental.shtml>).

DISCIPLINARY WITHDRAWAL

At the written request of a student, the Senior Director of Judicial Affairs may approve a Disciplinary Withdrawal in cases where a student is charged both by the University and criminally for the same incident. The Disciplinary Withdrawal will be approved, if appropriate, to delay the University hearing or deposition until the pending criminal matter (felony level only) has been resolved. The Disciplinary Withdrawal may include a specific time limit so that the University's discipline process shall not be jeopardized. When a request for a Disciplinary Withdrawal is approved, the student may not register for or attend classes, reside on campus, use or visit University facilities at University Park or other locations. A registration hold will be placed for the period of the Disciplinary Withdrawal as well as a notation on the student's transcript.

RESPONSIBILITY OF THE SENIOR DIRECTOR

The Senior Director of Judicial Affairs and other administrators or designees specifically authorized by the President of the University have the responsibility and authority to carry out and direct the processes of the student discipline system. The Senior Director has the authority to implement disciplinary sanctions requiring notation on the student's transcript and to place holds on the student's records to prevent further registration with the appropriate legal and procedural safeguards to the rights of students. The Senior Director also has the authority to delay a student's graduation and/or hold or revoke the degree until a pending discipline matter has been resolved.

The Senior Director of Judicial Affairs may review and reverse any resolution of a Disciplinary Conference or Administrative Hearing. The Senior Director of Judicial Affairs or designee reserves the right to issue, in writing, an Administrative Directive or condition that requires adherence to specific behavioral actions.

The Senior Director reserves the right to convene a Disciplinary Conference and/or hearing, prior to re-enrollment, for pending University charges. This will take place at the conclusion of criminal proceedings and any resulting sanction will be assigned at that time.

On behalf of the University, the Senior Director of Judicial Affairs at University Park and designees at other locations may request a review of the decision(s) of the University Hearing Board or other University Judicial bodies within five (5) University business days of notification of results of the original hearing being given to the student. The Senior Director will inform the student that a review is being considered or requested. The Senior Director may request a review of a discipline case on one or more of the following grounds: (1)the decision of the Board does not adequately account for all available evidence; (2)the decision of the Board does not provide for adequate sanction or intervention for the violation; and/or (3)University disciplinary procedures were not followed.

Note: Computation of time: When any period of time is referred to, such period in all cases are computed to exclude the first and include the last day of such period. Business days include normal University operating days and exclude holidays and weekends. The last business day ends at 5:00PM.