

**EXISTING RULE:**

**58. University Disciplinary Appeals Panel**

(Revised: 2004)

*The decision as to which procedure to utilize for a grievance filed by a student shall be made solely by the university and shall be based on the fact pattern of each particular case. Each grievance shall be directed to a specific procedure and shall be accorded only one opportunity to be adjudicated unless the appeal body remands for further review.*

**Scope**

The University Disciplinary Appeals Panel will hear all appeals concerning deferred suspension, suspension, dismissal, and expulsion that are the result of a finding of responsibility for violation of the Student Code of Conduct. For all other sanctions imposed for a violation of the Student Code of Conduct, an administrative officer, appointed by the Dean of Student Life, shall hear the case. Decisions made by a lower level hearing body shall not be final until an appeal deadline is passed, or when the appeal process is exhausted, or when a student chooses not to appeal.

**Membership**

Members are appointed by the university president, and a panel assembled to hear an appeal will consist of the chair, three faculty representatives, and two student representatives.

**Procedures**

58.1 The student must complete an appeal request form (available from the chair of the panel) within five university business days of the decision regarding disciplinary action taken by the university.

The following are the only accepted bases for appeal:

58.1.1 A violation of student rights (see [rule 26](#)): To determine whether the original hearing was conducted fairly in light of the charges and evidence presented, and in conformity with prescribed procedures giving the accused student a reasonable opportunity to prepare and present rebuttal of allegations.

58.1.2 The finding of responsibility: To determine whether the decision reached regarding the accused student was based on a preponderance of the evidence, that is, whether the facts in the case were sufficient to establish that a violation of the Student Code of Conduct occurred.

58.1.3 Severity of the sanction(s): To determine whether the sanction(s) imposed were appropriate for the violation of the Student Code of Conduct which the student was found to have committed.

58.1.4 Information not available at the time of the original hearing: To consider new information, sufficient to alter a decision or other relevant facts not brought out in the original hearing, because such information and/or facts were not known, or could not have been known, to the person appealing at the time of the original hearing.

58.2 Upon receipt of the written request for a hearing, the chair shall set a time and place for the hearing as soon as practicable.

58.3 The chair shall sit as a hearing officer and shall not take part in the vote or otherwise participate in the deliberations of the panel except to cast the tie breaking vote.

58.4 The proceedings of the appeal process shall be informal in nature and need not comply with the formal processes associated with the criminal and civil courts.

58.5 Right to have one person serve as a personal advisor/counselor to consult during the appeal proceedings. (Students who are charged in the same fact pattern, or who are not in good standing with the university are not eligible to serve as an advisor/counselor at appeal proceedings). A personal advisor or counselor (who may be an attorney) may appear at the appeal proceedings with the accused student to provide advice, but may not represent the accused student or directly

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question or cross-examine witnesses, except in a case where the university is represented by an attorney. There is no restriction on who a student may consult or seek advice from, the restriction pertains to the appeal proceedings only.

58.6 The appropriate university representative and the appealing student shall be afforded the opportunity for a reasonable oral presentation and shall be permitted to file typewritten or reproduced material.

58.7 The chair shall cause all portions of the hearing to be recorded, except for the panel's deliberations. The appealing student may obtain a copy of the recording at his/her own expense.

58.8 The panel may take any of the following actions in response to an appeal: they may review the case and uphold the findings and/or sanctions from the previous level; they may review the case and reverse a finding of responsibility for any or all charges; they may review the case and reduce the sanction(s); they may review the case and require that it be heard again by the original hearing body.

58.9 After hearing an appeal, the panel will go into closed session to deliberate. Upon conclusion of its deliberation (which may take place over the course of several days), the panel shall inform the student of its decision. A letter outlining the decision of the panel shall be sent to the appealing student.

**RULE CHANGES:**

<http://student-rules.tamu.edu/rule58>

**JUSTIFICATION FOR PROPOSED CHANGE:**

1. The changes to content of the Student Rules being proposed are a reflection of national best practices, most notably referencing the *21<sup>st</sup> Century Model Student Conduct Code* (Stoner, E. & Lowery, J., 2004) and the *General Order on Judicial Standards of Procedure and Substance in Review of Student Discipline in Tax Supported Institutions of Higher Education* (45 F.R.D. 133). This General order is recommended reading to anyone seeking to understand the relationship between judicial systems and campus systems regulating student conduct
2. Texas A&M University was involved in litigation over the University's Student Rules in one particular case until appeals were exhausted at the Supreme Court level in spring 2010. The Student Rules were not to be altered in any way until this litigation was resolved.
3. The U.S. Department of Education, through its Office of Civil Rights, issued a "Dear Colleague Letter" on April 4, 2011 providing guidance in procedures in dealing with cases of sexual harassment and sexual violence throughout institutions of education (this includes K-12).
4. There were a number of grammatical and punctuation changes made as well as changes made for consistency of language used in higher education conduct proceedings versus legal system language.

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**Approved by Student Rules and Regulations Committee: 4/20/12**

**Approved by Faculty Senate: 11/12/12**

**Approved by President: 12/21/12**