




MEMORANDUM

DATE: August 3, 2018

TO: Julie Harlin
Speaker, Faculty Senate

FROM: Dr. Anne Reher 
Chair, Rules and Regulations Committee

SUBJECT: Proposed Revisions to the Texas A&M Student Rules

Attached please find proposed revisions to the Texas A&M University Student Rules as approved by the Rules and Regulations Committee. These changes are for the following section:

Change to Rule 58 (Sections 58.5 and 58.6)

Approved by the Student Rules & Regulations Committee August 3, 2018.

Approved by the Faculty Senate September 6, 2018.

Approved by the President September 21, 2018.

Proposal to Revise Texas A&M University Student Rules

Instructions: One copy of this form is to be completed and submitted by the individual or unit representative proposing a change in the Texas A&M University Student Rules. Please use a separate form for each proposed change. If additional copies are needed, feel free to duplicate.

Committee Use Only:

Date of Action: _____

Action:

_____ Pass

_____ Fail

_____ Table

Effective Date: _____

PLEASE TYPE OR PRINT CLEARLY USING AN INK PEN.

A. PROPOSAL TO EDIT/CHANGE AN EXISTING RULE:

Rule Title: University Disciplinary Appeals Panel

Section #: 58.6

Proposed New Wording:

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, reproduced material, or other material directly related to the basis for appeal.

58.6.1. In cases involving sexual misconduct, sexual harassment, dating violence, domestic violence, or stalking, the complainant shall also be afforded the opportunity for a reasonable oral presentation and shall be permitted to file typewritten, reproduced material, or other material directly related to the basis for appeal.

B. PROPOSAL TO ADD A NEW RULE:

Rule Title: _____

Section #: _____

Proposed New Wording:

C. PROPOSAL TO REMOVE AN EXISTING RULE:

Rule Title: _____

Section #: _____

D. JUSTIFICATION FOR A, B OR C ABOVE:

This proposed change reflects the practice of the University Disciplinary Appeals Panel to allow for complainant participation in cases involving sexual misconduct, sexual harassment, dating violence, domestic violence, or stalking. The practice has been informed by prior federal regulatory guidance from the United States Department of Education, Office of Civil Rights (OCR), as well as the 2015 legislative update to the Jeanne Clery Act.

PROPOSED BY:

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Date: July 10, 2018

Return to
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Chair, Rules and Regulations Committee
1256 TAMU
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58. University Disciplinary Appeals Panel

(Revised: ~~2015~~ 2018)

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 suspension and expulsion that are the result of a finding of responsibility for violation of the Student Conduct Code. For all other sanctions imposed for a violation of the Student Conduct Code, an administrative officer, appointed by the Dean of Student Life or designee, shall hear the case (for students enrolled on the campus of the TAMU Law School, the Assistant Dean for Student Affairs or the Associate Dean for Academic Affairs will be the point of contact for the University Disciplinary Appeals Panel at this location; for students enrolled at other campuses outside of Brazos County (College of Dentistry, College of Medicine, College of Pharmacy, College of Nursing, School of Public Health, and Texas A&M University at Qatar) the Associate Dean for Student Affairs at each college/school will be the point of contact for the University Disciplinary Appeals Panel at each respective location.) 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. The University Disciplinary Appeals Panel will hear most appeals concerning cases of alleged or determined sexual misconduct, sexual harassment, dating violence, domestic violence, or stalking regardless of the sanctions imposed; cases may be deferred to the Dean of Student Life or alternative appeal body, as referenced above, at the discretion of the chair should there be no sanctions of suspension or expulsion, and no appeals seeking an increase in sanctions.

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. In the event that only two faculty members are available at the time of a scheduled appeal, a staff representative will serve in the third faculty member's stead. For a college/school on other campuses outside of Brazos County (College of Dentistry, College of Medicine, College of Pharmacy, College of Nursing, School of Public Health, and Texas A&M University at Qatar) a panel will be composed of at least three members.

Procedures

58.1. The appealing student must complete an appeal request form (available from the chair of the panel) within five (5) 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. Failure to adhere to the guidelines outlined in section 26: To determine whether the original conference was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures.

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

58.1.3. Information not available at the time of the original conference: To consider new information, sufficient to alter a decision or other relevant facts not brought out in the original conference, 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 conference.

58.2. Upon receipt of the written request for an appeal conference, if one or more bases for the appeal are supported by the appeal documents, the chair shall set a time and place for the hearing as soon as practicable. The appeal conference may proceed in the student's absence.

58.3. The chairperson shall not take part in the vote or otherwise participate in the deliberations of the panel except to consult panelists regarding University Rules and Procedures.

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. The appealing student, or in cases of sexual misconduct, ~~or sexual harassment,~~ **dating violence, domestic violence, or stalking,** the accused student and complainant, ~~has~~ **have** the right to be assisted by an advisor s/he chooses, at his/her own expense.

58.5.1. The advisor may not be an attorney unless the accused student is also the subject of a pending subsequent criminal matter arising out of the same circumstances or the charges include one or more charge of sexual harassment, sexual misconduct, dating violence, domestic violence, or stalking; in such cases, the accused student may be allowed to have an attorney serve as his/her advisor, at his/her own expense, to behave in the same manner as any other advisor.

58.5.2. 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 at conduct proceedings.

The appealing student, or in cases of sexual misconduct, sexual harassment, dating violence, domestic violence, or stalking the accused student and complainant, are responsible for presenting their own information. Therefore, a student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the appeal panel. Appeal panels will not typically be delayed due to scheduling conflicts of an advisor. 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, reproduced material, or other material directly related to the basis for appeal.

58.6.1. In cases involving sexual misconduct, sexual harassment, dating violence, domestic violence, or stalking, the complainant and/or accused student shall also be afforded the opportunity for a reasonable oral presentation and shall be permitted to file typewritten, reproduced material, or other material directly related to the basis for appeal.

58.7. There shall be a single verbatim record, such as a tape or digital recording, of all appeals before the University Disciplinary Appeals Panel. Deliberations shall not be recorded. The record shall be the property of the University.

58.8. The panel may take any of the following actions in response to an appeal: they may review the case and uphold the sanctions from the previous student conduct conference; they may review the case and reduce the sanction(s); they may review the case and require that it be heard again by a Student Conduct Panel through the Offices of the Dean of Student Life. Only in cases involving sanctions for sexual misconduct, sexual harassment, dating violence, domestic violence, or stalking where the complainant appeals, the appeal panel may also increase the sanction(s).

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. Following an appeal, the matter shall be considered final and binding on all parties involved.
