

# Student Conduct and Discipline

**Section:** II: Student Affairs

**Chapter:** 1

**Date Updated:** August 29, 2013

## 1.1 General Provisions

All students are expected and required to obey federal, state, and local laws, to comply with the Regents' *Rules and Regulations*, with The University of Texas System and University rules and regulations, with directives issued by an administrative official of the U.T. System or The University of Texas at El Paso in the course of his or her authorized duties, and to observe standards of conduct appropriate for an academic institution.

## 1.2 Applicability

Each student is responsible for the notice of and compliance with the provisions of the Regents' *Rules and Regulations* and the rules of the University.

### 1.2.1 Who is Subject to Discipline

Any student who engages in conduct that violates the Regents' *Rules and Regulations*, the U. T. System or University rules and regulations, specific instructions issued by an administrative official of the University or the U. T. System acting in the course of his or her authorized duties, or federal, state, or local laws is subject to discipline. A student is subject to discipline for prohibited conduct that occurs on or off campus, including but not limited to University or U.T. System sponsored off-campus activities such as field trips, internships, rotations, clinical assignments, practicum training, or student teaching, regardless of whether civil or criminal penalties are also imposed for such conduct.

### 1.2.2 Scholastic Dishonesty

Any student who commits an act of scholastic dishonesty is subject to discipline. Scholastic dishonesty includes but is not limited to cheating, plagiarism, collusion, the submission for credit of any work or materials that are attributable in whole or in part to another person, taking an examination for another person, any act designed to give unfair advantage to a student or the attempt to commit such acts.

### **1.2.3 Drugs**

Any student who is found responsible for the illegal use, possession and/or sale of a drug or narcotic is subject to discipline. If a student is found responsible for the illegal use, possession, and/or sale of a drug or narcotic on campus, the minimum sanction assessed shall be suspension from the University for a specified period of time and/or suspension of rights and privileges.

### **1.2.4 Health or Safety**

Any student who engages in conduct that endangers the health or safety of any person may be subject to discipline.

### **1.2.5 Harassment**

Any student who engages in conduct that is harassment of any University community member, including sexual harassment as defined in Section VI. Equal Opportunity of the UTEP Handbook of Operating Procedures, may be subject to discipline.

### **1.2.6 Disruptions**

Any student who, acting singly or in concert with others, obstructs, disrupts, or interferes with any teaching, educational, research, administrative, disciplinary, public service, or other activity or public performance authorized to be held or conducted on campus or on property or in a building or facility owned or controlled by the U.T. System or University is subject to discipline. Obstruction or disruption includes but is not limited to any act that interrupts, modifies, or damages utility service or equipment, communication service or equipment, University computers, computer programs, computer records or computer networks accessible through the University's computer resources.

### **1.2.7 Inciting Lawless Action**

Any student who engages in speech, either orally or in writing, which is directed to inciting or producing imminent lawless action and is likely to incite or produce such action is subject to discipline.

### **1.2.8 Engaging in Gambling or Dishonesty**

Any student who engages in gambling and/or dishonesty on property, buildings, or facilities owned or controlled by the U.T. System or University is subject to discipline.

### **1.2.9 Unauthorized Use of Property**

Any student who engages in the unauthorized use of property, equipment, supplies, buildings, or facilities owned or controlled by the U.T. System or University is subject to discipline.

### **1.2.10 Hazing**

Any student who, acting singly or in concert with others, engages in hazing is subject to discipline. Hazing in State educational institutions is prohibited by State law (Texas Education Code Section 51.936 and Sections 37.151-37.157). Hazing with or without the consent of a student whether on or off campus is prohibited, and a violation of that prohibition renders both the person inflicting the hazing and the person submitting to the hazing subject to discipline. Knowingly failing to report hazing can subject one to discipline. Initiations or activities of organizations may include no feature that is dangerous, harmful, or degrading to the student, and a violation of this prohibition renders both the organization and participating individuals subject to discipline.

### **1.2.11 Altering of Official Documents**

A student who alters or assists in the altering or forging of any official record of the U.T. System or University or who submits false information or omits requested information that is required for or related to an application for admission, the award of a degree, or any official record of the U. T. System or University is subject to discipline. A former student who engages in such conduct is subject to bar against readmission, revocation of degree, and withdrawal of diploma.

A student participates or assists in the forging, altering or duplicating any parking permit, traffic ticket or parking ticket issued by the University; any ticket for admission to a program or event sponsored by the University; any means of identification issued by the University; any instrument obligating the University to pay any sum of money; any key which may be used for entering any building owned or controlled by the University; or participating in such actions with other persons;

### **1.2.12 Vandalism and/or Theft**

Any student who defaces, mutilates, destroys, or takes unauthorized possession of any property, equipment, supplies, buildings, or facilities owned or controlled by the University or the U.T. System is subject to discipline.

Any student who commits theft, steals, or takes unauthorized possession of any personal property of any community member within the buildings, or facilities owned or controlled by the University or the U.T. System is subject to discipline.

### **1.2.13 Use of Explosives, Weapons or Hazardous Chemicals**

Unless authorized by federal, state, or local laws, a student who possesses or uses any type of explosive, firearm, imitation firearm, ammunition, hazardous chemical, or weapon as defined by state or federal law, while on campus or on any property or in any building or facility owned or controlled by the U.T. System or University, is subject to discipline.

### **1.2.14 Information Resources Systems Usage Violations**

Students using University information resources or connecting to University information resources with a personal or non-University owned system will be held responsible to know and to adhere to all University policies and procedures regarding Information Resource Usage (including Section VIII, Facilities Services, Safety, Information and Technology, Chapter 4 of the UTEP Handbook of Operating Procedures) as well as state and federal rules and regulations. Information Resources System usage violations include, but are not limited to, unauthorized system/network activity and unauthorized distribution or altering of programs and/or data.

### **1.2.15 Sale or Use of Alcoholic Beverages**

The University enforces all state and federal laws or regulations which regulate and control the sale or use of alcohol on campus, including those pertaining to the possession of alcohol by minors. University regulations prohibit the possession and/or consumption of alcoholic beverages on University property without prior written authorization by appropriate administrative officials and are strictly enforced. Customers of legal age under state law may purchase and consume alcoholic beverages in areas on the campus specifically designated for the public sale and consumption of beer and wine, and residents of University Housing are authorized to possess and consume beer and wine in the privacy of their living quarters, if they are of legal age under state law. Students in violation of these policies will be subject to University discipline in addition to possible criminal prosecution by civil authorities.

### **1.2.16 Prohibited Conduct During Suspension**

A student who receives a period of suspension as a disciplinary sanction is subject to further disciplinary action for prohibited conduct that takes place during the period of suspension.

### **1.3 Bar from Campus**

A former student who has been suspended or expelled for disciplinary reasons is prohibited from being on the campus of any U.T. System institution during the period of such suspension or expulsion without prior written approval of the chief student affairs officer of the U.T. System institution at which the suspended or expelled student wishes to be present. In a request for such approval, the former student is required to disclose in writing each institution from which the individual has been suspended or expelled and the conduct leading to the disciplinary action.

### **1.4 Disciplinary Process**

The Dean will conduct an investigation, determine whether to proceed with the charges, and if so, propose the appropriate sanction. Students will have the opportunity to appeal disciplinary action.

#### **1.4.1 Investigation**

Allegations of misconduct will be investigated by the Dean or the Dean's designee. The Dean may contact a student for a meeting for purposes of the investigation and/or to discuss the allegations. The Dean may also issue a summons for these purposes. A summons shall be in writing, specify a place for the meeting and a time at least three weekdays after the date of the written request if the request is sent regular mail, or at least two weekdays after the date of the request if the request is sent by email or hand delivered. The written request may be mailed to the address appearing in the records of the registrar, emailed to the student at the e-mail address on record with the University, or may be hand delivered to the student. If a student fails to appear without good cause, as determined by the Dean, the Dean may bar or cancel the student's enrollment or otherwise alter the status of the student until the student complies with the summons. If the student failing to appear as directed in a summons is the student against whom charges are being reviewed, in addition to the above, the Dean may proceed with disciplinary action based upon other information available using the disciplinary procedures below. The refusal of a student to accept delivery of the notice, the failure to maintain a current address with the registrar, or failure to read mail or e-mail shall not be good cause for the failure to respond to a summons.

#### **1.4.2 Reviewing the Evidence and Determining the Sanction**

The Dean will review the evidence, determine whether to proceed with charges, and, if so, determine the sanction appropriate to the charges. Before proceeding with disciplinary action, the Dean will offer the student the opportunity to meet to provide a response to the charges and, upon request, to review the available evidence supporting the charges.

### **1.4.3 Interim Disciplinary Action**

Pending a hearing or other disposition of the allegations against a student, the Dean may take such immediate interim disciplinary action as is appropriate to the circumstances when such action is in the best interest of the University. This includes but is not limited to a suspension and bar from the campus when it reasonably appears to the Dean from the circumstances that the continuing presence of the student poses a potential danger to persons or property or a potential threat for disrupting any activity authorized by the University. In the event interim disciplinary action is taken, an expedited hearing will be offered in accordance with Section 1.5 below.

### **1.4.4 Withholding Transcripts, Grades, Degrees**

The Dean may also withhold the issuance of an official transcript, grade, diploma, certificate, or degree to a student alleged to have violated a rule or regulation of the U.T. System or the University that would reasonably allow the imposition of such sanction. The Dean may take such action pending a hearing, resolution by administrative disposition, and/or exhaustion of appellate rights if the Dean has provided the student an opportunity to provide a preliminary response to the allegations and if in the opinion of the Dean, the best interests of the U.T. System or the University would be served.

### **1.4.5 Uncontested Cases with Agreed Sanctions**

In any case where the accused student elects not to dispute the facts upon which the charges are based and agrees to the sanctions the Dean assesses, the student may execute a written waiver of the hearing procedures and waiver of any appeals under the policy. This administrative disposition shall be final and there shall be no subsequent proceedings regarding the charges.

### **1.4.6 Challenging the Disciplinary Action**

- (a) In those cases in which the accused student disputes the facts upon which the charges are based, the charges shall be heard and determined by a fair and impartial Hearing Officer in accordance with Section 1.5 below. However, a student may elect to sign an administrative disposition waiving the right to the hearing under Section 1.5, but reserving the right to appeal only the sanction. Such an appeal regarding the sanction will be to the University President or his/her designee as determined by University procedures in accordance with Section 1.7 below.

- (b) Burden of Proof. Upon a hearing of the charges, the Dean or other University representative has the burden of going forward with the evidence and has the burden of proving the charges by the greater weight of the credible evidence.

## **1.5. Hearing Process.**

### **1.5.1 Interim Disciplinary Action Accelerated Hearing**

When interim disciplinary action has been taken by the Dean under Section 1.4.3 above, the student will be given the opportunity to have a hearing of the charges in accordance with the procedures specified in Section 1.5.5 below within 10 days after the interim disciplinary action was taken; however, at the discretion of the Dean, the 10-day period may be extended for a period not to exceed an additional 10 days.

### **1.5.2 Notice of Hearing**

Except in those cases where immediate interim disciplinary action has been taken, the accused student shall be given at least 10 days written notice of the date, time, and place for such hearing and the name of the Hearing Officer. The notice shall include a statement of the charge(s) and a summary statement of the evidence supporting such charge(s). The notice shall be delivered in person to the student or mailed to the student at the address appearing in the registrar's records. A notice sent by mail will be considered to have been received on the third day after the date of mailing, excluding any intervening Sunday. The date for a hearing may be postponed by the Hearing Officer for good cause or by agreement of the student and Dean.

### **1.5.3 Impartiality of the Hearing Officer(s)**

The accused student may challenge the impartiality of a Hearing Officer(s). The challenge must be in writing, state the reasons for the challenge, and be submitted to the Hearing Officer(s) through the Office of the Dean at least three days prior to the hearing. The Hearing Officer(s) shall be the sole judge of whether he or she can serve with fairness and objectivity. In the event a Hearing Officer(s) disqualifies himself or herself, a substitute will be chosen in accordance with procedures of the University.

### **1.5.4 Duties of Hearing Officer(s)**

The Hearing Officer(s) is responsible for conducting the hearing in an orderly manner and controlling the conduct of the witnesses and participants in the hearing. The Hearing Officer(s) shall rule on all procedural matters and on objections regarding exhibits and testimony of witnesses, may question witnesses, and is entitled to have the advice and assistance of legal counsel from the Office of General Counsel of the U.T. System. The Hearing Officer(s) shall render and send to the Dean and the accused student a written decision that contains findings of fact and a conclusion as to whether the accused student is responsible for the violations as charged.

Upon a finding of responsibility the Hearing Officer(s) shall assess a sanction or sanctions specified in Section 1.6 below. When an accused student is found responsible for the illegal use, possession, or sale of a drug or narcotic on campus, the assessment of a minimum sanction provided in Section 1.2.3 above is required.

#### **1.5.5 Procedures**

The hearing shall be conducted in accordance with procedures consistent with the following:

- (a) Each party shall provide the other party a list of witnesses, a brief summary of the testimony to be given by each, and a copy of documents to be introduced at the hearing at least five days prior to the hearing.
- (b) Each party shall have the right to appear, present testimony of witnesses and documentary evidence, cross-examine witnesses, and be assisted by an advisor of choice. The advisor may be an attorney. If the accused student's advisor is an attorney, the Dean's advisor may be an attorney from the Office of General Counsel of the U.T. System. An advisor may confer with and advise the Dean or accused student, but shall not be permitted to question witnesses, introduce evidence, make objections or present argument to the Hearing Officer(s). In sexual harassment/sexual assault cases, the alleged victim shall have the right to be present throughout the hearing, to have an advisor present during the hearing, to have irrelevant past sexual history with third parties excluded from the evidence; and to have a closed hearing.
- (c) The Dean may recommend a sanction to be assessed by the Hearing Officer(s). The recommendation may be based upon past practice of the University for violations of a similar nature, the past disciplinary record of the student, or other factors deemed relevant by the Dean. The accused student shall be entitled to respond to the recommendation of the Dean.
- (d) The hearing will be recorded. If either party desires to appeal the decision of the Hearing Officer(s) in accordance with Section 1.7 below, the official record will consist of the recording of the hearing, the documents received in evidence, and the decision of the Hearing Officer(s). At the request of the University President or his/her designee for the appeal, the recording of the hearing will be transcribed and both parties will be furnished a copy of the transcript.

## **1.6. Sanctions**

The following sanctions may be assessed, singularly or in any combination, by the Dean or by the Hearing Officer(s) as applicable, in accordance with these procedures:

- 1.6.1** A written warning that further violations may result in a more severe penalty.
- 1.6.2** Disciplinary probation.
- 1.6.3** Withholding of grades, official transcript, and/or degree.
- 1.6.4** Bar against readmission.
- 1.6.5** Restitution or reimbursement for damage to or misappropriation of University or U.T. System property.
- 1.6.6** Suspension of rights and privileges, including participation in athletic or extracurricular activities.
- 1.6.7** Failing grade or reduction of a grade for an examination, assignment, or for a course.
- 1.6.8** Denial of degree.
- 1.6.9** Suspension from the University for a specified period of time.
- 1.6.10** Expulsion (permanent separation from the University).
- 1.6.11** Revocation of degree and withdrawal of diploma.
- 1.6.12** Other sanction as deemed appropriate under the circumstances.

## **1.7. Appeal Procedures**

A student may appeal a disciplinary sanction assessed by the Dean in accordance with Section 1.6(a) above. Either the Dean or the student may appeal the decision of the Hearing Officer(s). In sexual harassment/sexual assault cases, the alleged victim may pursue an appeal under the same procedure as the accused student. An appeal shall be in accordance with the following procedures

### **1.7.1 Appeal Procedures**

The appealing party must submit a written appeal stating the specific reasons for the appeal and any argument to the University President or his/her designee (hereafter "Appeal Official") with a copy to the other party. The appeal must be stamped as received in the office of the Appeal Official no later than 14 days after the appealing party has been notified of the sanction assessed by the Dean or the decision of the Hearing Officer(s).

If the notice of sanction assessed by the Dean or the decision of the Hearing Officer(s) is sent by mail, the date the notice or decision is mailed initiates the 14-day period for the appeal. The non-appealing party and in sexual harassment/sexual assault cases, the alleged victim, may submit a response to the appeal, which must be received by the Appeal Official no later than five days after receipt of the appeal, with a copy to the other party. An appeal of the sanction assessed by the Dean in accordance with Section 1.4.6(a) above will be reviewed solely on the basis of the written argument of the student and the Dean. The appeal of the decision of the Hearing Officer(s) will be reviewed solely on the basis of the record from the hearing. The Dean will submit the record from the hearing to the Appeal Official as soon as it is available to the Dean. At the discretion of the Appeal Official, both parties may present oral argument in an appeal from the decision of the Hearing Officer(s).

### **1.7.2 Appeal Official's Authority**

The Appeal Official may approve, reject, or modify the decision in question or may require that the original hearing be reopened for the presentation of additional evidence and reconsideration of the decision. It is provided, however, that upon a finding of responsibility in a case involving the illegal use, possession, and/or sale of a drug or narcotic on campus, the sanction may not be reduced below the sanction as prescribed by Section 1.2.3 above.

### **1.7.3 Communication of Decision**

The action of the Appeal Official shall be communicated in writing to the student(s) and the Dean within 30 days after the appeal and related documents have been received. The decision of the Appeal Official is the final appellate review.

## **1.8. Disciplinary Record**

The University shall maintain a permanent written disciplinary record for every student assessed a sanction of suspension, expulsion, denial or revocation of degree, and/or withdrawal of diploma. A record of scholastic dishonesty shall be maintained for at least five years unless the record is permanent in conjunction with the above stated sanctions. A disciplinary record shall reflect the nature of the charge, the disposition of the charge, the sanction assessed, and any other pertinent information. This disciplinary record shall be maintained by the Office of the Dean of Students. It shall be treated as confidential, and shall not be accessible to anyone other than the Dean or University officials with legitimate educational interests, except upon written authorization of the student or in accordance with applicable state or federal laws or court order or subpoena.

## **1.9. Student Right-to-Know and Campus Security Act**

In compliance with the Student Right-to-Know and Campus Security Act of 1990 (the Act), 20 U.S.C. §§ 1092(a), (e) and (f), as amended, The University of Texas at El Paso collects specified information on campus crime statistics, campus security policies, and institutional completion or graduation rates.

**1.9.1** Pursuant to the federal law, alleged victims of violent crime are entitled to know the results of campus student disciplinary proceedings concerning the alleged perpetrators.

**1.9.2** The University will make timely reports to the campus community on crimes considered to be a threat to students and employees and reported to campus police or local police agencies.

**1.9.3** The University will publish and distribute an annual report of campus security policies and crime statistics to all current students and employees and provide copies of the report to applicants for enrollment or employment upon request.

**1.9.4** Information regarding graduation rates may be found in the Office of Admissions. Information on crime statistics may be found at:  
<http://admin.utep.edu/Default.aspx?tabid=37475>.

## **1.10 Definitions**

**Administrative Disposition** – A document signed by the student and Dean which includes a statement of the disciplinary charges, the findings, the sanction and a waiver of the hearing procedures and possibly a waiver of appeals under Regents' *Rules and Regulations*, Rule 50101, Part 2, and University rules regarding student discipline.

**Business Day**– Monday through Friday, excluding any day that is an official holiday of the institution or when regularly scheduled classes are suspended due to emergent situations.

**Campus** – Consists of all real property, buildings, or facilities owned or controlled by the University.

**Chief Student Affairs Officer** – The Vice President for Student Affairs who is the administrative officer primarily responsible for the development and administration of policies relating to students, for the development and implementation of services to students, and for the initial preparation of University regulations that will implement the policies and regulations set forth in this rule.

**Day** – A calendar day, except for any day that is an official holiday of the University or when regularly scheduled classes are suspended due to emergent situations.

Dean or Dean of Students – Refers to the administrative officer or officers responsible for the administration of the disciplinary process at the University. The Dean of Students may designate individual(s) to administer disciplinary cases under this policy.

Hearing Officer – An individual or individuals selected in accordance with procedures adopted by the University pursuant to the recommendation of the Vice President for Student Affairs to hear disciplinary charges, make findings of fact, and, upon a finding of responsibility, impose an appropriate sanction(s).

Student – The following persons shall be considered students for purposes of these policies and regulations:

1. A person currently enrolled at the University.
2. A person accepted for admission or readmission to the University.
3. A person who has been enrolled at the University in a prior semester or summer session and is eligible to continue enrollment in the semester or summer session that immediately follows.
4. A person who engaged in prohibited conduct at a time when he or she met the criteria of 1, 2, or 3 above.

#### **1.11. Authority/Related Policies**

*Regents' Rules and Regulations, Series 50000, Rule 50101*