

Policy on Minimum Substantive and Procedural Standards for Student Disciplinary Proceedings

The purpose of this policy is to establish legally supportable, fair, effective and efficient procedures for student disciplinary proceedings. The minimum standards for these proceedings are set out below. These minimum standards exceed the requirements of due process and therefore complying with requirements will also result in providing due process.

I. Elements of Policy.

The two kinds of standards that must be followed are procedural standards and substantive standards.

II. Procedural.

The procedural standards require notice and an opportunity for a hearing. The formality of these provisions will vary depending on the seriousness of the offense. (See Sections V and VI. below.)

III. Substantive.

Substantive standards require that the decision reached be neither arbitrary nor capricious. Generally this means that there is some evidence to support the decision reached.

IV. Notice Requirements.

Each constituent institution must define what conduct is prohibited and specify the types of sanctions that may be imposed for each category of prohibited conduct. Ranges of violations and ranges of sanctions are permissible. Progressive sanctions for multiple violations are also legitimate. A periodic review should be undertaken to insure that rules, codes and regulations are up to date and that the students have notice of any changes.

V. Requirements for Minor Violations.

A minor violation is one for which the possible sanctions are less than suspension and expulsion.

A. Procedural Requirements:

1. Charges may be brought by students, university officials, faculty members or staff members. The charge must be in writing and must include factual information supporting the allegation. Anonymous charges will not be permitted.
2. A designated university official will determine whether charge is to be pursued. This determination should be made within a specified amount of time (e.g. thirty (30) calendar days) after the initiation of the charge. Reasonable extensions of this time are permissible.
3. If a charge is to be pursued, it is then referred to a hearing official or body. The student must be notified in writing of charge, the referral and the hearing date. The hearing should not be scheduled for at least five (5) calendar days after the student receives the notice, unless the student agrees to an earlier hearing date. A committee member or the hearing official who has a conflict with, bias about or interest in the case should recuse himself. If the committee member or the hearing official refuses to recuse himself, a designated university official shall make the recusal decision.

4. The student may waive the hearing and accept a sanction proposed by a designated university official. The sanction must be within the ranges specified in accordance with paragraph IV above. The waiver and acceptance must be in writing and signed by the student.

5. If a hearing is held, it may occur as a meeting between the hearing committee/official and the student. It will be a closed meeting. No attorneys are allowed in this proceeding except as provided in paragraph VII.A., below. The institution shall assure that students have the capability to present their evidence and defenses at the meeting or hearing. Witness testimony and documents may be received from both the designated university official and the student, who will both be present during all of the evidentiary presentation. At the end of the hearing, the committee/official will determine whether the designated university official has shown by a preponderance of the evidence that the student committed the offense charged. This determination must be based solely on the evidence presented at the hearing or meeting. The committee/official will also determine the appropriate sanction within the ranges specified in the definitions in IV above.

6. The decision may be final or it may be a recommendation for a final decision by a designated university official. The final administrative decision must be reached within a specified amount of time, not to exceed 45 calendar days after the date of the hearing. The final administrative decision must be transmitted to the student in writing within ten (10) calendar days of the date the decision is made, and it must contain a brief summary of the evidence upon which the decision is based.

7. Appeal rights must be specified in the decision letter. At least one level of administrative appeal must be permitted and the time in which to appeal and the permitted grounds for the appeal must be articulated. Further appellate opportunities shall be governed by the *Code* [\[502 D\(3\)\]](#) of the University of North Carolina.

B. Substantive Requirements: In each case there must be sufficient evidence supporting the decision and the sanction.

VI. Serious Violations.

A serious violation is one for which the possible sanctions include suspension or expulsion.

A. Procedural Requirements:

1. Charges may be brought by students, university officials, faculty members or staff members. The charge must be in writing and must include factual information supporting the allegation. Anonymous charges will not be permitted.

2. A designated university official determines whether charge is to be pursued. This determination should be made within a specified amount of time (e.g. thirty (30) calendar days) after the initiation of the charge. Reasonable extensions of this time are permissible. Written notice to the student must be provided if a decision is made to pursue the charge. The notice should specify the offense charged, the possible sanctions, and a brief recitation of the factual allegations supporting the charge. For all charged offenses which could result in expulsion, the notice must include this possibility and must specify that expulsion precludes matriculation at any UNC constituent institution.

3. An active charge is then referred to a hearing official or body. The student must be notified in writing of the referral. This notice may include a hearing date. The hearing date may not be scheduled for at least ten (10) calendar days after the student receives

notice of the referral, unless the student agrees to an earlier hearing date. Reasonable extensions of time for either party to prepare for the hearing should be allowed.

4. If a hearing date is not set in the notice of the charge, written notice of the hearing date must be sent to be received by the student not less than five (5) calendar days before the proceeding is scheduled for hearing.

5. The student may waive the hearing and accept a sanction proposed by a designated university official. The sanction must be within the ranges specified in accordance with paragraph IV above. The designated university official must determine that the waiver and acceptance is voluntary and that the charge and sanction have factual support. The waiver and acceptance must be in writing and signed by the student and the designated university official.

6. Prior to the hearing, the student must be given the opportunity to review any written evidence that will be used at the hearing and to obtain a list of witnesses.

7. A committee member or hearing official who has a conflict with, bias about or an interest in a case must recuse himself. If the committee member refuses to recuse himself, a designated university official will make the recusal decision. The student must also be given the opportunity to challenge a committee member or hearing official on these grounds. The decision on the challenge must be made by the committee or official within five calendar days. If necessary, a substituted committee member or hearing official will be appointed.

8. The institution shall assure that students have the capability to present their evidence and defenses at the hearings. The method for assuring this capability may vary depending on the nature of the case and on the nature of the representation of the institution or the charging party. Each institution must have a policy delineating the participation or prohibition of attorneys. Representation or assistance by attorneys at the hearing is neither required nor encouraged.

9. The hearing will be closed to the public, unless a constituent institution's policy provides otherwise.

10. A transcript or other verbatim record of the hearing (but not of the deliberations) will be prepared. The institution will be responsible for the costs of this record.

11. At the hearing, a designated university official must present sufficient witness and/or documentary evidence to establish the violation. The student must be given an opportunity to question this evidence, either by direct questions or inquiries transmitted through the committee or hearing official.

12. The student must be given the opportunity to present any witness or documentary evidence that he offers, provided that the evidence is relevant to the charge or other evidence presented and does not otherwise infringe the rights of other students.

13. At the conclusion of the evidence, the committee/official will determine whether the charging official has shown by a preponderance of the evidence, or by such higher standard as the institution may adopt, that the student committed the offense charged. This determination must be based solely on the evidence presented at the hearing. The committee or official will also determine the appropriate sanction within the ranges specified in accordance with paragraph IV above.

14. The decision may be final or it may be a recommendation for a final decision by a designated university official. The final administrative decision must be reached within a specified amount of time, not to exceed forty five (45) calendar days after the hearing is completed. The final administrative decision must be transmitted in writing to the student within ten (10) calendar days of the date the decision is made and must contain a brief summary of the evidence upon which the decision is based.

15. A vice chancellor or his delegate must make the final administrative determination in all suspension cases. The delegation may be to a student committee or a student/employee committee.

16. The Chancellor or a vice chancellor must make the final administrative decision in all expulsion cases.

17. Appeal rights must be specified in the final decision letter. At least one level of institutional appeal must be permitted, and the time limits in which to appeal and the permitted grounds for appeal must be articulated.

18. Further appeals shall be governed by the *Code* of the University of North Carolina.

B. Substantive Requirements: In each case there must be sufficient evidence supporting the decision and the sanction.

VII. Special Cases.

A. If the offense charged is also the subject of pending criminal charges, the institution must allow an attorney advisor to accompany the student to the hearing. Unless institutional policy generally allows attorneys to participate, the attorney may not participate. The attorney may confer with the student during the hearing so long as the attorney does not address the hearing official or committee, other parties or witnesses and does not delay or disrupt the proceeding.

B. Charges against multiple students involved in the same incident may be heard in a single case only if each student defendant consents to such a proceeding.

C. Pursuant to the Campus Security Act,¹ in cases of alleged sexual assault, the accuser and the accused are entitled to have the same opportunities to have others present during a disciplinary proceeding.

D. Pursuant to FERPA, victims of crimes of violence must be notified of the results of the disciplinary proceeding of the alleged assailant. "Results" means the name of the student assailant, the violation charged or committed, the essential findings supporting the conclusion that the violation was committed, the sanction if any is imposed, the duration of the sanction and the date the sanction was imposed.

E. When a student with a disability is charged with an offense, the institution will assure that all requirements of Section 504 of the Rehabilitation Act and the Americans With Disabilities Act are met.

¹ The disciplinary records of high school students at the North Carolina School of Science and Mathematics described in Sections VII.C.-D. of this Policy may not be disclosed without appropriate consent. [CFR 99.31(a)(13)]

Effective Date: This policy applies to all offenses committed on or after July 1, 2003.