

## **DISCIPLINARY PROCEDURES**

### **Honor Council Hearing Disciplinary Procedures**

#### **I. Initiation of Disciplinary Proceedings and Determination to Proceed Further**

Disciplinary proceedings may be initiated only by formal complaint made to the Dean for Student Affairs. Any student, faculty member, administrative officer, or staff of the School of Medicine may initiate disciplinary proceedings by complaint, within 90 days of the incident. The Dean for Student Affairs will require a complaint to be put in writing and signed before proceeding further. Any formal complaint reported to a member of the Honor Council or to another Dean will then be transmitted to the Dean for Student Affairs.

Upon receipt of a formal complaint, and following such investigation and consultation as deemed appropriate, the Dean for Student Affairs determines whether further proceedings are warranted. If it is determined that they are not, the Dean for Student Affairs notifies the person making the complaint of the determination and proceeds no further. If it is determined that further proceedings are warranted, the Dean then arranges for written charges to be provided to the student who has been accused of the infraction.

#### **II. Formal Statement of Charges**

The formal statement of charges must set forth the nature, time, and place of the violation charged. It is to be promptly presented to the person charged within ten working days after receipt of the written complaint, in such a manner that guarantees receipt. The statement of the charge is to be accompanied by a written notification of a date, time, and place for a conference with the Dean for Student Affairs. The date for the conference should be at least three, but not more than ten, working days after the initial provision of the written, formal statement to the person charged. The formal charge will be accompanied by the following statements of the rights of the accused:

1. The accused shall have adequate time to prepare his or her case.
2. The accused is permitted but shall not be required to take any examinations between the time he or she is charged and five days after the final decision is delivered to the student.
3. During the hearing, the accused shall have the right to the advice and full assistance of a member of the University community (who may not be an attorney or a law student). Participation of extramural legal counsel is not permitted at the School level.
4. The accused shall be presumed innocent until proven guilty by clear and convincing evidence presented to the Dean for Student Affairs or to the Honor Council Hearing Board.
5. The accused shall have the right to call a reasonable number of witnesses. The accused, or his or her advocate from within the University, shall be allowed to question and cross examine witnesses and shall have a fair opportunity to present his or her defense.
6. The accused shall not be restrained in any manner from the full exercise of his or her rights of appeal.

In order to expedite disposition of a matter, any person charged may, in writing, waive any of the minimum periods required to elapse between notice and the holding of any hearing provided in this section. Official University vacations, holidays, or weekends will not be counted as part of the time limit specified for dealing with any case.

### III. Procedures for Conference with the Dean for Student Affairs for Disposition of the Violation

The accused is given the following options:

1. Admit to the violation as charged and submit to the imposition of sanctions determined by the Dean, , and as may be agreed upon by both the student and accusing party or,
2. Have the charge referred for disposition to the full Honor Council Hearing Board.

The choice shall be recorded in writing with the signatures of the accused and the Associate Dean for Student Affairs

### IV. Procedure for Administrative Disposition of Admitted Violation

**When the accused elects to admit to the charges,** the Dean for Student Affairs shall proceed with the conference, in an attempt to reach an informal resolution. The accused shall be given the opportunity, within reasonable bounds, to present evidence in mitigation or extenuation of the violation admitted. Upon request, the accused may continue the conference over a reasonable time and allow others to testify for this purpose. Normally, the person bringing the complaint or a representative of the involved department in the School of Medicine will attend this conference. In all cases, the conduct of any investigation will be confidential and a breach of confidence will be considered a Code of Professionalism violation. Within five working days following the conference, the Dean for Student Affairs will prepare a written report , including recommendation for sanction, which may have been agreed upon in writing by both the student and person bringing the complaint. A copy of this report will be sent to the accused. The report will be kept by the Dean for Student Affairs in a confidential file separate from the official academic file and will be destroyed when the student graduates or permanently terminates registration.

The dean's office may provide such information identifying an individual student for the following uses:

1. To an instructor who is involved with a student integrity violation at the initial stage and who wishes to use this previous record in determining whether a resolution between the instructor and the student or an academic integrity hearing board may be most appropriate;
2. To a college or school Academic Integrity Hearing Board after a decision of guilt or innocence has been made in a case, but before a sanction has been recommended.

If a mutually acceptable agreement cannot be reached, the matter will be referred to the full Honor Council Hearing Board for disposition.

**When the accused denies the allegations (i.e. pleads innocent) or is not willing to accept the determined sanction,** then the Dean for Student Affairs will forthwith terminate the conference and refer the matter to the Student Solicitor for presentation to the full Honor Council in accordance with the procedures described below. Referral consists of transmittal of a copy of the formal charge plus any items relevant to the case and deemed appropriate by the Dean for Student Affairs. The Student Solicitor thereupon prepares and presents a charge to the full Honor Council Hearing Board.

## **V. Organization and Function of the Honor Council Hearing Board and its Officers**

The full Honor Council Hearing Board is composed of the nine students of the Honor Council (two elected from each of the four classes within the School of Medicine and one from the MD/PhD program) and four faculty members, nominated by the Honor Council and appointed by the Dean of the Medical School and rotated on a staggered basis. The Board will elect a student chairperson, secretary and student solicitor. The function of the Board is to hear all charges of violation and to make a finding regarding innocence or guilt, and to recommend sanctions in the case of those found guilty of a violation.

The Student Solicitor, with help from the person filing the charges, prepares the case against the accused. From the time of reviewing a charge until final disposition of the case by the Board, the Student Solicitor shall not discuss the case with other members of the Board. The Secretary of the Board shall keep a record of all proceedings of the Board. Assistance for this will be provided by the Office of Student Affairs. The Dean for Student Affairs will be responsible for assisting the Board in its operation but will not be a direct participant in the hearing.

## **VI. Hearing Procedures Before the Full Honor Council Hearing Board**

### **1. Scheduling the Hearing**

Promptly upon receipt of a charge from the Dean for Student Affairs, the Student Solicitor will notify the Secretary of the Board. The Secretary then promptly confers with the involved parties in order to ascertain the earliest agreeable date for the hearing, taking into account the time required for adequate preparation, and makes arrangements. The Office of Student Affairs will send a written notice of the arrangements to the members of the Board, the Student Solicitor, and the accused. Notice to the accused will be served by in-hand delivery or, if that is not possible, by registered mail. The hearing date will be at least three, but not more than ten, working days from the date of in-hand delivery or mailing of the notice to the accused. The accused may, on his or her own initiative, waive the three day limit.

### **2. When Accused Appears**

If the accused presents is at the hearing personally, or is represented by a campus representative who has written authorization to appear for the defendant, the hearing shall proceed as follows:

- a. The Chairperson reads the statement of charge and asks the accused, or his or her representative, whether he or she admits or denies the substance of the charge.
- b. When the accused, or his or her representative, admits the substance of the charge, the student may then make any statement he or she desires in mitigation or extenuation. A reasonable number of witnesses may be called in substantiation of this statement. Members of the Board may ask questions of each witness. A reasonable number of witnesses, whose comments may have bearing on the sanction, may be called to substantiate the extenuating circumstances. In executive session, the Board shall then consider and determine the sanctions, if any, to be recommended to the Dean of the Medical School.
- c. When the accused, or his or her personal representative, denies the substance of the charge, the Board proceeds to hear evidence as to the matter in dispute. This will normally occur in the following order:

Evidence in support of the charge is presented under direction of the Student Solicitor;

Evidence in support of the accused is presented under direction of the person charged, or his or her representative;

Witnesses may be summoned and cross examined by the Board , the Student Solicitor, and the accused, and/or his or her representative.

Closing oral arguments may then be made by the Student Solicitor followed by the accused, or his or her representative.

In executive session and in absence of the Student Solicitor, the Hearing Board will then determine whether a violation has occurred and what sanction, if any, should be recommended to the Dean of the Medical School.

### **3. When the Accused Does Not Appear**

If the accused does not appear personally at the hearing, or is not represented by an authorized representative, the fact that the accused has been duly notified shall be verified (VI.1). If it is determined that he or she has not, the hearing is adjourned and the procedures revert to setting and notification of a rescheduled hearing. If it is determined that due notice was given, the hearing proceeds as follows: The Student Solicitor reads the statement of charge and presents witnesses and other evidence in support of the charge; The Student Solicitor makes a closing statement; In executive session and in absence of the Student Solicitor, the Board determines whether a violation has occurred and what sanction, if any, should be recommended to the Dean.

### **4. General Rules of Procedure and Rights Secured toThe Accused**

a. *General Conduct of Hearing.* The Chairperson of the Hearing Board presides and makes all rulings with respect to questions of practice and procedure. Control is maintained by recognition of the participation of members of the Council and others in the hearing.

b. *Quorum for Hearing and Voting Privileges.* Six members of the Board constitute a quorum. The six members include at least two faculty member and exclude any student member(s) who may have been involved in the initial consideration of the charges. All members of the Hearing Board, with the exception of the Student Solicitor, have full voting privileges when deciding a case.

c. *Evidence.* No attempt shall be made to apply technical legal rules of evidence. In general, any evidence, whether oral testimony or documentary, which is considered by the Chairperson to be relevant to the charge or defense should be received. The Chairperson may exclude frivolous, repetitive or merely cumulative testimony. Reasonable limits may be imposed on the number of material witnesses and the amount of cumulative evidence that may be introduced. Hearsay evidence (testimony by a witness regarding what a person not present at the hearing has stated) should be received and evaluated with caution, since no opportunity exists to question the absent person.

d. *Burden and Standard of Proof. Number of Hearing Board Members Required to Determine Violation.* The Board members have a responsibility to assure that the evidence presented is clear and convincing to vote for a finding in support of the charges. Members may not consider evidence not presented in the hearing itself. When the accused denies the charge, three quarters of the Board members hearing the matter must concur on a guilty finding.

e. *Option of a Closed or Open Hearing.* If the person charged requests an open hearing, which is open to all members of the Medical School community, it shall be granted. The Chair will have the right to exclude persons when required for orderly conduct of the hearing. Otherwise all hearings are closed to the University community.

f. *Right to Question Witnesses.* The Board, the Student Solicitor, and the accused, or his or her representative, shall have the right within bounds of general relevance, to question witnesses who testify at the hearing.

g. *Right to Assistance.* The accused has the right to be advised, assisted, or represented at the hearing, by an individual from the University community (excepting an attorney or law student) who may take an active part in the proceedings.

h. *Provision of Record for Review.* The Secretary of the Board shall prepare a written summary of the proceedings at all hearings. A tape recording of the hearing will be made. These will be given to the Dean for Student Affairs, who will store them.

i. *Number of Hearing Board Members Required to Recommend Particular Sanctions.* In order to recommend the sanction of indefinite or definite suspension, two thirds of the members of the Board sitting on the particular hearing must concur in its imposition. Other sanctions may be recommended by a simple majority.

#### **5. Notice of Action of the full Hearing Board**

The Hearing Board may inform the person charged orally of its disposition of the charge following its determination, or it may defer giving any notice for a period not to exceed two working days after formal closing of the hearing. The Secretary of the Council shall, not later than five days after formal closing of the hearing, give to the accused, the person bringing the charge, and the Dean of the School of Medicine a written Notice of Finding and Recommendation. This shall include, if violation was not admitted, an entry: "Violation as Charged-Found" or "Violation as Charged-Not Found", and in any case where a sanction is recommended, an entry: "Sanction Recommended" (specified with clarity).

#### **6. Failure by the full Hearing Board to Convene or to Make a Timely Determination in Referred Case**

Failure of the Board to dispose of the matter in a duly referred case within 30 calendar days after its formal referral by the Dean for Student Affairs to the Student Solicitor shall result in direct referral of the matter to the Dean of the School of Medicine, for administrative disposition. If the alleged violation is not then admitted in conference, the Dean may proceed to hear the case himself, make a determination of violation or non-violation, and impose sanctions as provided in Section G.

### **VII. Sanctions for Violations**

When a violation of the Honor Code is found by the Hearing Board, the matter is referred to the Dean of the School of Medicine for final disposition . The range of permissible sanctions for disciplinary action, whether imposed by administrative action or recommended by Hearing Board action includes but is not limited to:

#### **1. Lesser Sanctions**

Although suspension for a definite or an indefinite time will usually be the sanction imposed for willful violation of the Honor Code, lesser penalties may be imposed because of extenuating or mitigating circumstances, or if the Hearing Board finds that a more appropriate penalty applies better to the circumstance.

## 2. Suspension for a Definite Time

Exclusion from classes and other activities with forfeiture of academic credit, as set forth in the notice of suspension, for a definite time beginning immediately. Sanction for cheating shall ordinarily include a recommended failure in the course involved with authorized withdrawal in other concurrent courses, regardless of the time in the school year when the offense is committed. If the suspension is for more than one term, the suspension shall begin immediately and shall be served in consecutive terms.

## 3. Indefinite Suspension

Termination of student's status, subject only to formal readmission, with no right to petition for readmission before the expiration of a calendar year from the date of suspension.

## 4. Placement of letter with Finding of Violation as Charged

Ordinarily, if the finding of violation as charged is made, the finding and sanctions will be included in the formal academic file. Any findings in the permanent file shall be included in any future report(s) concerning the student, unless specified otherwise by the Board. Alternatively, the Board could recommend that the findings and sanction be included in an impermanent file, which is maintained by the Associate Dean for Student Affairs (see D.)

In any case, the Promotions Committee may consider the results of any findings of violation of the Code of Professionalism and imposition of sanctions by the Honor Council Hearing Board in assessing the suitability of a student to be a physician.

## **VIII. Custody of Disciplinary Records Separate from Academic Records**

The placement of any statement of violation as charged, along with any sanctions imposed, is outlined in VII.4. Otherwise, all records pertaining to disciplinary proceedings in which a student is charged with a violation will be maintained separately from the academic record. The Dean for Student Affairs shall be the sole custodian for all records involving disciplinary proceedings. To this end, all records made or considered by the Honor Council Hearing Board in disciplinary proceedings before them shall be transmitted immediately upon completion of the proceedings to the Dean for Student Affairs.

## **IX. Review and Appeal**

The accused or accuser may appeal within five days of the date of a decision letter an adjudication, or a determination that the charges are not subject to adjudication, to the Provost, who may seek the advice of the University Review Board. Information about how to proceed may be obtained from the Office of the Provost. The student may appeal also to the University Review Board, whose recommendation shall be made to the Provost. The action of the Provost, taken with or without the advice of the University Review Board, shall constitute an exhaustion of all required institutional remedies.

Approved by the Executive Committee on April 9, 2002