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## The Regents' Appeals Policy and the Twin Cities Campus Appeals Procedures:

### The Student Discipline System

In 1979, the Regents of the University of Minnesota adopted a policy on appeals of student and student organization disciplinary matters. The regents' policy mandates that any University student or registered student organization charged with violation of a University rule or standard must have the opportunity to receive a fundamentally fair hearing and access to at least one campus-wide appeal. The Appeals Policy further directs each campus to develop appeals procedures to govern those cases of individual scholastic, non-scholastic, and student organization misconduct heard in original campus jurisdictions.

These procedures for appeals of disciplinary matters on the University of Minnesota Twin Cities Campus have been developed and approved by the Twin Cities Campus Assembly in November, 1978, to implement the University's concern for both substantive and procedural fairness for the accused student or student organization. The Appeals Policy and procedures are published and made available on request in order to inform all members of the University of the grounds on which appeals of disciplinary decisions may be based and the process governing students and student organization appeals on the University of Minnesota Twin Cities Campus.

#### **REGENTS APPEALS POLICY: STUDENT DISCIPLINE**

The Board or Regents of the University of Minnesota believes that any student or student organization charged with violation of a University rule or standard must have the opportunity to receive a fundamentally fair hearing and access to at least one campus-wide appeal. In order to safe-guard the rights of students and student organizations, each campus must have developed and approved an appeals procedure to govern those cases of individual scholastic, non-scholastic, and student organization misconduct heard in original campus jurisdictions. The procedure must reflect the

University's concern for both substantive and procedural fairness for the accused student or student organization, including both the student/student organization's and institution's right to the resolution of a case within a reasonable period of time. The procedure must specifically include sections stating: (1) the grounds for an appeal; (2) the procedures for filing an appeal, and (3) the nature of an appellate review.

When the procedures have been accepted by an appropriate campus body, a copy (and future revisions) will be forwarded to the Secretary, Board of Regents.

This policy superseded existing disciplinary appeals policies in contradiction and specifically repeals the Appeals Policy approved by the Board or Regents, January 11, 1963. (Adopted by the Board of Regents, February 9, 1979).

## ***TWIN CITIES CAMPUS APPEALS PROCEDURES: STUDENT DISCIPLINE***

### **I. INTENT**

The Board of Regents has delegated the authority for student discipline to the president. The president has authorized the University Grievance Office (and through the University Grievance Office, other staff/student administrative agents) and the Campus Committee on Student Behavior to handle original individual and student organization complaints. Such complaints arise from alleged violations of (1) "A Statement of Standards of Student Conduct Enforceable by University Agencies" or (2) "Policies Affecting Registered Student Organizations."

Complaints of alleged scholastic dishonesty involving a student enrolled in the same college in which the disputed behavior originated is a disciplinary matter within the jurisdiction of that college. As described in the University Senate Constitution and some college constitutions, each institute, college, or school of collegiate rank controls the internal affairs and policies of its own institute, college, or school, including the specific academic disciplinary matter of scholastic dishonesty. This policy applies to appeals in the area of student conduct arising from the decisions of collegiate disciplinary bodies, administrative disciplinary hearing units, or the Campus Committee on Student Behavior.

A hearing body will instruct a student when the hearing is being

conducted under the guidelines of a full due process hearing as cited in footnote (1). That hearing body will then be responsible for following those guidelines. It is the responsibility of the hearing body to provide a copy of this appeals procedure to the student.

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## II. CHANNELS FOR APPEALS

It is anticipated that most alleged disciplinary violations can be handled on a person-to-person basis without the necessity of a formal hearing. However, within the system covered by this policy, any student or student organization charged with a disciplinary violation is entitled to one hearing at the collegiate or administrative unit level that assures fundamental fairness in its procedures. Attempts at person-to-person resolution of complaints by academic or administrative staff will not be considered formal hearings for purposes of this policy and complaints unable to be resolved at those levels will be forwarded to the appropriate formal hearing body.

Although any college or administrative unit may, if they so choose, provide more than one hearing, it is from the first full due process hearing that a decision can be appealed outside the collegiate or administrative unit structure. From that first full hearing provided to the student or student organization, a single appeal is permitted to an all-campus appellate body. The recommendations of an all-campus appellate body shall be reported to the President of the University for action.

There are two designated all-campus appellate bodies, the Campus Committee on Student Behavior (which can also hear original complaints) and the President's Student Body Review Panel (a standing presidential advisory committee that functions only as an appellate body.) If a complaint is heard by an administrative unit in the first instance, one all-campus appeal is permitted to the Campus Committee on Student Behavior. If a complaint is heard by a collegiate body of the Campus Committee on Student Behavior in the first instance, one all-campus appeal is permitted to the President's Student Body Review Panel. In those instances where a case has been returned to an original hearing body for reconsideration or a rehearing, more than one appeal request to the all-campus appellate body will be permitted.

1 (What constitutes minimal fundamental fairness in a University hearing

depends upon a number of factors, not the least of which is the seriousness of the potential maximum penalty. However, a fundamentally fair hearing usually allows for at least a person(s) or group to present their case including witnesses; to hear all evidence against them; to question adverse testimony; to be confronted by their accusers; to be accompanied or represented by an advisor of his/her own choice; and to be notified in writing of the following: (a) the complaint or facts that constitute the charge; (b) the time, date, place of the hearing; (c) the range of sanctions available to the hearing body; (d) the decision of the hearing body, and (e) the procedure for an appeal if guilt was determined. There is the presumption of innocence until guilt is proven, as well as commitment to a promptly scheduled hearing. Finally, a formal record, a tape recording, or a verbatim transcript of the initial full due process, must be kept for appellate purposes.)

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### **III. PROCEDURES FOR FILING AN APPEAL**

A request for an all-campus appeal to the President's Student Body Review Panel or the Campus Committee on Student Behavior must be filed with the University's conduct code coordinator. The request for an appeal must be filed in writing within ten weekdays (excluding University-observed holidays) of receipt of the decision of the original hearing body. The request should state the grounds on which the person or group believes the original hearing body clearly erred and offer preliminary argumentation as to the support of their claims according to the criteria specified below. In matters involving requests for appeals, the conduct code coordinator's sole function is to forward the request for appeal to the secretary or chairperson of the appropriate appellate body. The conduct code coordinator will forward a request for appeal immediately upon receipt of the written request.

Under extreme circumstances, an extension of time may be requested, but the request for extension must be presented to the conduct code coordinator within the ten weekdays time limit (excluding University-observed holidays.) The chairperson of the appellate body will decide on the merits of the request whether to grant or reject the extension and, if granted, what new time limit will be imposed.

### **IV. GROUNDS FOR AN APPEAL**

Appellate bodies are concerned with reviewing and deciding only those matters raised in the written appeal. Under no circumstances will an appellate body become involved in rehearing an original

complaint. The following will be recognized as grounds for appeal within the University's disciplinary system:

1. The decision was made without benefit of relevant evidence not reasonably available at the time of the initial hearing. (If this ground is favorably reviewed, the case will be returned to the original body for presentation of the new evidence.)
2. The hearing was procedurally unfair, in that: (a) the original hearing deviated in a substantial way from the body's established hearing procedures, or (b) during the first full hearing of the original complaint, a student right established under University policy was violated.
3. The sanction was clearly inconsistent with the severity of the alleged violation of rules or policy.
4. The decision was made contrary to the weight of the evidence.
5. The interests of the residents, group, college, or the University were not adequately or sufficiently weighed and considered.

The grounds for appeal as specified will not preclude the filing of an appeal in other instances that can be documented or supported as a valid claim for review. If a new ground is to be proposed by the appellant, the ground should be clearly stated and documented in the written request for the appeal.

Voting member bias will not be acceptable ground for appeal as long as each party to the complaint is given the right to challenge, with cause, seated members. The chair will rule on the merits of the challenge and decide whether or not the challenged member(s) should be excused.

In any written requests and initial hearings on appeals, the mere assertion of any of the stated or created grounds for appeals alone will not constitute sufficient reason for an appellate body to accept the appeal for review. The statement of grounds must be supported in writing and at the initial hearing with reasoned argumentation and, if possible, with specific references to testimony, procedures or rulings that support the assertions.

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## **V. NATURE OF APPELLATE REVIEW**

In the hearing of a disciplinary appeal at any level of adjudication

within the University, the appellate body will focus on the central question: has the previous adjudicative agency clearly erred?

The appellate body will initially meet to determine whether the grounds for appeal are sufficient as presented to warrant a formal review. This hearing is based on the written request for an appellate review transmitted to the secretary or chairperson of the review board and whatever argument is necessary to support the written request. Only in unusual cases will a ground for appeal not cited in the written request be allowed to be added at the time of the first hearing. This initial hearing will not involve the substance of the appeal, only the merits of the grounds as presented.

If the appellate body finds the grounds as established sufficient and convincing to warrant a formal review, they will commence such a review within one month and conclude within a reasonable amount of time thereafter. In addition, the appellate body will review the record of the proceedings of the previous adjudicative agency prior to the actual appellate hearing. If no formal record of the previous hearing was made, the appellate body may dismiss the case or return the matter to the original body for a rehearing. Both the initial pre-hearing and the appellate hearing are open public hearings either party to the original complaint requests the chair to close the hearing(s). The chair will approve all such requests.

If, as part of the appeal, new evidence that is demonstrated not to have been reasonably available at the time of the original hearing and that is also demonstrated as potentially having a substantial impact on the outcome of the original hearing is introduced, the complaint will be returned to the previous adjudicative agency for a hearing of the new evidence. The appellate body will, in other cases, accept the factual determinations of the previous agency if it determines that the agency had a reasonable basis for its findings. This is done with the understanding that a choice between one of two or more permissible interpretations of the evidence or testimony is not clearly erroneous. An appellate body will also accept the determinations of the previous agency regarding policy interpretations and sanction dispositions if such determinations cannot be shown to be clearly erroneous in light of the record.

If the appellate body determines that the previous agency did not sufficiently weigh or consider the interests of the University college or group, or clearly lacked a reasonable basis for making its findings, applying or interpreting a policy, or determining its sanctions, the appellate body will proceed in a manner to amend or reverse the previous agency's decision. If the appellate body

decides that the previous agency clearly erred in a matter involving substantial procedural unfairness, they may dismiss the case, amend or reverse the previous decision, or return the case for a rehearing. If an appellate body determines that in a procedurally based appeal a rehearing at the original hearing level is appropriate, attention should be given to the possibility that the original body has become incapable of rendering a fair decision and, dependent on the nature of the alleged procedural unfairness, the appellate body may consider the possibility of mandating alternate panel membership.

If the determination of the original agency regarding the appropriateness of sanctions to the application of policy is overruled on the basis of disagreement rather than clear error, the original hearing body will be informed in writing of the basis for the decision so that guidelines for the application of future sanctions or policy interpretations can be made. In all cases, the previous adjudicative agency will be notified of the disposition of any appeal.

Approved by the Twin Cities Campus Assembly, November, 1978.  
Reviewed by the Board of Regents, March, 1979.

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