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## Student Due Process

University of Texas at Tyler

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## STUDENT DUE PROCESS

### Preamble

Texas Eastern University has assumed since its beginning that students eligible to enter college are familiar with the ordinary rules governing proper conduct of mature, responsible adults, and that they will voluntarily observe these rules as a matter of training and habit. This concept formulates a basic standard of behavior which requires that a student (a) not violate any municipal, state or federal laws; or (b) not interfere with or disrupt the orderly educational processes of Texas Eastern University.

Students at Texas Eastern University are protected by a Student Bill of Rights and Responsibilities which protects their rights of citizenship. Students must, however, assume the responsibilities of citizenship. They are expected to obey both the penal and civil statutes of the State of Texas and the federal government and the Board of Regents' rules, university regulations and administration rules.

This code contains regulations for dealing with alleged student violations of university standards of conduct in a manner consistent with the requirements of procedural due process. It also contains descriptions of the standards of conduct to which students must adhere and the penalties which may be imposed for the violation of those standards. This code applies to individual students and states the function of student, faculty, and administrative staff members of the university in disciplinary procedures.

The university has jurisdiction for disciplinary purposes over a person who was a student at the time he allegedly violated a university regulation or administrative policy.



SECTION I - VIOLATIONS

A. Minor Violations - ones which may result in any disciplinary action other than suspension or expulsion from the University or denial of degree.

1. Failure to comply with lawful directions of University officials acting in the performance of their duties
2. Being under the influence of intoxicating beverages or drugs anywhere on campus or in an automobile parked on campus
3. Creating a disturbance in or on campus facilities
4. Engaging in unauthorized use of college facilities
5. Participating in other activities which disrupt the normal educational process

B. Major Violations - ones which may result in suspension or expulsion from the University or denial of degree.

1. Damaging, defacing or destroying state property or other students' personal property
2. Knowingly giving false information in response to requests from the University
3. Instigating a disturbance or riot which substantially disrupts the educational process
4. Stealing University property or other students' property on campus
5. Possessing, using, selling, or purchasing liquor, narcotics, or illegal drugs while on campus or involved in University sponsored activities
6. Attempting bodily harm of self or others on campus
7. Failure to settle financial transactions with the University
8. Engaging in scholastic dishonesty which includes, but is not limited to, cheating on a test, plagiarism and collusion
9. Failure to comply with parking and traffic regulations
10. Possessing firearms, explosives (including fireworks) swords, daggers, straight razors or illegal knives while on campus or while in automobiles on campus parking lots



11. Engaging in hazing, as defined by state laws
12. Forging, altering, misusing University documents, records, or I.D. cards
13. Committing any act which is classified as an indictable offense under either state or federal law while on campus or while involved in University sponsored activities

## SECTION II - PENALTIES

The Dean of Student Life or the Discipline Committee, under Section V, may impose one or more of the following penalties for violation of a University regulation or administrative rule.

- A. Admonition - a written reprimand from the Dean of Student Life to the student on whom it is imposed.
- B. Warning probation - indicates that further violations of regulations will result in more severe disciplinary action. Warning probation may be imposed for any length of time up to one calendar year, and the student shall be automatically removed from probation when the imposed period expires.
- C. Disciplinary probation - indicates that further violations may result in suspension. Disciplinary probation may be imposed for any length of time up to one calendar year, and the student shall be automatically removed from probation when the imposed period expires.
- D. Withholding of transcript or degree - imposed upon a student who fails to pay a debt owed the University or who has a disciplinary case pending final disposition. The penalty terminates on payment of the debt or final disposition of the case.
- E. Bar against readmission - imposed on a student who has left the University on enforced withdrawal for disciplinary reasons.
- F. Restitution - reimbursement for damage to or misappropriation of property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damages.
- G. Suspension of rights and privileges - an elastic penalty which may impose limitations or restrictions to fit the particular case.



- H. Suspension of eligibility - prohibits, during the period of suspension, the student on whom it is imposed from joining an approved student organization, taking part in an approved student organization's activities or attending its meetings or functions; and from participating in any other University approved activity. Such suspension may be imposed for any length of time up to one calendar year.
- I. Denial of degree - may be imposed on a student found guilty of scholastic dishonesty and may be imposed for any length of time up to and including permanent denial.
- J. Suspension from the University - prohibits, during the period of suspension, the student on whom it is imposed from being initiated into an honorary or service organization; from entering the University campus except in response to an official summons; and from registering either for credit or for non-credit for scholastic work at or through the University.
- K. Expulsion - is permanent severance from the University.

### SECTION III - INITIATION OF PROCEEDINGS

#### A. Investigation

1. If a student violates a University regulation or administrative rule, the matter will first be discussed between the student and the appropriate administrator, faculty, or staff member. If the problem is not resolved, it is referred to the Dean of Student Life.
2. When the Dean of Student Life receives information that a student has allegedly violated a University regulation or administrative rule, the Dean or his representative will investigate the alleged violation. After completing the preliminary investigation, the Dean will proceed as follows:
  - a. dismiss the allegation as unfounded, or
  - b. summon the student for a conference for an evaluation of the severity of the allegation and, after conferring with the student, either dismiss the allegation or proceed administratively under Section IV, or
  - c. prepare a complaint based on the allegation for use in disciplinary hearings along with a list of witnesses and documentary evidence supporting the allegation in the event the student wishes to appeal the decision of the Dean of Student Life



3. When an emergency exists which requires immediate action to preserve the educational environment, the President, upon recommendation by the Dean of Student Life, may take immediate interim disciplinary action, suspend the right of a student to be present on the campus and to attend classes, or otherwise alter the status of a student for violation of a University regulation or administrative rule. The President must notify the student of the suspension and the charges. The Dean of Student Life will schedule a hearing on the case as early as possible under the provisions of Article V.
4. No person shall search a student's personal possessions for the purpose of enforcing this code unless the individual's prior permission has been obtained. Searches by law enforcement officers will be conducted in accordance with the laws of the state of Texas and the federal government.

B. Summoning Student

1. A student may be summoned to appear in connection with an alleged violation by sending a letter by certified mail, return receipt requested, addressed to the student at the address appearing in the records in the Office of Admissions and Records. (It is the student's responsibility to immediately send notification to that office of any change of address.)
2. The letter shall direct the student to appear at a specified time and place not less than seven days after the date of the letter. The letter shall also describe completely the alleged violation and shall state the Dean's intention to handle the allegation as a major violation.
3. The Dean of Student Life may place on disciplinary probation a student who fails without good cause to comply with a letter of summons, or the Dean may proceed against the student under Section V.

SECTION IV - ADMINISTRATIVE DISPOSITION

- A. When the facts are not in dispute, the Dean of Student Life may administratively dispose of any violation.
- B. In administratively disposing of a minor violation, the Dean of Student Life may impose any penalty authorized in Section II A, B, C, D, E, F, G, or H. In administratively disposing of a major violation, the Dean of Student Life may impose any penalty authorized in Section II.
- C. At a conference with the student in connection with a violation, the Dean of Student Life will advise the student of his rights:



1. any statement, oral or written, is made freely and voluntarily
  2. any statement made could be used against the student
  3. the student has the right to retain and be represented by counsel
  4. no threats or promises will be made to induce the student to make a statement
  5. the student may terminate the interview at any time
- D. The Dean of Student Life will assign the student an adviser to explain disciplinary procedures should the student desire.
- E. The Dean of Student Life shall prepare an accurate written summary of each administrative disposition of a violation and forward a copy to the student and to the appropriate administrative officials.
- F. A student may refuse administrative disposition of an alleged violation and on refusal is entitled to a hearing under Section V; if a student accepts administrative disposition, a statement must be signed that the student understands the violation charges, the right to a hearing, the penalty imposed, and the waiver of the right to appeal.

#### SECTION V - HEARING

##### A. Discipline Committee

1. When a student refuses administrative disposition of any violation, that student is entitled to a hearing before a Discipline Committee. This request must be made in writing within one week following the administrative disposition authorized under Section IV.
2. The Discipline Committee shall be composed of the Chairman of the Student Affairs Committee, three faculty members, and three student members with the Chairman of the Student Affairs Committee being a non-voting moderator, except in the case of a tie. The faculty members shall be chosen in consultation with the Dean of Student Life and the President of the Faculty Senate. The three student members shall be chosen by the Dean of Student Life.
3. In case of a conflict of interests which disqualifies the Chairman of the Student Affairs Committee from serving as moderator of the Discipline Committee, the



President of the Faculty Senate shall designate another faculty member to serve as moderator.

4. The committee shall be appointed at the beginning of the academic year and shall serve for one year.

B. Notice

1. The Dean of Student Life shall set the date, time, and place for the hearing and notify the student defendant by certified letter to the address on file in the Office of Admissions and Records. This letter will state the date, time, and place of the hearing, and will specify a hearing date not less than one week nor more than two weeks after the date of the letter. In the event the student fails to appear at the hearing, the committee shall proceed with the hearing in the student's absence and the decision will be reported to the student in writing.
2. The notice shall:
  - a. specify whether the charge or charges are considered minor violations or major violations.
  - b. contain a copy of the complaint.
  - c. direct the student to appear before the committee on the date and at the time and place specified.
  - d. advise the student of the right to:
    - (1) an open hearing.
    - (2) appear alone or with legal counsel.
    - (3) have parents or legal guardian present at the hearing.
3. The Dean of Student Life may for good cause postpone the hearing so long as all interested parties are notified of the new hearing date, time, and place.
4. The Discipline Committee may hold a hearing at any time if:
  - a. the President, or his designated representative in his absence, states in writing to the Dean of Student Life that because of extraordinary circumstances the requirements of Section V, B. 1. are inappropriate.
  - b. the student has actual notice of the date, time, and place of the hearing.



5. The Dean of Student Life shall summon witnesses and require the production of documentary and other evidence.
6. The Dean of Student Life shall represent the University before the Discipline Committee and present evidence to support any allegations of violations of University regulations or administrative rules. The Dean of Student Life may be assisted by legal counsel when in the opinion of the Dean of Student Life, the best interests of the student or the University would be served by such assistance.

C. Preliminary Matters

1. Charges arising out of a single occurrence, against one or more students, may be heard together, or, at the option of the committee or upon request by one of the students-in-interest, a separate hearing may be held.
2. Previous to the hearing date, the student concerned shall furnish the committee moderator with:
  - a. the name of each witness he wants to appear and a description of all documentary and other evidence possessed by the University which the student wants produced.
  - b. an objection which, if sustained by the moderator of the Discipline Committee, would prevent the hearing.
  - c. the name of legal counsel, if any, who will appear with the student.
  - d. a request for a separate hearing, if any, and the grounds for such request.

D. Procedure

1. The hearing is a University hearing only and is informal. The moderator will provide reasonable opportunities for witnesses to be heard. The University may be represented by staff members of the Dean of Student Life Office, legal counsel, and other persons designated by the President. The hearing shall be closed to the public but may include the following persons at the invitation of the student:
  - a. student's legal counsel (advisory capacity only), and
  - b. members of the student's immediate family.
2. An open hearing may be held at the request of the student.



3. The committee shall proceed generally as follows during the hearing:
  - a. the Dean of Student Life reads the complaint.
  - b. the Dean informs the student of his or her rights under Section V, B. - Notice.
  - c. the Dean presents the University's case.
  - d. the student's defense is presented.
  - e. the Dean and the student present rebuttal evidence and argument.
  - f. the committee will note the issue of whether or not there has been a violation of University regulations or administrative rule. The committee will determine the appropriate penalty.
  - g. the committee shall state in writing each finding of a violation of a University regulation or administrative rule and the penalty determined. Each committee member concurring in the finding and penalty shall sign the statement. The committee may include in the statement its reasons for the finding and penalty.
  - h. the decision of the committee shall be reported to the Dean of Student Life who shall advise the student of the action taken by the committee and the right of the student to appeal the decision under the provisions of Section V.

E. Evidence

1. Although strict legal rules of evidence do not apply to hearings before the Discipline Committee, the rights of the individual will be protected and a fair, impartial procedure will be followed.
2. The committee may admit and give probative effect to evidence that possesses probative value and is commonly accepted by reasonable persons. The committee shall exclude irrelevant, immaterial, and unduly repetitious evidence.
3. Although committee members may freely question witnesses, certain communications shall be recognized as privileged. For example, the committee shall recognize communications between a student and a member of the professional staff of the Office of the Dean of Student Life as privileged if such communications were understood to be confidential.



4. The committee shall presume a student innocent of the alleged violation until it is convinced by a preponderance of evidence that the student violated a University regulation or administrative rule.
5. All evidence shall be offered to the committee during the hearing and made a part of the hearing record. Documentary evidence may be admitted in the form of copies or extracts, or by incorporation by reference. Real evidence may be photographed or described.
6. A student defendant may not be compelled to testify against himself/herself and no inference as to guilt or innocence may be drawn from failure of the student to testify.

F. Record

The hearing record shall include:

1. a copy of the notice required under Section V, B.
2. all documentary and other evidence offered or admitted in evidence.
3. written motions, pleas, and any other materials considered by the committee.
4. the committee's decisions.

SECTION VI - ADMINISTRATIVE REVIEW

- A. The President shall automatically review every penalty of expulsion.
- B. A student is entitled to appeal any decision of the Discipline Committee to the President and to the Board of Regents through the President. A student should file a petition with the President within one week after the Discipline Committee announces its decision.
- C. The President shall designate the time and date of the hearing of the appeal.
- D. Upon notice of the appeal, the President shall notify the Dean of Student Life who shall send a copy of the record (Section V, F.) to the student appellant and to the President.
- E. If the President rejects the petition and the student appellant wishes to appeal to the Board, the student shall file the petition to the Board through the President within one week after the day the President rejects the petition.



- F. The President and or Board may impose any of the penalties listed in Section III depending on whether the offense is a major or a minor violation.

#### SECTION VII - STUDENT GRIEVANCES

If a student feels that discriminatory or unfair treatment by an instructor is being received, or questions the instructor's fulfillment of academic responsibility, the student shall have procedures to follow in correcting the situation. The following steps should be taken:

- A. The student should first have a conference with the concerned instructor in an effort to talk over the problem and find a solution.
- B. If the problem is not resolved, the student, concerned instructor, and the instructor's department chairman will meet in conference. The dean of the school will be notified and may attend. The student has the right to select another person to be present at this meeting.
- C. In the event the grievance is not resolved in consultation with the instructor and the department chairman, the student will be granted a conference with the dean of the school who shall decide on appropriate action.
- D. Any appeal of the decision of the dean will be considered by the Vice President for Academic Affairs.

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