

REGULAR MEETING OF THE UNIVERSITY FACULTY SENATE

September 9, 1974

MINUTES

The regular meeting of the University Faculty Senate was called to order at 4:05 PM. Senators not in attendance were:

Gordon R. Bonner	William S. Gaither	Allen L. Morehart
Mary K. Carl	Billy P. Glass	Stanley I. Sandler
Richard I. Dick	Robert N. Hill	John C. Wriston
Colin Flaherty	Kenneth Lewis	

The agenda, as distributed, was adopted by general consent.

The minutes of the regular meeting of May 6, 1974, and the continuation of that meeting on May 13, and 23, 1974, were approved by general consent.

Professor Mosberg introduced the actions of the May 18, 1974, meeting of the Board of Trustees, and the annual report of the Council on Teacher Education.

On July 1, 1974, Professor Mosberg became Chairman of the Department of Educational Foundations. This is the first time that a President of the Senate has held an administrative position and Professor Mosberg felt that since he was elected President of the Senate before becoming a department chairman, the Senate should have the opportunity to review and discuss the advisability of his continuing as Senate President. Brief discussion showed it was the consensus of the Senate that no conflict of interest existed, and a call for the order of the day was adopted by general consent.

Professor Mosberg introduced the responses from legislators on the Senate's letters on summer foreign student employment. He pointed out that most responders were in agreement with the resolution and that the ruling does not exclude foreign students from being employed but transfers the authority to give permission to the United States Immigration and Naturalization Service itself.

At a recessed meeting of the Senate on May 13, 1974, a motion was approved for a referendum of the faculty with the tenure-policy recommendations being furnished to all members of the faculty. Professor Mosberg restated those results as: 268 responses; 181 approved policy; and 87 disapproved policy. He further stated it was difficult to compile responses because responses were very varied. Comments to those objecting to the policy weren't much different from comments made by those accepting the policy. The main comments were:

1. Objections to "up and out" phase of policy. Faculty not ordinarily being promotable would be dismissed by this policy even though they contributed largely to their department.

2. Objection of passing any policy with quotas. If adhering to a fifty-percent quota, a number of faculty members who would ordinarily receive tenure would not receive tenure under new policy and would be dismissed.
3. Objection that probationary starting period was not well specified.
4. This policy was cheapening tenure; getting tenure without meeting scholarly achievements should not be recognized.
5. No "grandfather" clause. Those who have given eight to ten years of service and haven't received tenure should not come under this policy.
6. Objection that tenure would not be awarded to instructors.
7. Objection to tying tenure to promotion and academic freedom. Academic freedom should apply to everyone, not just tenured people.
8. Reservations as to what the policy means when they talk of program reduction and long-term changes in enrollment in a way to reduce tenure ranks.

Professor Goodrich made the following motion:

"On being retained past a period of seven years no fulltime member of the teaching faculty will be dismissed except that it be demonstrated that the faculty member's retention would be disruptive of the educational and scholarly functions of his or her department."

The motion was seconded.

Professor Smith made a motion to return the report to the Committee on Promotions and Tenure now that objections have been viewed. The motion was seconded and passed unanimously.

The report from the Committee on Student Life on replacing the Student Judicial System had two changes:

1. Page 5, Section F, Operating Procedures:

Editorial change - The words "with which they disagree" should be inserted in F-3 so that it reads:

"If either the Vice President for Student Affairs or the President of the Senate determines that the Judicial Policy Board has passed a substantive change in the Judicial System with which they disagree, they should communicate directly to the Chairman of the Judicial Policy Board."

2. Motion to change F-5 on page 5 to read:

"If no compromise is reached, the issue will be referred to the Faculty Senate."

Dean McHugh made a motion to strike Section F, Operating Procedures. Motion was seconded and approved.

Professor Smith made a motion to strike in II-B-2, third sentence, "...through the Committee on Student Life." The motion was seconded and approved.

Professor Smith made a motion to delete II-B-1 and restore with old section that is currently in practice. Motion was seconded and approved.

Professor Smith made a motion to strike last sentence of II-C-7: "The Faculty Senate Committee on Committees has the authority to remove a person from the chairmanship." The motion was seconded but when put to a vote failed.

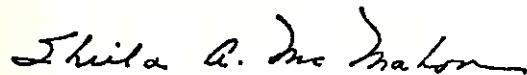
Professor Smith made a motion to delete in II-D-4, third sentence: "Substantive changes in codes are subject to approval by the Faculty Senate and Vice President for Student Affairs." The motion was seconded and approved.

The Student Judicial System as amended was approved. (Amended document attached.)

Professor Smith complimented the Committee on Student Life for a job well done.

Professor Schweizer reported on his proposed resolution concerning Board of Trustee Committees. (Resolution attached to the call for meeting.) Following a discussion, the motion was defeated.

The meeting adjourned at 5:40 PM.



Sheila McMahon, Secretary

Attachment: Student Judicial System

UNIVERSITY OF DELAWARE
Newark, Delaware

S T U D E N T J U D I C I A L S Y S T E M

Approved by the Faculty
February 9, 1970

Amended by the Faculty Senate
November 1, 1971
September 11, 1972
November 6, 1972
December 4, 1972
September 9, 1974

Bill/Res. No. S.R. 84

Approved by

UNIVERSITY FACULTY SENATE

Date September 9, 1974

Trustee Approval Needed

Yes
 No

STUDENT JUDICIAL SYSTEM

I. STATEMENT OF PHILOSOPHY

In any educational institution, the judicial system should serve as an instrument of education. Regulations for student conduct should be established for the purpose of maintaining standards of individual behavior which are consistent with the purposes of the institution.

A corollary purpose of a judicial system serving an educational institution should be to increase student responsibility and to provide a maximum opportunity for students to participate in the governance of their own lives within the educational community. To this end, students should have significant responsibility for the formulation and maintenance of standards of behavior, sharing this responsibility with the faculty and administration.

To assure widespread understanding of University policies and procedures governing student conduct, each student should be provided with a published description of the judicial system, to include rules and regulations pertaining to conduct, and, for various offenses, penalties proportional to the seriousness of the offenses.

To safeguard the rights of individuals who come before the judiciary system, the rights of the accused must be clearly stated and the principles of procedural due process clearly explained.

To protect the accused against errors in judgment which may occur in any judicial system, a right of appeal to a higher judicial body should be provided.

The judicial system must not discriminate on the basis of race, creed, color, or sex.

II. JUDICIAL POLICY BOARD

A. Responsibility

The JUDICIAL POLICY BOARD shall be a faculty body which shall review codes of conduct and may revise or establish policies governing student judiciaries in accordance with the powers hereinafter conferred upon it.

B. Authority

1. Section 5111 of Title 14 Del. C. provides:

"The faculty, consisting of the professors, instructors and others employed by the Board of Trustees, one of whom shall be President of the University, shall have the care, control, government and instruction of the students, subject, however, to the (Board of Trustees') by-laws."

2. The authority of the JUDICIAL POLICY BOARD, the various courts herein provided for, and the Student Government of College Councils with respect to the care, control and government of the students, is derived from and is subject to the powers of the faculty, which powers may be exercised by the faculty in such manner as they shall determine, subject, however, to the bylaws of the Board of Trustees. The JUDICIAL POLICY BOARD shall report periodically to the Vice President for Student Affairs. The JUDICIAL POLICY BOARD shall report yearly to the Faculty Senate. Communication between the Board and the University of Delaware Coordinating Council (UDCC), the Resident Student Association (RSA), the University Commuters Association (UCA), the Black Students Union (BSU), and/or the Central Fraternity Government (CFG) shall take place as outlined in paragraph E, LEGISLATIVE POLICY of this section.

C. Membership

1. The membership of the JUDICIAL POLICY BOARD shall be: four students, two faculty members, and two professional members.
2. The faculty members will be elected or appointed for staggered two-year terms, in accordance with the Faculty Bylaws.
3. All four student members of the JUDICIAL POLICY BOARD will be appointed by the UDCC.
4. The Vice President for Student Affairs shall appoint the two professional members.
5. A quorum shall consist of five members.
6. Should a vacancy occur in the faculty or student membership during the school year, such vacancies shall be filled as provided for in the Bylaws of the Faculty or in the Bylaws of the University of Delaware Coordinating Council, respectively.
7. The Chairman of the JUDICIAL POLICY BOARD shall be elected by the Board at its first meeting each year from among the members of the Board. The Faculty Senate Committee on Committees has the authority to remove a person from the chairmanship.

8. A professional member will serve as recorder/secretary.
9. There will be an orientation program for all members after appointment.

D. Judicial Policy

The responsibility for establishing and revising policies governing judicial bodies and their effective operation shall rest with the JUDICIAL POLICY BOARD. The exercise of this responsibility shall include:

1. The establishment of standards of procedural due process.
2. The establishment of student judiciaries below the Student Court level as required. The authority and jurisdiction of these courts; composition and qualifications of their members; the procedural rules they will follow in hearing cases; and the types of infractions these courts will review and the penalties they may impose, shall be determined by the JUDICIAL POLICY BOARD. Prior to establishment of a lower student judiciary, the JUDICIAL POLICY BOARD shall invite and consider recommendations from the student organizations over which the lower court is to have jurisdiction. After adoption by the JUDICIAL POLICY BOARD, relevant policies should be incorporated into the Bylaws of the said student organizations.
3. Provision for the effective operation of the judicial system during the summer and periods of recess.
4. The JUDICIAL POLICY BOARD is responsible for revision and structure of codes of conduct. The Board has authority to codify rules, establish penalties, and assign jurisdiction. Also, outside professional assistance will be available to the JUDICIAL POLICY BOARD for student code of conduct revision.
5. The JUDICIAL POLICY BOARD shall require the Chief Justice of the Student Court, the Chairman of the Appellate Court, and Administrative Hearing Officers or their designees, to submit oral reports to the JUDICIAL POLICY BOARD in closed session on a monthly basis with written reports and supporting opinions for all cases heard. In addition, Resident Student Boards and District Courts will be expected to submit written monthly reports.

E. Legislative Policy

1. The SGCC, through the UDCC, the RSA, the UCA, the BSU, and/or the CFG, may formulate, legislate, and apply social policies and codes of conduct which pertain to the student body, subject to the authority of the faculty as delegated to the JUDICIAL POLICY BOARD.

2. The JUDICIAL POLICY BOARD shall have the responsibility for reviewing UDCC, RSA, UCA, BSU, and/or CFG legislation pertaining to social policies and codes of conduct; for submitting to the UDCC, RSA, UCA, BSU, and/or CFG, recommendations for modification of such legislation; and for proposing legislation to the UDCC, RSA, UCA, BSU, and/or CFG.
3. The JUDICIAL POLICY BOARD shall have the authority to veto, by majority vote, UDCC, RSA, BSU, UCA, and/or CFG legislation which it deems not in the best interest of the University Community. The JUDICIAL POLICY BOARD shall be obliged to act upon proposals submitted to it at the first legal meeting taking place four weeks after receipt of the proposal. Such action may be to approve, veto, refer to a committee to investigate, or refer to the originating body with recommendations to change the proposal. Minutes of the meetings of the above groups should be forwarded to the Chairman of the JUDICIAL POLICY BOARD.
4. Should the UDCC, RSA, UCA, BSU, and/or CFG fail to act upon legislation originally proposed to it by the JUDICIAL POLICY BOARD, as provided for in Section E, 2, above, the JUDICIAL POLICY BOARD may submit the proposed legislation to the Vice President for Student Affairs.
5. Should the UDCC, RSA, UCA, BSU, and/or CFG or the Faculty legislate modification in an existing rule which was established by Trustee resolution, and should the JUDICIAL POLICY BOARD approve or ratify such legislation, the Vice President for Student Affairs shall recommend to the President of the University that the legislation be included in the docket of the next meeting of the appropriate Trustee committee with the advice to this Trustee committee that the legislation has been enacted by the UDCC, RSA, BSU, UCA, and/or CFG or the Faculty and either approved or ratified by the JUDICIAL POLICY BOARD, and that it conflicts with a Trustee resolution. Such legislation will become effective if approved by the Trustee committee and the Board of Trustees.

F. Conduct Rules and Penalties

1. As codes of conduct are established, the JUDICIAL POLICY BOARD shall be responsible for determining which judicial body shall administer each new code. The UDCC may delegate to the appropriate student organizations, the responsibility for recommending policies and codes of conduct which apply specifically to the members of those organizations. Such legislation shall be subject to approval by the UDCC, RSA, UCA, BSU, and/or the CFG and the JUDICIAL POLICY BOARD, in the manner outlined above. In the case where such an organization operates a judicial body, the JUDICIAL POLICY BOARD shall delegate the responsibility for enforcement of these codes of conduct to that judiciary.

2. The JUDICIAL POLICY BOARD shall have the responsibility for codifying conduct rules and for assigning penalties which may be imposed for violation of these rules. The BOARD shall publish this rule codification in the STUDENT HANDBOOK or other appropriate publication.
3. As changes are made in the conduct code by the adoption of legislation passed by the UDCC, the RSA, UCA, BSU, and/or the CFG, or by the faculty, the JUDICIAL POLICY BOARD shall assign penalties to be imposed when a student is found guilty of an alleged violation of new or modified rules. The BOARD shall be responsible for informing the student body through notices in THE REVIEW of changes made in the conduct code and for the periodic updating of the published conduct code.

III. APPELLATE COURT

A. Authority

The authority of the APPELLATE COURT is derived from the JUDICIAL POLICY BOARD to which it is responsible.

B. Jurisdiction

This Court normally shall serve as the highest student appellate court. In the most extraordinary circumstances, an appeal may be made by a student found guilty by the Appellate Court. An appeal petition may be presented to the JUDICIAL POLICY BOARD. If accepted, the Board shall request the President of the Senate to appoint a special appeal panel of five faculty members to hear the appeal. Existing appeal procedures shall apply to that special panel.

C. Membership

The membership of the Appellate Court shall be:

1. Four faculty members, one of whom is elected by the court to serve as Chairman, appointed or elected with provision for continuity of membership as provided for in the Faculty Bylaws.
2. Four student members, appointed or elected with provisions for continuity of membership as provided for in the UDCC Bylaws which shall set forth the qualifications for such appointment or election.
3. A professional member appointed by the Vice President for Student Affairs. This person may not have a position responsibility directly related to the University Judicial System.
4. The Court, as annually reconstituted, shall begin its session as of May 1 of each year.

5. A quorum shall consist of seven members.
6. Should a vacancy occur in the faculty or student membership during the school year, such vacancies shall be filled as provided for in the Bylaws of the Faculty or in the Bylaws of the UDCC respectively.

IV. STUDENT COURT

A. Authority

The authority of the Student Court is derived from the JUDICIAL POLICY BOARD.

B. Jurisdiction

The STUDENT COURT is the highest student judicial body. It shall have two primary functions:

1. To serve as a judicial body to hear and decide cases of student misconduct referred to it by members of the Student Affairs staff designated by the Vice President for Student Affairs, or by other judiciaries.
2. To serve as an appellate court to hear appeals of disciplinary actions by any immediately subordinate student judicial body, or by administrative action.
3. In cases where there is no residence hall or district court of competent jurisdiction, the STUDENT COURT shall have primary jurisdiction.

C. Membership

The STUDENT COURT shall be composed of:

1. Seven student members, appointed in the manner provided for in the UDCC Bylaws. The Chief Justice shall be elected from among the student members at the first meeting of each year.
2. Four nonvoting advisors. Two of these advisors shall be members of the faculty appointed by the JUDICIAL POLICY BOARD; two shall be professional members appointed by the Vice President for Student Affairs. The advisors from the Vice President's Office should not be persons whose job description involves the judicial system. The primary role of the advisors shall be to serve as resource persons to the Court.
3. The term to be served by members and advisors of this court shall be for one year beginning in May. They may be reappointed to serve for successive terms.

4. A quorum for a hearing shall consist of five student members and one advisor.
5. A vacancy in the student membership of this court shall be filled as provided for in the UDCC Bylaws. A vacancy which may occur in the advisor positions shall be filled by the Court.

V. APPOINTMENT, ORIENTATION, AND REMOVAL OF CAMPUSWIDE STUDENT JUDICIAL BODY MEMBERS

- A. All members of the preceding courts are to be appointed by April 1, with orientation taking place during the month of April and the courts being installed on May 1.
 1. There will be an orientation program which will cover court procedure, the judicial document, court vocabulary, and basic judicial philosophy. The Chairman of the retiring court will call the sessions which will be seminars for old and new court members and can include outside expert advisors.
 2. The JUDICIAL POLICY BOARD will be responsible for assuring appropriate orientation and training programs for all levels of the judicial system.
- B. A member of a judicial body may be removed by the JUDICIAL POLICY BOARD for excessive absences from meetings of that body or other just causes. (It is further recommended that if deemed necessary by the JUDICIAL POLICY BOARD a "U" course be established to cover orientation subject matter that will be voluntary and optional for students, faculty and staff. A handbook will hopefully be prepared for this course.)

VI. JUDICIAL BODIES BELOW THE STUDENT COURT

Judiciaries subordinate to the Student Court, as may be required, may be established and assigned responsibilities for reviewing and imposing penalties for infractions of residence hall rules and other rules of social conduct appropriate to the level of the judiciary. The authority and responsibility for establishing lower judiciaries shall rest with the JUDICIAL POLICY BOARD.

VII. ENFORCEMENT OF UNIVERSITY RULES AND REGULATIONS

- A. In instances where an individual or group fails to demonstrate responsibility by repeating or persisting in an offense, the Vice President for Student Affairs, or his designated representative may, for the sole purpose of enforcement, impose a temporary suspension. It is an interim action effective immediately which

prohibits the presence of the student on the campus or any part of it until his case can be resolved in accordance with prescribed judicial procedures. The enforcement suspension is not entered on the student's record and does not affect his status except as described above.

- B. The device of enforcement suspension also may be used in cases where the continued presence of the individual on campus poses a threat to his wellbeing or to the rights and property of other members of the University community.
- C. Within 24 hours following the imposition of an enforcement suspension, the University officer taking that action shall review the circumstances of the case and determine whether he will continue the enforcement suspension. Promptly following this review, he shall file a complete report of the circumstances leading to the action specifying the present status of the individual(s) with the chairman of the JUDICIAL POLICY BOARD.
- D. Enforcement suspension is an emergency device and the suspended individual shall have his suspension reviewed by the appropriate court within three class days, or when the University is not in session as soon as possible.

VIII. ADMINISTRATIVE DISCIPLINARY HEARINGS

- A. Administrative disciplinary hearings shall be conducted by the Vice President for Student Affairs, or another Student Affairs Officer designated by him in the following circumstances:
 - 1. In those types of cases designated by the JUDICIAL POLICY BOARD.
 - 2. In any case when the Vice President for Student Affairs or his designee determines that timely action (normally within ten class days) is not possible by the judiciary which normally would hear the case; an exception may be made when both the accused and the accuser agree to postpone the case for a longer period of time. A student charged under this procedure is guaranteed a student court hearing should he request such a hearing.
 - 3. In any case when the student chooses not to appear before a judicial body and requests an administrative disciplinary hearing.
- B. Appeals of administrative disciplinary action are heard by the body normally having appellate jurisdiction of the code violation. For example, if jurisdiction for a particular code violation is assigned to the STUDENT COURT an appeal of an administrative action for a similar violation would be to the APPELLATE COURT.

IX. HEARING PROCEDURES AND STUDENT RIGHTS BEFORE THE JUDICIARY

(Items below marked with an asterisk are mandatory only at the STUDENT COURT and APPELLATE COURT levels. All other items are mandatory at all court or board levels).

- A. The accused shall have the right to a hearing (normally within ten class days) after charges are brought. The status of the accused shall not be altered, nor his campus privileges curtailed, pending action on the charges, except as provided in Section VII, ENFORCEMENT OF UNIVERSITY RULES AND REGULATIONS.
- *B. The accused shall be notified in writing, at least three days prior to the hearing of the time and place of the hearing and of the charges. This notice shall inform the accused of the Court's procedures and of his rights before the judiciary with specific reference to his right to have the charges sent to anyone he may designate, e.g., his faculty advisor. A letter of charges to a person accused of violating University standards, for a case under the jurisdiction of the Student Court or its equivalent administrative hearing, should be sent from the person bringing the charges (either the Division of Student Affairs or a member of the University community) explaining the charges to be brought. A document outlining the rights of the accused and specifically stating where the complete judicial document can be obtained should be sent to the accused from the Student Court or in cases being heard administratively, from the administrative officer hearing the case. (For Discovery Procedure, see Section E, Item 7.)
- *C. The accused shall have the right to select a counselor to attend the hearing to observe the proceedings and to assist him. The counselor selected by the accused shall be a member of the University community. If the accused selects a counselor he shall inform the court of the name of this person in advance of the hearing. The court, in turn, prior to the hearing shall inform the counselor of the court's procedures, the role of the counselor and the rights of the accused. Any member of the University community needing assistance may consult the University Judicial Aid and Referral Service.
- D. The court may call witnesses to give testimony. The accused shall have the right to present evidence and to call witnesses in his behalf, providing such evidence and witnesses afford information relative to the question of guilt and/or to the nature and extent of involvement in the offense charged.
- E. The following rules of evidence shall apply to all courts, boards and hearings.
 - 1. Hearsay: Unless no other evidence is available hearsay evidence shall not be permitted. When hearsay evidence is permitted because of lack of other evidence, the Court shall be instructed to consider it in light of the limitations

involved: lack of ability to cross-examine the original source; lack of corroboration.

2. Cross-examination: Whenever possible a witness should appear in person and be subject to cross-examination. If written or video-taped evidence is presented it must be obtained under conditions allowing for cross-examination and court supervision for accuracy of the testimony.
 3. Privilege: Since the Court cannot compel a witness to testify it will not face the problem of contempt for refusal to divulge privileged testimony but it will refuse to accept information given to a witness under conditions of privilege unless the giver and receiver consent. Privileged relationships shall include: information given to physicians, psychiatrists, psychologists, clergymen, lawyers or counselors, newsmen, or spouses.
 4. Documents: The original document upon which the testimony is based shall be furnished to the Court.
 5. Discovery: Any accused shall have the right to request a conference at which the accuser shall outline the case to be presented.
 6. Expert witnesses: Any party shall have the right to call expert witnesses from the University community and shall be responsible for substantiating the expertise of such witnesses.
 7. Previous record: No information concerning past record shall be revealed to a court prior to determination of the guilt of a defendant.
- F. The chairman shall inform the accused of the jurisdiction of the court and its procedures. He shall ascertain that the accused is aware of his rights and shall answer any questions the accused may have on these matters.
- G. Members of the court who have a conflict of interest in the case shall not sit in judgment; the validity of alleged conflict is to be determined by the chairman. The individual(s) bringing the charge(s) shall be required to attend. Hearings shall be open only to members of the court, to the person(s) bringing the charges, to the accused, to his advisor, to his counselor, to the appropriate member of the Student Affairs staff, and to witnesses. Witnesses shall be present only during the time they are testifying.
- *H. The charge(s) shall be presented by the member of the Student Affairs staff and/or the student(s) bringing the charges before the court.

- I. Evidence of guilt must be established beyond a reasonable doubt. No evidence shall be presented which was obtained in violation of any provisions of the judicial codes adopted by the JUDICIAL POLICY BOARD. Evidence or testimony not bearing specifically on the case shall not be admissible. Only evidence introduced during the hearing shall be considered by the Court or Board in its deliberations.
- J. The hearing shall be conducted as an informal discussion between members of the court and the accused. The accused shall have the right to hear and respond to all information and charges presented. He shall have the right to question witnesses and members of the court. He shall have the right to refuse to answer any question(s) or to make a statement. However, in such a situation the court shall make its decision on the basis of evidence available to it.
- K. After all evidence has been presented and the accused has been given the opportunity to make a final statement, the chairman shall dismiss all individuals who are not members of the court in order that the court may discuss the case and reach its decision. Decisions shall be by majority vote. Only after guilt has been established will the court consider the student's disciplinary record in levying sanctions.
- L. At the conclusion of the hearing, the chairman shall inform the accused at what time during the ensuing class day and by whom he will be advised of the decision reached in his case. Within two class days following the conclusion of the hearing, the chairman shall send written notification of the court's decision to the student. This communication shall inform the student of his right to appeal and the grounds and procedures for appeal. Copies of this letter shall be sent to the appropriate administrative officer(s) for action, and to other appropriate persons as in Section B. Director of Residence Life is to receive notification of the outcome of Judicial Board/Court's decision when the students involved are residential students.
- M. The court shall make an appropriate record of the proceedings, and such a record shall be made available to the accused student upon his request. In cases where proceedings have been tape recorded, the student and/or his advisor(s) shall have the right, upon request, to listen to the tape. The student(s) may request a duplicate copy of the tape recording of the court proceedings from the Office of Dean of Students. The student(s) will be expected to pay for the cost of the tape(s) and duplication.
- N. Normally, all information relating to the case heard by the court shall be confidential and not for public discussion by members of the court. Under certain unusual circumstances, the court and/or its members may release information in accordance with policies adopted by the JUDICIAL POLICY BOARD.
- O. Decision of the court/board shall become effective immediately.

(See Section Q.)

P. Petition for appeal ordinarily should be presented in writing (from either the accused or the person who brought the charges) within fourteen (14) class days of the receipt of the decision to the chairman of the court/board having appellate jurisdiction over the case. Appellate jurisdiction is confined to the next higher court/board except in extraordinary circumstances, as indicated in III-B. The written appeal should present the reasons for the appeal and factual information to substantiate those reasons. Upon receipt of the written petition for appeal, the chairman of the appeals court/board shall send copies of the appeal petition to the other party involved in the case being appealed and to the chairman of the court/board from which the case is being appealed. The chairman of the court/board and/or the other party then may file an answer to the appeal petition with the chairman of the appeals court/board. This answer must be returned within five days. After five days, but before ten class days, the chairman of the appellate court/board and at least two of the members of the court/board shall meet and examine the information presented to it (the appeal petition and the answers.) An appeal shall be granted when and if the written petition and answers to that petition present reason to believe that any of the following have occurred:

1. Procedures outlined in the Student Judicial Document have not been followed.
2. Additional information not available at the first hearing is available which could alter the outcome of the case. (Only in cases of appeal petition from the accused.)
3. The penalty imposed is inappropriate. (Only in cases of appeal petition from the accused.)

Q. The chairman of the appellate court/board or his representative shall defer the imposition of the penalty pending the decision on the appeal.

R. The appellate court/board will notify the appellant of the acceptance or denial of the petition for appeal within ten days after the review of such a request.

S. No student shall be twice subject to a complete student judicial hearing on the same act except on remand after an appeal.

X. HEARING PROCEDURES FOR APPELLATE CASES

A. If the appeal petition is granted, the major parties involved in the case being appealed will be notified in writing at least three class days prior to the scheduled appellate hearing of the time and place of the hearing and procedures of the appellate hearing. Major parties include: the person(s) bringing the appeal, the other party(ies) involved in the hearing being appealed and the chairman and the advisor(s) of the court/board which heard the original case.

- B. The chairman of the appellate board/court shall open the hearing by reading the petition of appeal and informing the persons involved in the appeal of the jurisdiction of the court/board and its procedures. He shall ascertain that all of the parties involved are aware of their rights and shall answer any questions they have in regard to these matters.
- C. Members of the appellate court/board who have conflicts of interest in the case shall not sit in judgment. The validity of alleged conflict is to be determined by the appellate board/court chairman.
- D. The major parties involved in the original hearing shall have the opportunity to be present, to hear all testimony presented to the court/board. The person who was charged in the original case may also have his faculty advisor and another advisor from the University community invited and present at the appellate hearing. The person presenting the charges may also have a member of the University community present at the appellate hearing as his/her advisor.
- E. The person(s) bringing the appeal should be required to attend the appellate hearing. The hearing shall be open only to members of the appellate court/board including the advisor(s), and the persons listed in (D) above and witnesses who shall be present only during the time that they are testifying.
- F. All of the major parties involved in the case being appealed shall have the right to respond to all information and charges presented, and to present evidence and call witnesses on their behalf providing such evidence and testimony affords information relevant to the basis of the appeal.
- G. The hearing shall be conducted as an informal discussion between members of the court/board and parties involved in the original case. The party who petitioned for the appeal and the other party or parties involved in the original charges may refuse to answer any questions presented to them at the hearing. A representative of the court/board with original jurisdiction over the case shall be required to answer questions, regarding the confidential deliberations on the case being appealed, only before members of the appellate court/board.
- H. After all evidence has been presented, the parties involved in the original case shall be given the opportunity to make a final statement with the person responsible for bringing the appeal presenting last. The chairman shall then dismiss all individuals who are not members of the appellate court/board in order to deliberate on the appeal. The decision of the court/board shall be based on a majority vote of the quorum sitting. A written decision shall be filed with JUDICIAL POLICY BOARD.
- I. If the decision of the appellate court/board is to grant the appeal, the appellate court/board may direct the lower court/board:

1. To have a complete rehearing. (In absence of other direction from the appellate court/board, a complete rehearing must be held.)
 2. To consider new information along with the previously heard information.
 3. To disallow previous testimony.
 4. To follow other appropriate directions.
- J. If the decision of the appellate court/board is to grant the appeal on the basis that the procedures as outlined in the Student Judicial System Document may not have been followed or on the basis that information is now available which was not available at the first hearing, then the appellate court/board must request a reconsideration of all the facts of the case by either the appellate court/board or the court/board which had original jurisdiction. If the appellate court/board feels that a review or rehearing of the case cannot be held by the original hearing court/board without bias, the reconsideration of the case must be held before the appellate court/board. A written decision shall be filed with JUDICIAL POLICY BOARD.
- K. If the appellate court/board grants an appeal on the argument that the penalty imposed was inappropriate, the appellate court/board may:
1. Sustain the lower court.
 2. Reduce the penalty imposed by the lower court/board.
 3. Remand the case to the lower court/board with instructions.
- A written decision shall be filed with JUDICIAL POLICY BOARD.
- L. Within two class days following the conclusion of the hearing, the chairman shall send written notification of the court/board's decision to the person bringing the appeal, the Office of the Dean of Students, the other party involved in the original case, and the chairman of the court/board from which the appeal was made. Upon conclusion of the hearing the accused shall be informed of the outcome.
- M. The decision of the appellate court/board shall become effective immediately.
- N. The court/board shall make a record of the proceedings of the hearing which shall be filed with the Office of the Dean of Students.
- O. All information relating to the hearing shall be confidential, and not for public discussion by persons involved in the hearing and used only in the event of an appeal or a review by JUDICIAL POLICY BOARD.

XI. PROCEDURES FOR ADMINISTRATIVE DISCIPLINARY HEARINGS

- A. The hearing procedures outlined in Section IX shall apply to all administrative hearings.

XII. PROCEDURES DURING INTERIM PERIODS

- A. An interim period shall be construed to mean that period of time from the last day of regularly scheduled classes of the Fall and Spring semesters until the first day of classes of the following semester. Normal procedures shall be followed at all other times.
- B. Appellate Court: The quorum for this court shall be reduced from five (5) to three (3) members during an interim period.
- C. Student Court: In the event that at least five members of this court are able to serve during an interim period, no changes in membership shall be required. During an interim period a quorum shall consist of three students and one advisor.
- D. District Courts: Membership on the court during an interim period shall consist of one representative from each Residence Hall which remains open during the interim period. In the event that the regular representative from a Residence Hall shall be unable to serve during an interim period, that dormitory shall select a temporary representative to serve during the interim period. A quorum for a district court shall consist of a majority of its members and one advisor.
- E. Residence Hall Courts: Each Residence Hall or area which remains open during an interim period shall maintain a judicial system. In the event that this cannot be accomplished the case shall be heard by the next higher court.

XIII. SANCTIONS

- A. The following actions and sanctions are available for use by the Student Courts, or an Administrative Hearing Officer.
1. Reprimand - in writing.
 2. Disciplinary Probation - A change of status in that the student is no longer in complete good standing.
 3. Suspension from the Undergraduate Division
 - a. Indefinite length suspension - Reinstatement possible after meeting stated requirements.
 - b. Definite length suspension - Suspension for specific periods of time defined at the time of the suspension.

Students suspended from the Undergraduate Division may take work in the Division of Continuing Education which may count toward his degree when reinstated.

4. Suspension from the University - As above but student may not enroll in any division of the University.
5. Assessment of charges for damages on a pro-rated basis payable to the University, to cover abuse of University property. Such charges shall not exceed the cost of repairs and/or replacement as determined by the Student Court in consultation with the appropriate University officer(s).
6. Other action as deemed appropriate by the hearing agency.

9/9/74