

Faculty of Arts and Science Committee on Student Discipline

Rules and Procedures for the Conduct of Hearings

Approved by the Faculty of Arts and Science, April 30, 2015

Preamble: The Committee

Jurisdiction: Pursuant to §6430 of the New York State Education Law, all members of the New York University community are subject to the University's Rules for the Maintenance of Public Order. University Bylaw 79(b) authorizes schools to establish rules for the guidance and conduct of students. University Bylaw 80 provides that the faculty of each school has disciplinary authority over its students and grants the University Senate power to act in situations involving more than one college or school. University Bylaw 60(c) also grants the Senate jurisdiction over educational matters and regulations affecting more than one school.

Under this authority the Faculty of Arts and Science has established a standing Committee on Student Discipline to implement policies, rules, and procedures for students in the College of Arts and Science and the Graduate School of Arts and Science. Cases involving one or more students from one of these schools and any individual whose affiliation is outside of these schools are under the jurisdiction of the Student Disciplinary Procedures established by the University Senate.

Function: To implement student discipline policies, rules, and procedures under its jurisdiction, the Faculty of Arts and Science maintains a standing Committee on Student Discipline. Its functions are to recommend rules for the guidance and conduct of students in the College of Arts and Science and the Graduate School of Arts and Science; to establish policies, rules, and procedures for the adjudication of student disciplinary infractions; and to investigate alleged student offenses, conduct hearings on complaints against students, and imposed appropriate sanctions. Disciplinary offenses within the jurisdiction of the committee include but are not limited to:

- cheating, plagiarism, falsification of data or sources, forgery of academic documents in attempt to defraud;
- destruction, theft, or unauthorized use of laboratory data, library or research materials, computer resources, or university property;
- disruption of academic events or interference with access to classrooms, laboratories, or academic offices;
- actual or threatened violence against, or assault or harassment of a student, instructor, staff member, or administrator.

Cases of behavioral misconduct in the committee's jurisdiction include those that fall within the University's Non-Discrimination and Anti-Harassment Policy and Complaint Procedures for Students. The committee does not have jurisdiction over cases

that fall within the University's Sexual Misconduct, Relationship Violence, and Stalking Policy.

The committee need not report individual cases, but from time to time, or as charged, shall report to the faculty on its work and on its recommendations for the establishment of policies, rules, and procedures within its jurisdiction.

Composition: Nine elected full-time members of the faculty on continuing or tenure-line appointments who provide instruction in the College and/or Graduate School, with three members from each academic division (humanities, social science, natural science); three students from GSAS, and three students from CAS, also distributed across the academic divisions. The student members will be appointed by the relevant deans in consultation with the appropriate Student Councils or other student governance bodies, and additional students may be appointed in consultation with such student governance bodies as necessary for the conduct of hearings. The Deans of Students of CAS and GSAS shall be *ex officio* members of the committee, with voice but without vote.

Terms of Membership: Three years for the elected faculty members, with three members elected one each year from each of the academic divisions. One year for student members; or, if *ad hoc*, as required for the hearing of business.

Structure: The committee convenes for an organization meeting as soon as possible after the beginning of the fall semester and meets thereafter only as necessary for the conduct of business. The committee Chair is elected annually at the fall organizational meeting from among the nine elected faculty members.

Rules and Procedures

1. Preliminary Considerations Concerning Disciplinary Procedures

These procedures, and those enumerated subsequently below, pertain to complaints and appeals both for cases concerning students of the College or Arts and Science and for cases concerning students in the Graduate School of Arts and Science.

Cases may come to Discipline Committee in several ways: by referral from the CAS or GSAS Dean of Students in cases in which a consensual resolution with the student could not be reached or is not warranted; by referral for rehearing on a sustained appeal to the Dean; at the direction of the Chair of the committee on a finding that new evidence warrants a rehearing.

1 (a). In all cases under the jurisdiction of these rules and procedures, the standard for findings shall be the preponderance of evidence.

1 (b). In all instances in which written notice is required under these rules and procedures, such can be made by first-class postal mail or by electronic mail.

1 (c). In all instances of the implementation of these disciplinary rules and procedures, the committee shall have the benefit of consultation with University's Office of General Counsel as regards the conduct of its business.

1 (d). As provided in University Bylaw 80, the Dean of a school or the Dean's designate may suspend a student pending consideration of a case. The Faculty of Arts and Science urges that such action should only be taken to protect the physical or emotional safety and well-being of the student; the physical or emotional safety and well-being of other students, faculty, and/or University staff; the security of University property; the maintenance of public order; or the effective continuation of the educational process. When such action does occur, the student shall be afforded the opportunity to expedite disciplinary proceedings. Any semester of interim suspension shall be deducted from any final sanction involving suspension.

1 (f). Unless otherwise specified, by "Dean" is meant the Dean of the College of Arts and Science or the Dean of the Graduate School of Arts and Science. By "Dean of Students" is meant the Dean's designated assistant or associate Dean of/for Students or of/for Academic and Student Affairs. By "dean" is meant the relevant dean or the dean's designate.

1 (g). Captions and Severability. Captions in this statement are descriptive and are not a substantial part of the rules and procedures.

Should the faculty later amend any part of these rules and procedures, all other parts shall remain in force.

2. Discipline Committee Investigations and Hearings

2 (a). On receipt of a matter for its consideration, the Chair of the Discipline Committee will appoint an Investigations Panel consisting of two faculty members, one of whom will be designated as Chair of the panel by the Chair of the Discipline Committee, and one undergraduate and one graduate student. The function of the Investigations Panel is to determine whether the case properly falls under the committee's jurisdiction and, if so, to review the evidence and to recommend whether a hearing is warranted. The Chair of the Investigations Panel will make a timely written report of its finding to the Chair of the Discipline Committee. If the panel finds that the case falls outside the committee's jurisdiction or that the evidence is insufficient to warrant a hearing, they will recommend that the case be dismissed; but such a recommendation may be rejected by a two-thirds vote of the full committee. Should a case be dismissed, the Chair of the Discipline Committee will notify in writing the complainant, the student, and the relevant deans.

2 (b). Unless the panel's recommendation for a hearing is dismissed, the Chair of the Discipline Committee will form a Hearing Panel of three faculty members and two students. Members of an Investigations Panel are not eligible to sit on a Hearing Panel for the same matter. Undergraduate students will sit on hearings dealing with undergraduate students, graduate students will sit on hearings dealing with graduate

students, and one each will sit on hearings should both undergraduate and graduate students be involved. Each Hearing Panel will elect its own Chair from among its three faculty members.

2 (c). The Chair of the Discipline Committee will notify the student in writing of the specific charges as reported by the Investigations Panel, inform the student of how a statement of the rules and procedure for the panel's hearing may be obtained, and provide the date, time, and location of the hearing. Except upon consent of the student, the hearing will take place not less than fourteen (14) calendar days after sending such notice. The Chair of the Discipline Committee will also inform the student of his or her right to pursue consensual resolution of the complaint with the Dean of Students prior to the hearing, or, should the student reject such resolution, to review with the dean the charges, the procedures to be followed for the hearing, and the grounds for appeal of the panel's finding.

2 (d). The Hearing Panel will reasonably attempt to accommodate the student in scheduling the hearing. Should the student fail to appear, the panel may proceed and disciplinary sanction may be imposed in the student's absence.

2 (e). The Chair of the Discipline Committee will promptly inform the Chair of the Investigation Panel when the notice to the student has been sent. The Chair of the Investigation Panel will promptly contact the complainant and the student to solicit from each the evidence they wish to present and a list of witnesses they will call, if any. Complainants will also be asked if there are particular questions that they wish to have asked of witnesses at the hearing. The student will be required to submit a written statement admitting, denying, or explaining the charges. All parties will be required to submit their materials no later than five (5) business days prior to the hearing. The Chair of the Investigations Panel will forward these materials to the Chair of the Discipline Committee, who will arrange for their prompt distribution to the Hearing Panel, the complainant, and the student; and copies of the submissions of each party will be made available to the other.

3. Conduct of Hearings

3 (a). An audio recording will be made of the hearing. In any case where the charges are sustained in whole or in part, the recording will be forwarded to and preserved by the Secretary of the University until the appeal procedure has been completed. If no charges are sustained, the recording will be securely deleted.

3 (b). The hearing will be in the nature of an administrative proceeding and the Hearing Panel will not be bound by the rules of procedure or evidence which prevail in courts of law. The student will have the right to be accompanied by counsel or an advisor of his or her choosing. The student's counsel or advisor may speak privately to the student but may not address any other participant during the hearing except with the permission of the Chair of the Hearing Panel.

3 (c). The charge or charges will be read to the student, who will be asked to admit, explain, or deny each of them. The case against the student will be presented by the Chair of the Investigations Panel, who will present the evidence and statements submitted prior to the hearing, call witnesses against the student to testify and put questions to them, and cross-examine witnesses called by the student. The student may present evidence and witnesses on his or her behalf. In accord with the methods determined by the Hearing Panel, the student, or his or her counsel or advisor if permitted by the Chair of the Hearing Panel, may address the evidence, cross-examine witnesses called against him or her, and put questions to witnesses on his or her behalf.

3 (d). The Chair of the Hearing Panel will rule on the admissibility of evidence and on the acceptability of questions put to witnesses. With the permission of the Chair, all members of the Hearing Panel may put questions to the complainant, the students, and any witnesses. The Chair will have the right to require that questions be put through the Hearing Panel when it appears appropriate to do so.

3 (e). At the conclusion of the hearing, the Panel will immediately convene in closed session, consisting only of the Panel members sitting at the hearing and their counsel. All decisions of the Hearing Panel will require the assent of at least three of the member of the Panel sitting at the hearing. Any finding that an infraction has occurred will be based on a preponderance of evidence presented at the hearing. Upon such a finding, the Panel will continue in closed session to decide the disciplinary sanction, if any, to be imposed.

As to any grade reduction that may have been imposed in a case of academic misconduct: The Hearing Panel will restrict its review to the question of whether the grade reduction was made fairly and in keeping with the expectations of the department or program. If not, it will return the question of the reduction in grade for rehearing in the department or program, in accord with the school's regular procedures for grade appeals. The consideration of the grade reduction is separate from the question of whether a disciplinary sanction is to be imposed, and a grade reduction can be returned for rehearing in the department or program regardless of what the Panel may find on the question of whether a disciplinary infraction of academic misconduct has occurred or of any disciplinary sanction that may have been imposed.

3 (f). Within seven (7) calendar days of the hearing, the Chair of the Hearing Panel will write to the student, the student's Dean, the Chair of the Discipline Committee, and the Secretary of the University to report the Hearing Panel's finding, the reasons for its decision, and the action taken or sanction imposed.

The Chair of the Hearing Panel's report must confirm the committee's judgment of any sanction to be imposed and the notation, if any, to be made on the student's transcript of record, the duration of the sanction and of the notation, and the conditions, if any, for their removal. The expectation is that any disciplinary sanction imposed by the Hearing Panel will typically be noted permanently on the student's transcript of record. The student's Dean will inform the University Registrar of the notation, if any, to be recorded on the transcript.

The Chair of the Discipline Committee will provide a summary of the disposition of the case to the complainant, to the extent permitted under laws and regulations governing the privacy of student records.

4. Appeals

4 (a). Any appeal must be received in writing by the student's Dean within fourteen (14) calendar days of the sending of the report of the Chair of the Hearing Panel to the student. Appeals are limited to the question of whether an action was taken fairly and substantially in compliance with established rules and procedures, and, as regards the burden of proof, whether the record, taken as a whole, contains sufficient evidence to support the outcome reached. Unless the Dean finds that remedies otherwise available under established rules and procedures have yet to be exhausted, the Dean will convene a three-member *ad hoc* committee, including one student representative, none of whom will be members of the Discipline Committee or from the same department as the student or the complainant. Should the appeal be affirmed, the Dean will order a new hearing.

4 (b). A case previously concluded may be reopened if new and previously unavailable evidence emerges. The Chair of the Discipline Committee will decide if the evidence bears sufficiently on the decision to warrant reconsideration of the case.

5. Definition of Sanctions

Warning: Written reprimand, including notice that a one-semester suspension or a more severe penalty may result from a second disciplinary offense within the period of the warning specified in the letter of reprimand.

Disciplinary Probation: Suspension of privileges or exclusion from participation in extracurricular University activities as set forth in the notice of disciplinary probation for a specified period of time.

Suspension: Exclusion from classes as well as suspension of privileges and exclusion from other activities as set forth in the notice of suspension for a definite period of time. A student who has been suspended and against whom charges are dismissed or not sustained will be allowed full opportunity to make up whatever work was missed due to the suspension.

Dismissal: Termination of student status for an indefinite period. The conditions for readmission, if any are permitted, will be stated in the order of dismissal.

6. Sanctioning Guidelines

Because of the wide range of seriousness of offenses of any given general type, no specific penalties are suggested for first occurrences. Each case must be judged

independently, taking into account the seriousness of the offense, aggravating and mitigating circumstances introduced at the hearing, and the general desirability of treating similarly situated students similarly. In all cases, it should be determined whether or not notice of the penalty should be placed on the student's record. As a guide to assessing the penalty to be applied, some possible considerations are outlined below for various general offenses.

Cheating, plagiarism, or forgery of academic documents: If the offense had not been detected, would it have had significant impact on the student's course grade? Was there an attempt to subvert a primary degree requirement, such as plagiarizing a Ph.D. thesis? Was the offense spontaneous or premeditated and planned? Did the student act alone or were others knowingly involved? Was the offense an isolated incident or repeated?

Deliberate destruction, theft, or unauthorized use of laboratory data, research materials, computer resources, or University property: Did the student expect to profit academically from the offense? Was there damage to the academic materials of another student or of a faculty member? Were the materials of significant value to their owner? Can and should the student replace the materials or was the damage irreparable?

Disruption of an academic event: Was the action spontaneous and brief or extensive? Did the academic event continue after the disruption or was it postponed or canceled? Was more than one individual involved? Were there repeated incidents on separate occasions? Was the disruption of a threatening or violent nature?

Actual or threatened violence or harassment: Was the action premeditated? Was the threat repeated on separate occasions? Was human life threatened? What was the extent of bodily injury, if any? Was more than one individual involved in the offense? Does the student have a history of violent behavior?

Other forms of misconduct: Was the behavior willful? Was the behavior repeated on separate occasions? What was the extent of bodily injury caused by the behavior, if any? Was more than one individual involved in the offense? Does the student have a history of previous disciplinary actions or violent behavior?