

ARTICLE IV: JUDICIAL SYSTEM AND PROCESS

A. THE JUDICIAL PROCESS

1. Any member of the university community may file a complaint against any student for misconduct. Complaints should be prepared in writing and directed to the Associate Dean of Student Affairs and the Director of Judicial Affairs. Any complaint should be submitted as soon as possible after the incident related to the complaint(s). The Associate Dean of Student Affairs may ask the Director of Judicial Affairs to investigate the complaint.
2. The Associate Dean of Student Affairs shall determine if charges should be initiated and which authority shall have jurisdiction to hear and decide the case.
3. If a student is charged or is in the process of being charged with a violation of the Student Code of Conduct, he/she will not be permitted to withdraw from the University. A student may not escape judicial or financial responsibilities through the withdrawal or leave of absence process. Students must receive permission to withdraw or exercise a leave through the Associate Dean or his/her designee.

B. THE JUDICIAL SYSTEM

There are four types of judicial bodies within the University's judicial system on the College at Rindge campus. The first body is the Experience Director, the second body is the Director of Residential Life, the third body is the Associate Dean of Student Affairs, and; the fourth body is Hearing Boards. At any time, however, the Vice President for Student Affairs may choose at his/her discretion to hear any case in place of another judicial body. The Vice President for Student Affairs may invite other members of the community to assist him/her in hearing the case.

With the exception of Judicial Board hearings, cases will be heard administratively on an informal basis. Administrative hearings are to take the form of an educational dialogue with the involved student(s). The only record maintained in administrative hearings and judicial board hearings will be the written decision of the judicial body. Judicial Board hearings will take place on a more formal basis. A tape recording of the proceedings is maintained, until the appeal process has been exhausted.

1. **The Experience Director** is responsible for those cases that are least serious in nature and are related to the residence halls. Hearings are structured on an informal basis and the Experience Director is limited to the following types of sanctions: Written Warning, Educational Sanction, Fines, Restitution, Censure, and Conduct Probation (see Section G).
2. **The Director of Residential Life and the Associate Dean of Student Affairs** are responsible for the most serious cases. Hearings are structured on an informal basis. The Director/Associate Dean may impose any sanction listed within the Student Code, provided that a sanction issued is consistent within the guidelines for such sanctions (see Section G).
3. **Hearing Boards.** In certain cases, the Associate Dean of Student Affairs may opt to refer cases to one of two types of hearing boards, either a student Judicial Board or an administrative hearing board.
 - a. **The Judicial Board** is comprised of nine students appointed by the chairperson. The Judicial Board hears cases referred by the Associate Dean of Student Affairs, and advises the Associate Dean of Student Affairs as to whether or not the accused student violated the Student Code and recommends a sanction(s) when appropriate. The Judicial Board is advisory in nature, and final decisions are the responsibility of the Associate Dean of Student Affairs.
 - b. **Administrative Hearing Board.** At the request of the Associate Dean of Student Affairs, individual members of the Judicial Board or other members of the community may be requested to assist another judicial body in an administrative hearing.

The Associate Dean of Student Affairs, at his/her discretion, will refer to a Hearing Board those cases in which the accused student states he/she is not guilty of the alleged violation, although this is not required. At such times as the Judicial Board is not available for hearing cases (i.e. mid-terms, final exams, vacation periods, etc.), the Associate Dean of Student Affairs, his/her designee, or an Administrative Hearing Board will hear the case. It should be noted that the Associate Dean of Student Affairs will decide if a case will be heard by which judicial body.

The scheduling of any disciplinary hearing will be done as expeditiously as possible. Normally, cases before an Experience Director will be heard within five (5) days of being charged with the alleged violation. Cases before the Director of Residential Life or the Associate Dean of Student Affairs will normally be heard within ten (10) days of being charged with the alleged violation. Cases

heard by the Judicial Board or Administrative Hearing Boards will normally be heard within fourteen (14) days of being charged by the Associate Dean of Student Affairs with the alleged violation.

At the discretion of the Associate Dean of Student Affairs, the Director of Judicial Affairs, the Office of Campus Safety or the Office of Residential Life will assist with the judicial system. This includes, but not limited to, the filing of complaints, the investigation of complaints and the presentation of cases to a judicial body. Charges may only be filed by the appropriate judicial body, as determined by the Associate Dean of Student Affairs.

C. HEARING PROCEDURES

1. **Administrative Hearings** (This includes cases heard by Experience Directors, the Director of Residential Life, the Associate Dean of Student Affairs, the Vice President for Student Affairs, or any Administrative Hearing Boards).
 - a. The accused student shall receive a letter electronically from the appropriate judicial body requesting a meeting by a specified date to discuss the alleged incident, such a meeting date being at least two (2) days after the date of the letter. It is the responsibility of every student to check his/her university e-mail account on a daily basis to receive hearing information, as well as other important university communications.
 - b. Each student is expected to attend his/her hearing. If the student fails to meet with the judicial body by the date specified, the judicial body shall decide the matter, to include disciplinary sanction, without the benefit of the accused student's input.
 - c. An administrative hearing is normally conducted as an educational dialogue between the judicial body and the accused student; an educational dialogue has the full participation of all parties and is done for the purpose of learning from the situation, as well as upholding community standards. Other parties with direct knowledge of the incident in question may be present, but only at the request of the judicial body. Administrative hearings are conducted in private. Decisions regarding who is present-beyond the accused, complaintant, advisors, and approved witnesses-will be at the complete discretion of the judicial body.
 - d. An accused student may have an advisor of his/her choosing from within the university community present at the hearing. The

advisor may be selected from faculty, staff, and students. The advisor shall not participate directly in any aspect of the hearing; the advisor may only address the accused student. It is the student's responsibility to present all aspects of his/her own defense.

- e. The judicial body's decision shall be made on the basis of whether it is more likely than not that the accused student violated the Student Code.
- f. The only record which shall be made of an administrative hearing is the written decision of the judicial body, which will be maintained in the student's personal file in the Office of Student Affairs.

2. Judicial Board Hearings

- a. The accused student shall receive a letter from the Associate Dean of Student Affairs stating the alleged violation(s) of the Student Code. Included in the letter shall be the date, time, and place of the hearing.
- b. The accused student is strongly encouraged to meet with the Associate Dean of Student Affairs prior to the hearing to review hearing procedures, to review the student's basic rights at the hearing, to inform the Associate Dean of Student Affairs of any witnesses he/she expects to have present, to indicate any evidence he/she plans to present, and if chosen by the student, the name of the advisor who will be present for the student.
- c. Judicial Board hearings are conducted in private, with only the participants and advisor(s) being present. Admission of any other person to the hearing shall be the decision of the chairperson of the Board.
- d. In hearings involving more than one accused student, the chairperson, at his/her discretion, may permit hearings concerning each student be conducted separately.
- e. Pertinent records, exhibits and written statements may be accepted as evidence for consideration at the hearing by the Board at the discretion of the chairperson.
- f. All procedural questions related to the hearing are subject to the final decision of the chairperson.

- g. The only witnesses permitted to present testimony to the Board will be those persons with direct (not second-hand or hearsay) knowledge about the events or matters under consideration by the Board. The number of witnesses will be determined by the chairperson of the Judicial Board.
- h. The Board hearings follow prescribed procedures and the Board is advised by a faculty or staff member, who is appointed by the chair-person in consultation with the Associate Dean of Student Affairs and serves as a non-voting member of the Board. The advisor to the Judicial Board may, at his/her discretion, advise the accused student and/or the accused student's advisor, as to procedural matters during the hearing.
- i. An accused student may have an advisor of his/her choosing from within the university community present at the hearing. The advisor may be selected from faculty, staff, and students. The advisor shall not participate directly in any aspect of the hearing; the advisor may only address the accused student. It is the student's responsibility to present all aspects of his/her own defense.
- j. There shall be a single verbatim record in the form of a tape recording with Judicial Board hearings, not including the deliberations. The record shall be held in confidence and shall be destroyed after the appeal process has been exhausted.
- k. After the hearing, the Board shall determine (by majority vote) whether the student has violated the Student Code and, if appropriate, a sanction(s) for such violation. The Board's decision shall be on the basis of whether it is more likely than not that the accused student violated the Student Code. The Board's decision and appropriate sanction will be recommended to the Associate Dean of Student Affairs or his/her designee. The Associate Dean of Student Affairs shall communicate in writing his/her decision to the accused student.

D. INTERIM SUSPENSION

- 1. Interim Suspension may be imposed only: a) to ensure the safety and well-being of members of the university community or preservation of university property; b) to ensure the student's own physical or emotional safety and well-being; or c) if the student's presence is viewed as either

- dangerous to persons or property, or disruptive to normal campus functions or to members of the university community.
2. During the Interim Suspension, a student is denied access to the residence halls and/or to university premises and/or all other university activities or privileges for which the student might otherwise be eligible, as the Vice President for Student Affairs or his/her designee may determine to be appropriate.
 3. Any student placed on interim suspension must contact the Director of Judicial Affairs on the next business day.
 4. The student may return to campus at the appointed time for his/her judicial hearing or such time the Vice President of Student Affairs or his/her designee determines is appropriate.

E. THE APPEAL PROCESS

An accused student may appeal a decision of any level of the judicial system within five (5) days of written notification of the decision. A person(s) bringing the complaint or accusation does not have the opportunity for appeal. The decision of any appellate authority is final.

1. The Appeal Authority

- a. Appeals presented from cases heard by an Experience Director are directed to the Director of Residential Life.
- b. Appeals presented from cases heard by a Director of Residential Life are directed to the Associate Dean of Student Affairs.
- c. Appeals presented from cases heard by the Associate Dean of Student Affairs are directed to the Vice President for Student Affairs.
- d. Appeals presented from cases heard by the Vice President for Student Affairs are directed to the President of the University.
- e. Appeals presented from cases heard by the Judicial Board are directed to the University's Appeals Board.

- f. Appeals presented from cases heard by an Administrative Hearing Board are directed to the Vice President for Student Affairs.

2. Grounds for Appeal

One or more of the following grounds for appeal must be present; these are the only grounds upon which a judicial decision may be appealed:

- a. There is significant new information relevant to the case which was not available at the time of the original hearing.
- b. There is evidence that the person(s) or Board that held the original hearing was unduly biased in deciding the matter.
- c. The sanction imposed was capricious (e.g. the sanction was excessive when compared with previous sanctions for similar violations under similar circumstances for students with similar disciplinary records).

3. Process for Administrative Appeals

An administrative appeal is one, which is heard by the Director of Residential Life, the Associate Dean of Student Affairs, the Vice President for Student Affairs, or the President of the University.

- a. The appeal must be in writing and must state the specific ground(s) for appeal.
- b. The appeal must be delivered to the appropriate Appellate Authority.
- c. The Appellate Authority shall determine what evidence, documentation, etc. is necessary to consider the appeal. The Appellate Authority will not normally meet with the student presenting the appeal; thus, the written appeal should be thorough and complete.
- d. If sufficient grounds for appeal are evident, the Appellate Authority will take action on the appeal. Choices of action are to sustain, decrease, increase, modify, or void the sanction. When circumstances warrant, as determined by the Appellate Authority, the case may be referred back to the original level of judicial system for review of the case (e.g. where new evidence exists, which was not available at the time of the original hearing) he/she

may choose to have the case reheard (e.g. the original judicial body was unduly biased). Whenever a case is referred back to the original judicial body, the original sanction, unless modified or vacated by the Appellate Authority, will remain in full force and effect, pending such further review or rehearing. The outcome of the new hearing, whether by the original body or a new one, becomes the final decision on the case.

- e. If sufficient grounds for appeal are not evident, the Appellate Authority will identify this to be the case, and the appeal will not be heard; the original sanction will stand.

4. Process for University Appeals Board

The University Appeals Board considers only those appeals presented from cases heard by the Judicial Board. The University Appeals Board is appointed and consists of one (1) administrator, one (1) faculty or staff member from an academic division, and one (1) student. Members of the Appeals Board will read and consider an appeal. The findings of the University Appeals Board shall be advisory to the University President and final action on such appeals will rest with the President.

- a. The student should consult with the Associate Dean of Student Affairs for information related to the University Appeals Board and its process. It is the student's responsibility to thoroughly understand the process before proceeding to an appeal. Any questions should be made to the Associate Dean of Student Affairs.
- b. The appeal must be presented in writing within five days of written notification of the decision and must state the ground(s) for appeal.
- c. The appeal must be delivered directly to the Associate Dean of Student Affairs within the time period specified within the original Judicial letter.
- d. Normally, neither the President nor the Appeals Board will meet with the student presenting the appeal in determining sufficiency of the grounds for appeal.
- e. Normally, the Appeals Board will meet within ten (10) days of receipt of the appeal from the Associate Dean of Student Affairs to determine sufficiency of grounds for appeal.

- f. If sufficient grounds for appeal are present, the Appeals Board will recommend action on the appeal to the University President. Choices of action are to decrease, sustain, increase, modify, or void the original sanction. When circumstances warrant, as determined by the Appeals Board, a case may be referred back to the original level of the judicial system for a review of the case (e.g. new evidence not available at the time of the original hearing), or the Appeals Board may choose to have the case reheard (e.g. the original judicial body was unduly biased). Whenever a case is referred back to the original judicial body, the original sanction, unless modified or vacated by the Appeals Board or the University President, will remain in full force and effect, pending such further review or rehearing. The outcome of the new hearing, whether by the original body or a new one, becomes the final decision on the case.
- g. If sufficient grounds for appeal are not present, the Appeals Board will advise the University President accordingly, and no appeal will be heard; the original sanction will stand.

5. Status Of A Student During An Appeal

Normally the sanction determined by the judicial body shall be in effect immediately and remain in effect, pending the appeal process. Any exception to this may only be made with the approval of the Vice President for Student Affairs and shall only be made for rare and extenuating circumstances.

Should the sanction be to separate a student from the University (University Suspension or University Expulsion), the Associate Dean of Student Affairs may allow a student to continue in classes if the student is not seen as a threat or danger to any member of the university community, or as a source of disruption to the normal operations to the university community. This provision is to prevent the assumption of the resolution, of the appeal process. Should the appeal process result in the original sanction being upheld, the student will be withdrawn from all enrolled classes as of the date of the original sanction, in accordance with policy recommended by the University's Academic Standards Committee.

F. NOTICE TO PARENTS AND ACADEMIC ADVISORS

Parents or guardians will be informed in any instance of their student being sanctioned with Censure or a more severe sanction. A student's academic advisor will also be informed in any instance of the student being sanctioned

with Censure or a more severe sanction. Administrators/staff determined to have a need to know will also be notified.

G. SANCTIONS

1. Determination of an appropriate sanction shall be based upon the seriousness of the violation and the student's previous disciplinary record. Students are expected to learn sufficiently from the disciplinary process so as not to have repeated violations of the Student Code. Should a student repeatedly violate other sections of the Student Code, the minimum sanction imposed would be at least as severe as the previous sanction.
2. Repeated violations of policies relating to underage possession/consumption of alcohol or irresponsible use of alcohol will result in progressively more severe sanctions. Sanctions will generally result in: a warning and educational sanction for first offense, conduct probation and work hours for a second offense, and university suspension for a third offense. [Passed by SGA, 1999]
3. Violations relating to damage and/or vandalism will result in a minimum of restitution and a 25% fine. A repeat violation will likely result in a residence hall suspension. [Passed by SGA, 2002]
4. Violations regarding the false activation of a fire alarm system may result in fines.
5. More than one sanction listed below may be imposed for any single violation.
6. With the exception of University Expulsion, disciplinary sanctions shall not be recorded on the student's permanent academic transcript, but shall become part of the student's personal record maintained in the Office of Student Affairs. Upon graduation, the student's personal record may be expunged of disciplinary sanctions with the exception of University Expulsion, upon written application by the student to the Vice President for Student Affairs.
7. Failure to comply fully with the conditions of any imposed sanction shall lead to more serious disciplinary action, including the possibility of suspension or expulsion from the residence halls and or suspension or expulsion from the University.

8. A written record of all disciplinary sanctions issued to a student will be maintained in the student's personal record maintained in the Office of Student Affairs.
9. The following sanctions may be imposed upon a student who has violated the Student Code.
 - a. **Written Warning** consists of formal notification that the student has violated the Student Code and advises that repetition will result in a more severe sanction. A written record of the warning is made.
 - b. **Educational Sanction** is a non-punitive sanction usually imposed in conjunction with another sanction. Educational sanctions may include, but are not limited to, professional counseling, change in residence hall, participation in an educational program, writing a research paper, a supervised work project, etc. The educational sanction must be completed within the manner and time stated as part of the sanction. Participation in certain programs may be withheld or restricted until educational sanctions are completed (e.g. participation in room lottery).
 - c. **Restitution** is full payment for the cost of damage(s), as determined by the University, of materials and labor for repair or replacement of damaged, destroyed, or stolen university property.
 - d. **Fines** may be assessed by the University for certain actions such as (but not limited to) false activation of a fire alarm.
 - e. **Censure** is an official reprimand for violation of the Student Code; repeated violations of the Student Code shall result in a more severe sanction; may be attached to the loss of specified privileges; an educational sanction is normally attached to Censure.
 - f. **Conduct Probation** is a serious reprimand for a violation of a specific university policy. The loss of specified privileges may also be involved. Conduct Probation is for a specified period of time, and more severe disciplinary sanction(s) will be imposed should the student further violate any university policy.
 - g. **Residence Hall Suspension** separates a student from the residence halls for a specified period of time, or until specified conditions are met. A student suspended from the residence halls may continue to attend classes and utilize the University's dining hall. However,

he/she shall not enter, nor be in the immediate vicinity of, any residence hall; this includes lawn areas, sidewalks, parking lots near the residence halls, etc.

- h. **Residence Hall Expulsion** is a permanent separation of the student from the residence halls. A student expelled from the residence halls shall also lose all future visitation privileges and utilization of the University's dining hall; the rationale for this is that a student permanently separated from the residence halls and associated group activities shall also lose the privilege of gathering in the dining hall with other students. The student may not enter, nor be in the immediate vicinity of any residence halls.
- i. **Suspension from Non-Academic Activities** is a separation of the student from all nonacademic activities and functions (e.g. visitation to the residence halls, student activities and programs, sport events, intramural/recreation programs, recreation facilities, athletics, etc.) for a specified period of time.
- j. **Expulsion from Non-Academic Activities** is a permanent separation of the student from all nonacademic activities and functions (e.g. visitation to the residence halls, student activities and programs, sport events, intramural/recreation programs, recreation facilities, athletics, etc.).
- k. **University Suspension** is a separation of the student from the University and all university premises, for a specified period of time, or until certain predetermined conditions are met. Readmission after university suspension is not automatic and must have the approval of the Associate Dean of Student Affairs.
- l. **University Expulsion** is the permanent separation of the student from the University, and all university premises. The expulsion will be noted on the student's academic transcript as follows "Expelled per Student Code of Conduct," and the effective date of the expulsion will be noted. This notation will be a permanent part of the student's academic transcript.

H. REVIEW BY PRESIDENT OF THE UNIVERSITY

In all matters concerning this Code, the decision of the University President is final. The University President reserves the right to review all decisions related to student judicial affairs and may sustain, decrease, increase, modify, or void the sanction. When circumstances warrant, as determined by the University

President, the case may be referred back to the original level of the judicial system for review of the case (e.g. when new evidence exists which was not available at the time of the original hearing).

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