

UNIVERSITY FACULTY SENATE

SUMMARY OF AGENDA

September 10, 1990

- I. ADOPTION OF THE AGENDA
- II. APPROVAL OF THE MINUTES: May 7 and 21, 1990
- III. REMARKS BY PRESIDENT ROSELLE and/or ACTING PROVOST MURRAY
- IV. ANNOUNCEMENTS
 1. Senate President Goldstein
- V. OLD BUSINESS
 - A. Confirmation of Committee on Committees' appointments
 - B. Resolution, introduced by Senator Stanley Sandler at the May 21 Senate meeting, requesting a budget allocation for the purpose of seeking independent legal counsel
- VI. NEW BUSINESS
 - A. Election of the chairperson of the Committee on Committees and Nominations
 - B. Recommendation regarding a proposed new Graduate Student Judicial System Supplement to the Student Guide to Policies
 - C. Introduction of new business





University of Delaware

UNIVERSITY FACULTY SENATE
219 MCDOWELL HALL
NEWARK, DELAWARE 19716

(302) 451-2921
(302) 451-2922

August 27, 1990

TO: All Faculty Members

FROM: Kenneth M. Lomax, Vice President
University Faculty Senate

A handwritten signature in black ink, appearing to read "K. M. Lomax", written over the typed name.

SUBJECT: Regular Faculty Senate Meeting, September 10, 1990

In accordance with Section IV, paragraph 6 of the Consitution, the regular meeting of the University Faculty Senate will be held on Monday, September 10, 1990 at 4:00 p.m. in room 110 Memorial Hall.

AGENDA

- I. Adoption of the Agenda.
- II. Approval of the minutes of the Senate meetings of May 7 and 21, 1990.
- III. Remarks by President Roselle and/or Acting Provost Murray.
- IV. Announcements
 1. Senate President Goldstein
- V. Old Business
 - A. Request from the Committee on Committees (J. Olson, Chairperson), for Senate confirmation of committee appointments. (Attachment 1)

RESOLVED, that the appointments to Senate committees, as presented in Attachment 1 of this Agenda, are hereby confirmed.

- B. Resolution, introduced by Senator Stanley Sandler at the May 21 Senate meeting, requesting a \$10,000 per year allocation from the University budget for the purpose of seeking independent legal counsel.

RESOLVED, that the University Faculty Senate request a \$10,000 per year allocation from the University budget for the purpose of seeking independent legal counsel when this is deemed necessary by the Senate or its Executive Committee.

VI. New Business

- A. Election of a chairperson of the Committee on Committees and Nominations from among the committee members elected by the Senate.

Frank B. Dilley (Philosophy)

Jon H. Olson (Chemical Engineering)

- B. Recommendation from the Committee on Student Life (R. Spacht, past Chairperson) and the Committee on Graduate Studies (R. Exline, past Chairperson), regarding a proposed new Graduate Student Judicial System Supplement to the Student Guide to Policies. (Copy of the old (1986) and proposed new Graduate Student Judicial System Supplements are at Attachments 2a and 2b).

WHEREAS, the current Graduate Student Judicial Policy lacks clarity regarding the presentation of evidence to the accused, intermingles the responsibilities of the Graduate Office with those of the Committee on Graduate Studies, and involves more steps than are necessary or desirable to insure fair treatment to all parties, and

WHEREAS, the proposed revised policy resolves these problems, therefore be it

RESOLVED, that the proposed revised policy be adopted by the University Faculty Senate.

- C. Such items as may come before the Senate. (No action introduced at this time may be acted upon until the next meeting of the Senate.)

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Attachments:

1. Committee appointments
- 2a. 1986 Graduate Student Judicial System Supplement
- 2b. Proposed new Graduate Student Judicial System Supplement

COMMITTEE APPOINTMENTS FOR SENATE CONFIRMATION

LIBRARY COMMITTEE

Member: Richard J. Geider

STUDENT AND FACULTY HONORS

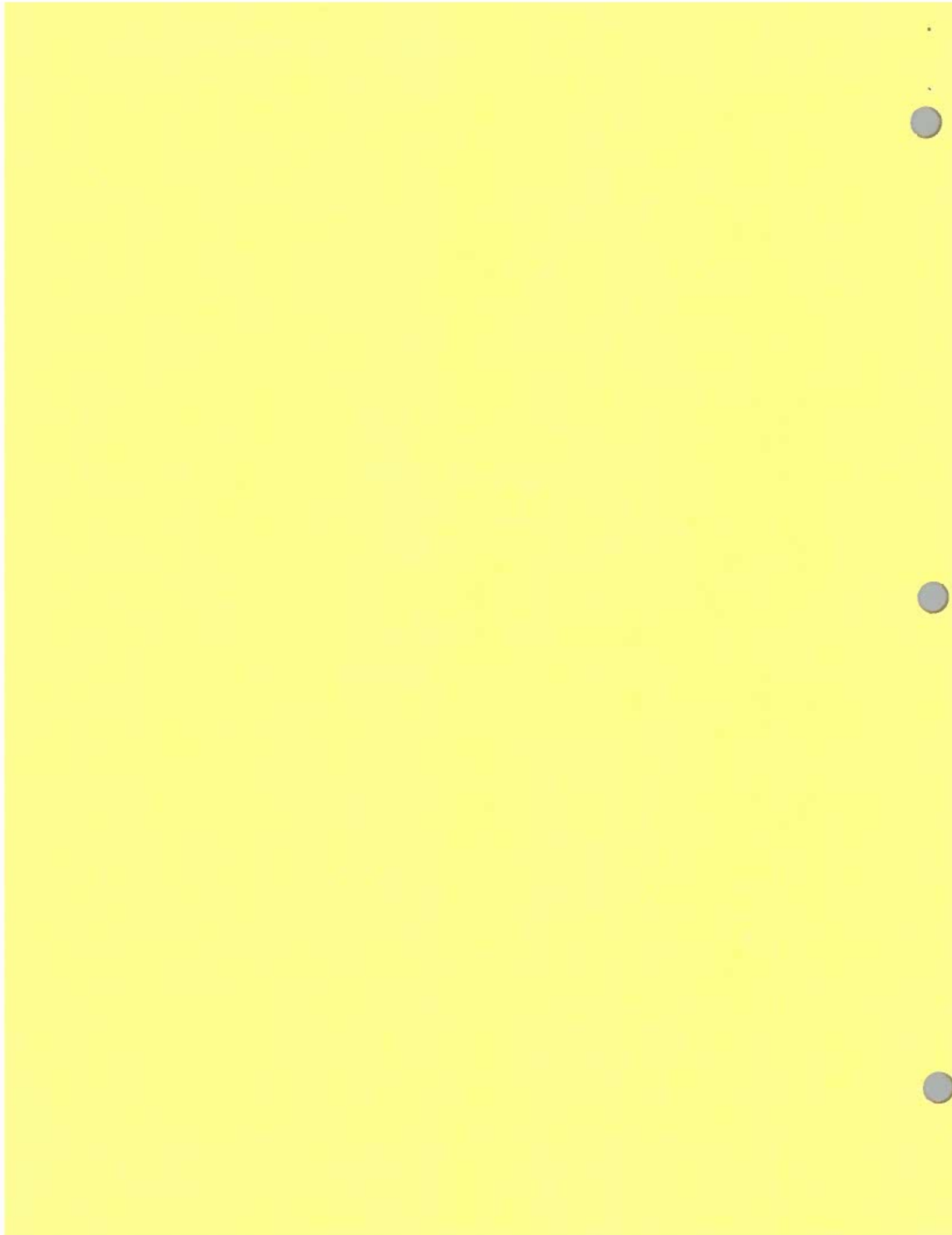
Member: John L. Gallagher

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1986 GRADUATE STUDENT
JUDICIAL SYSTEM
SUPPLEMENT
TO
THE STUDENT GUIDE
TO POLICIES



GRADUATE STUDENT JUDICIAL SYSTEM

All students at the University of Delaware are expected to follow the Code of Conduct as given in the Student Guide to Policies. University disciplinary action may be taken against graduate students who violate the Code of Conduct. If a graduate student is accused of a conduct violation by a member of the University community, the charge shall be processed through the Graduate Student Judicial System.

The Graduate Student Judicial System is administered by the Associate Provost for Graduate Studies as authorized by the Vice President for Student Affairs in conjunction with the Trustee Bylaws, Chapter 2. III.E.

I. Jurisdiction

The University Graduate Student Judicial System may hear cases of alleged violation of the University's Code of Conduct for the following:

1. For full or part-time matriculated graduate students if the alleged violation occurred during a period of time when the student was enrolled at the University or if the alleged violation occurred during a period of time when the student was not enrolled but was eligible to enroll.
2. For registered student organizations.

II. The University Graduate Judicial Board

The University Graduate Judicial Board shall determine the guilt or innocence of student(s) charged with violations of the University's Code of Conduct and shall decree sanctions.

Jurisdiction

The Judicial Board shall have jurisdiction over alleged violations of the Code of Conduct by graduate students.

Composition

The Judicial Board shall be composed of one faculty member from the student's department, program, or non-departmentalized college, one faculty member from another department, program, or non-departmentalized college, and the Administrator for Graduate Student Academic Affairs who shall be the standing Chairperson of the Board. The faculty members shall be appointed by the Associate Provost for Graduate Studies for each individual case.

Chairperson

The Chairperson shall be responsible for conducting hearings according to the judicial procedures outlined in Section III. The Chairperson shall have a vote.

Quorum

A quorum shall consist of two members.

III. Procedures of Judicial Hearings

Administrative Procedures

1. Any member of the University community may initiate a complaint against a graduate student with the Associate Provost for Graduate Studies. If the circumstances surrounding the complaint indicate that a violation of the Code of Conduct may have occurred, disciplinary charges shall be brought against the student.
2. The student shall be informed of the charge(s) by certified mail.
The notice of charges shall state:
 - a. The specific rule or regulation the student is alleged to have violated, stating the time, date, place of the occurrence, name of the individual(s) bringing the charge(s), and any witnesses.
 - b. The student's rights, including a statement of the hearing procedures and possible sanctions.
3. In certain cases, the Associate Provost for Graduate Studies may determine that a charge of conduct violation can be handled through an administrative hearing. If both the student and the person(s) bringing the charge agree to waive the right to a hearing before a Hearing Board, the student will meet with the Administrator for Graduate Student Academic Affairs for an administrative hearing. The hearing must take place in a timely manner. (Reference Section 2 above.) If the student admits guilt, the Administrator will determine the appropriate sanction. If the student pleads innocent, the Administrator may concur in which event the case is concluded, or the Administrator may not concur with the student in which event the case goes to a Hearing Board composed of the Administrator, one faculty member from the student's department, and one faculty member from outside the student's department as appointed by the Associate Provost for Graduate Studies. The student and the person(s) bringing the charge will be notified in writing of the final outcome and any sanctions(s)

applied. The student shall have the right to appeal any disciplinary decision made as the result of an administrative hearing on the grounds only that the sanction imposed was inappropriate, unreasonable, or unjust. The appeal procedure shall be implemented as described in the section entitled "Requests for Appeal".

4. The status of the student shall not be altered, nor shall campus privileges be curtailed pending resolution of the charges.

Rights of the Accused

If a judicial hearing or appeal is conducted, a student accused of a violation is entitled to:

1. A hearing within a reasonable period of time after the charge(s) is formally communicated in writing to the student. Postponements may be granted for cause by the Associate Provost for Graduate Studies.
2. A written notice 48 hours prior to the hearing, stating the time and place of the hearing.
3. Review of available evidence and documents made available to the Associate Provost for Graduate Studies.
4. Appear in person and present information in his or her own behalf, call witnesses, and ask questions of anyone present at the hearing
5. Elect not to appear at the hearing. Absence shall be noted without prejudice and the hearing shall be conducted in the student's absence.
6. Refuse to answer any questions or make a statement. However, the Hearing Board shall make its decision on the basis of the evidence available to it.
7. Be assisted by an adviser of his or her choice from among the members of the University community. The adviser may:
 - a. Advise the student on the preparation and presentation of the case;
 - b. Accompany the student at all judicial hearings; and
 - c. Advise the student in the preparation of appeals.

The adviser shall not assume responsibility for conducting the defense of the accused except that he or she may question witnesses. The Associate Provost for

Graduate Studies shall be informed of the name of the adviser prior to the hearing so that the adviser may be informed of the procedures.

8. The accused may challenge any member of the hearing body on grounds of prejudice. The hearing body shall deliberate in private and determine, by majority vote (excluding the member being challenged) whether the member should sit on that case. If this results in lack of a quorum, the hearing will be rescheduled.
9. In cases where students commit an on-campus violation of University rules or regulations which constitute a felony in law and:
 - (a) Where the student is charged both within the University Student Judicial System and the off-campus court system, and
 - (b) where the student's judicial hearing will occur before the off-campus court hearing has been held, the student may also be accompanied to the judicial hearing by legal counsel. The primary purpose of allowing legal counsel into the hearing is to safeguard the student's rights at the pending criminal proceeding. The counsel's function shall be limited to advising the student on whether or not to answer questions and on what the student should not say so as to safeguard the student from self-incrimination. The Administrator for Graduate Student Academic Affairs shall be informed of the name of the legal counsel prior to the hearing.
10. A student may waive, in writing, any of the rights outlined above.

Conduct of Hearings

The Chairperson of the hearing shall be responsible for conducting the hearing according to the following procedures. If an procedural ruling is required during the course of a hearing, any member of the judicial body may require the body to go into private session to discuss and decide a ruling by majority vote.

1. All hearings (original or appellate) shall be closed unless the student charged requests that the hearing be open to members of the University community. To attend an open hearing, a member of the University community must inform the Associate Provost for Graduate Studies or the Administrator for Graduate Student Academic Affairs at least 24 hours prior to the hearing. In the

event that any person disrupts the hearing, the hearing officer may exclude the individual and proceed with the hearing.

2. All hearings shall be conducted as informal discussions between the members of the hearing board and the accused within the procedural limit established in this document.
3. The person bringing the charge shall be required to attend the hearing. Failure to attend a hearing without prior notification may result in a dismissal of charges. A second postponement, even with cause, will result in a dismissal of charges unless there are serious extenuating circumstances.
4. All hearings shall be open to the person(s) bringing charges, to the accused, to an adviser, to the Administrator for Graduate Student Academic Affairs, and to witnesses. Witnesses shall be present only during the time they are testifying.
5. Cases shall be presented by the person(s) bringing the charge(s) or the Administrator, or both.
6. Guilt must be established on the basis of clear and convincing evidence. Evidence or testimony not bearing specifically on the case shall not be admissible. Only evidence introduced during the hearing and matters of which judicial notice may be taken shall be considered by the judicial body in its deliberations. The person charged may introduce any testimony or evidence regarding his or her character.
7. After all evidence has been presented and both accuser and accused have been given an opportunity to make a final statement, the Chairperson shall dismiss those who are not members of the judicial body. The judicial body shall then discuss the case and reach its decision in private session by majority vote. If a decision of guilt is reached, information concerning the student's past disciplinary record including student judicial system actions, civil or criminal court convictions and proprietary actions, will be presented to the judicial body by the Chairperson for its consideration in determining an appropriate sanction. In all cases where a student is found guilty, a specific sanction in Section IV must be applied.
8. The Chairperson shall make a tape recording of all judicial hearings. The accused shall have the right to listen to the tape in the presence of the Administrator for Graduate Student Academic Affairs. The student may

request a duplicate copy of the tape at his or her own expense. Tape recordings of judicial hearings will be erased 30 days after the hearing.

9. The Chairperson shall be responsible for ensuring that a written report of the hearing be filed and consisting of:
 - a. Statement of charges,
 - b. Summary of the information presented at the hearing,
 - c. Findings and rationale for the findings,
 - d. Sanctions(s) and rationale(s) for the sanction (s),
 - e. Statement regarding the right to appeal and the procedures.

The report shall be forwarded to the Associate Provost for Graduate Studies (normally within 72 hours after the hearing) who shall notify the student by registered mail and the individual(s) who brought the charges of the finding(s), rationale, and sanction(s) if the verdict was guilty as charged or if the verdict was innocent. Those individuals shall have seven calendar days in which to request an appeal (as outlined below). If no request is received, the Associate Provost for Graduate Studies shall implement the decision.

10. A copy of all judicial decisions (exclusive of names and participants in the hearing) shall be maintained in the Office of Graduate Studies and be available to any member of the University community.

Requests for Appeal

1. Either party to a hearing may present a written request for an appeal to the Chairperson of the Faculty Senate Committee on Graduate Studies within seven calendar days of receipt of the original decision.
2. Either party to the hearing may request an appeal on the grounds that the hearing procedures were violated. The request must state the specific procedure(s) allegedly violated and provide any available information to substantiate the allegation.
3. In addition, the student(s) charged may request an appeal on the grounds that:
 - a. The sanction imposed is inappropriate, unreasonable, or unjust
 - b. The decision is contrary to the evidence; or
 - c. There is new information which was not available at the time of the original hearing.

4. Upon receipt of the request for appeal, the Chairperson of the Graduate Committee shall send a copy of the appeal request to major parties involved in the original hearing requesting them to respond within seven calendar days. Major parties include the student charged in the original hearing, the individual(s) who brought the charge(s), the Chairperson of the hearing board, and the Associate Provost for Graduate Studies. Additionally, the Associate Provost for Graduate Studies shall defer the imposition of the sanction pending a decision on the appeal.
5. At the earliest possible date, the Chairperson of the Graduate Committee shall appoint an ad hoc appellate committee composed of three members of that committee, one of whom shall be chairperson, who shall meet to consider the merits of the appeal. An appellate hearing shall be granted if a majority of the quorum finds that the grounds for appeal are of overall significance and substantiated. If an appeal is not granted, the decision of the original hearing body will become effective as of the date that the appellate committee decides not to grant an appellate hearing.

Appellate Hearing Procedures

1. Major parties involved in the case being appealed will be notified in writing of the time and place of the hearing at least 48 hours prior to the scheduled hearing. Postponements may be granted for cause by the Chairperson of the Graduate Committee.
2. The individual who initiated the appeal is required to attend the hearing. Failure to attend an appellate hearing without prior notification may result in the denial of the appeal. A second postponement, even with cause, will result in denial of the appeal unless there are serious extenuating circumstances.
3. The Chairperson of the appellate committee shall open the hearing by reading the request for appeal and informing the person(s) involved of the jurisdiction of the committee and its procedures. The Chairperson shall ascertain that all the parties are aware of their rights and shall answer any questions regarding these matters.
4. If the appeal has been granted on the grounds that hearing procedures may have been violated or on the grounds that the decision was not supported by the evidence, the appellate committee re-hearing will be held to reach a decision as to the guilt or innocence of the student. Procedures for this hearing will

follow those outlined under Conduct of Hearings. This re-hearing may include listening to any or all evidence that was presented at the original hearing. If a decision of guilt is reached, the committee will then decide by majority vote to uphold or reduce the sanction.

5. If the appeal has been granted on the grounds that the sanction is inappropriate, the committee will review the information presented at the original hearing and make a decision by majority vote to uphold or reduce the sanction.
6. All parties involved in the original hearing being appealed have the right to be present at either type of hearing and respond to all information presented and to present information if it is relevant to the appeal.
7. Normally within 72 hours following the conclusion of the hearing, the Chairperson shall make a written report of the hearing consisting of the grounds for the appeal, the decision of the appellate committee, and the rationale for the decision. Copies of this report shall be forwarded to the major parties in the appellate hearing.
8. The decision of the appellate committee is final and shall be implemented immediately by the Associate Provost for Graduate Studies.

IV. Disciplinary Sanctions

The sanctions below may be imposed upon a student for an infraction of the Code of Conduct or residence hall regulations of the University of Delaware. This list is not exhaustive but is in order of severity.

A. Disciplinary Warning:

An official written notice to the student of disapproval in that his or her conduct is in violation of University rules or regulations.

B. Disciplinary Probation:

A more severe sanction than a warning that includes a period of review and observation during which the student must demonstrate the ability to comply with University rules, regulations, and other requirements stipulated for the probation period.

C. Expulsion from the University:

Permanent separation from all divisions of the University. The sanction of expulsion must be approved by the president of the University.

D. Restitution:

Assessment of charges in an amount not in excess of damage or loss incurred. Restitution may be required with any sanction when appropriate.

E. Academic Dishonesty Sanction:

A guilty finding of academic dishonesty will result in the student receiving an "F" in the course in which the offense occurred. This action will not preclude additional sanctions.

VI. Retention of Disciplinary Records

- A. In cases where students are found guilty and receive a sanction of disciplinary warning or disciplinary probation, records will be retained in the judicial files of the Administrator for Graduate Student Academic Affairs through the student's graduation from the University. For students who withdraw from the University, such records will be retained in the Administrator's file through the end of the year in which the student was initially expected to graduate from the University or, if the student returns to the campus, through the appropriate graduation date.
- B. In cases where students are found guilty and receive the sanction of expulsion from the University, records relating to the hearing will be retained in the Administrator's file indefinitely.
- C. In cases where students are found not guilty, the records will be destroyed.
- D. Tape recordings of all judicial hearings will be maintained by the Administrator for a period of 30 days after the conclusion of the judicial hearing, after which they will be erased.

VII. Judicial Hearings for Registered Student Organizations

- A. Registered student organizations may be charged with violations of the Code of Conduct.
- B. A judicial hearing for a registered graduate student organization will be conducted in a manner similar to the procedures outlined in Section III of this document.

Hearings shall be conducted with one spokesperson representing the organization (usually the organization's president). This individual may have an adviser as provided for in Section III, Rights of the Accused, #7.

C. The sanctions below may be imposed upon a registered student organization for an infraction of the University Code of Conduct. This list is not exhaustive, but is in order of severity.

1. Disciplinary Warning:

An official written notice to the organization of disapproval in that the organization's conduct is in violation of the University's rules or regulations.

2. Disciplinary Probation:

A more severe sanction than a warning, to include a period of review and observation during which the organization must demonstrate the ability to comply with University rules, regulations, and other requirements stipulated for the probation period.

3. Deferred Suspension:

A definite period of observation and review. If the organization is again found guilty of violating a University rule or regulation or an order of a judicial body or administrative hearing officer, suspension of privileges or registration status will take effect immediately.

4. Suspension of Registration Privileges:

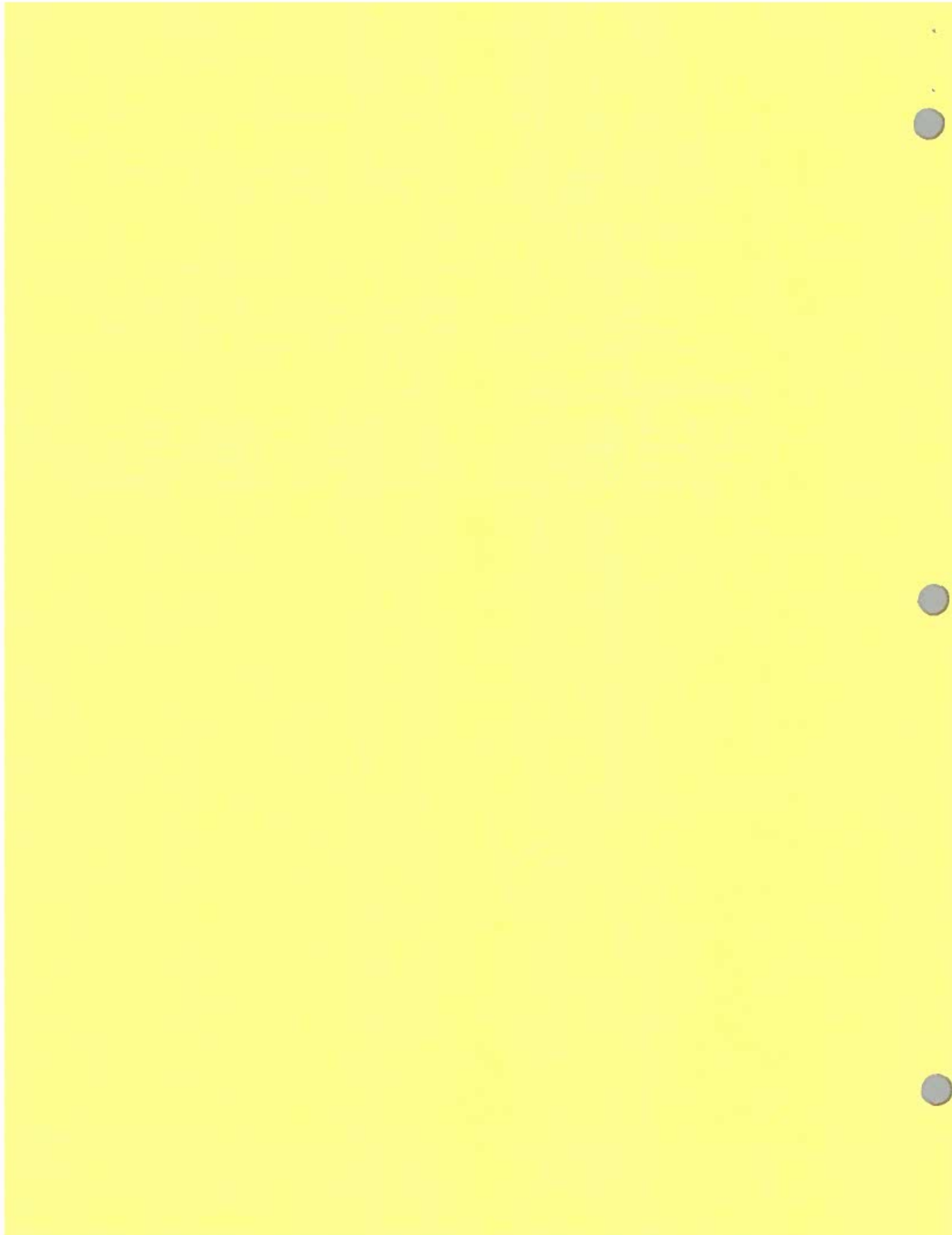
Any/all of the registration privileges may be suspended:

- A. Recruitment of members on campus
- B. Schedule the use of University buildings, grounds, and equipment when they are available
- C. Reserve University facilities for a variety of programs such as meetings, social functions, membership recruitment, campus programs
- D. Publicize activities through the publications of the Office of Information Services

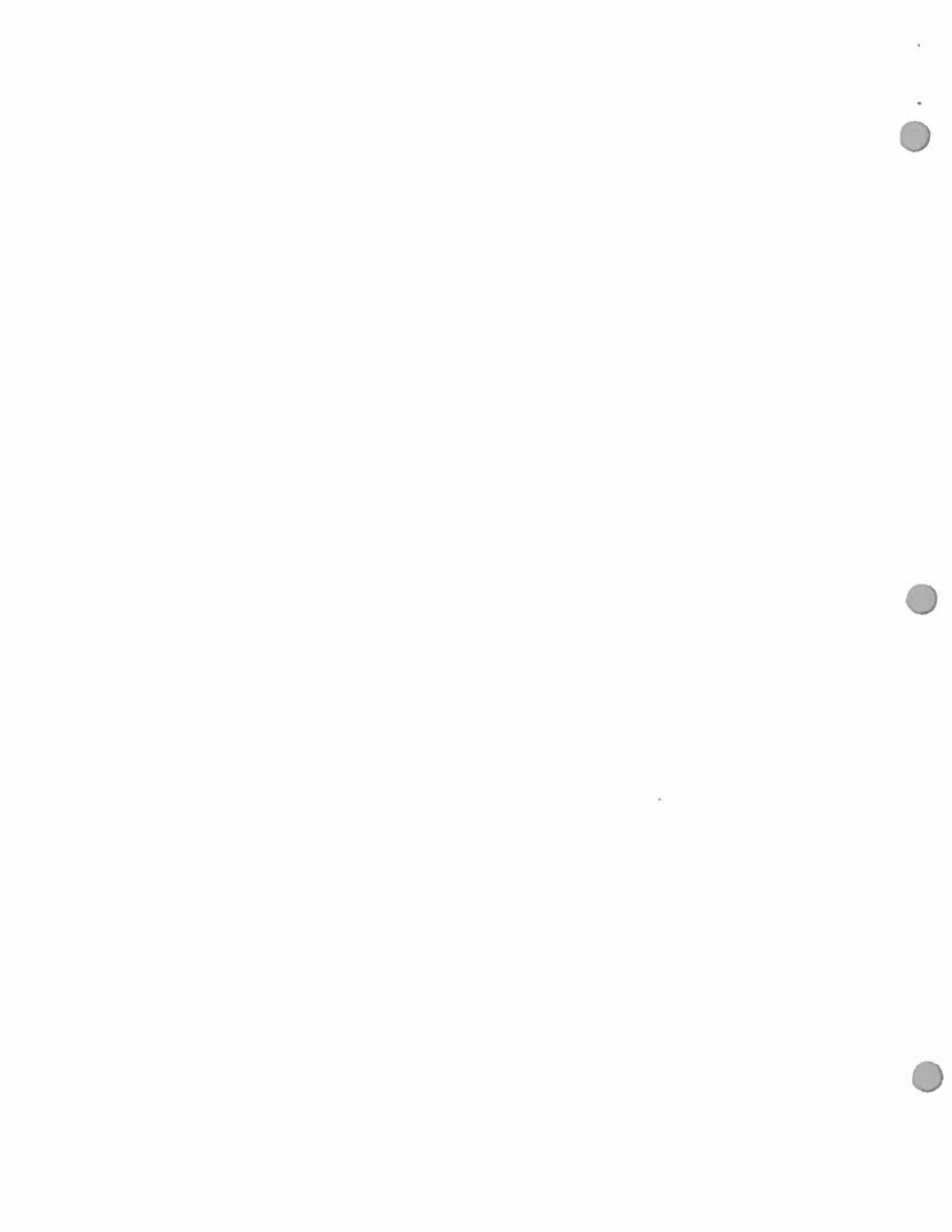
- E. Use designated bulletin boards to publicize activities
- F. Utilize the services of the University (i.e., Graphics Communication, Central Stores, Food Service, Campus Mail, Purchasing, Motor Vehicle Pool, etc.)
- G. Participate in workshops
- H. Request funds from the Office of Graduate Studies
- I. Solicit funds (including the charging of admission to programs) on campus for the support of organizational activities which must be used for campus programming.

5. Revocation of Registration Status:

The revocation of the organization's privilege to exist as a registered student organization. This revocation may be for a definite or indefinite period of time. This sanction must be approved by the Associate Provost for Graduate Studies.



PROPOSED NEW
GRADUATE STUDENT
JUDICIAL SYSTEM
SUPPLEMENT
TO
THE STUDENT GUIDE TO POLICIES



GRADUATE STUDENT JUDICIAL SYSTEM

All students at the University of Delaware are expected to follow the Code of Conduct as given in the Student Guide to Policies. University disciplinary action may be taken against graduate students who violate the Code of Conduct. If a graduate student is accused of a conduct violation by a member of the University community, the charge shall be processed through the Graduate Student Judicial System.

The Graduate Student Judicial System is administered by the Associate Provost for Graduate Studies as authorized by the Vice President for Student Affairs in conjunction with the Trustee Bylaws, Chapter 2. III.E.

I. JURISDICTION

The University Graduate Student Judicial System may hear cases of alleged violation of the University's Code of Conduct for the following persons:

- A. For full or part-time matriculated graduate students if the alleged violation occurred during a period of time when the student was enrolled at the University or if the alleged violation occurred during a period of time when the student was not enrolled but was eligible to enroll.
- B. For registered student organizations.

II. PROCEDURES OF JUDICIAL HEARINGS

- A. Procedures to bring the charge to the student
 1. Any member of the University community may initiate a complaint against a graduate student with the Administrator for Graduate Student Academic Affairs. If the circumstances surrounding the complaint indicate that a violation of the Code of Conduct may have occurred, disciplinary charges shall be brought against the student.
 2. The student shall be informed of the charge(s) by certified mail by the Administrator for Graduate Student Academic Affairs. The notice of charges shall state:
 - a. The specific rule or regulation the student is alleged to have violated, stating the time, date, place of the occurrence, name of the individual(s) bringing the charge(s) and any witnesses.

- b. The student's rights, including a statement of hearing procedures and possible sanctions.
- c. A request to meet with the Administrator for Graduate Student Academic Affairs within two class days of the receipt of the letter. The student must attend this meeting. Failure to attend this meeting will result in a guilty finding based only on input from the charging party. A disciplinary sanction will be imposed.

B. The Administrative Hearing

1. The student will meet with the Administrator for Graduate Student Academic Affairs to be apprised of the nature of evidence. The student will be asked whether he/she will agree to waive the right to a hearing before a Judicial Board. If the student waives his/her right to a hearing before a Judicial Board, the person(s) bringing the charge will be informed of such and will be asked whether they wish to waive the Judicial Hearing procedure.
2. If both parties agree to waive their rights to the Judicial Hearing, the student will again meet with the Administrator for Graduate Student Academic Affairs for an Administrative Hearing. The hearing must take place in a timely manner. If the student admits guilt, the Administrator will determine the appropriate sanction. If the student pleads innocent, the Administrator may concur, in which event the case is concluded, or the Administrator may not concur with the student, in which event the case goes to the Judicial Board. The party bringing the charge will be consulted before the Administrator makes the final decision of innocent. The student and the person(s) bringing the charge will be notified in writing of the final outcome and any sanction(s) applied.
3. The student shall have the right to appeal any disciplinary decision made as the result of an Administrative Hearing on the grounds only that the sanction imposed was inappropriate, unreasonable, or unjust. The appeal procedure shall be implemented as described in section II F., Requests for Appeal.
4. The status of the student shall not be altered, nor shall campus privileges be curtailed pending resolution of the charges.

C. The University Graduate Judicial Board

The University Graduate Judicial Board shall determine the guilt or innocence of student(s) charged with violations of the University's Code of Conduct and shall decree sanctions.

1. Jurisdiction

The Judicial Board shall have jurisdiction over alleged violations of the Code of Conduct by graduate students.

2. Composition

The Judicial Board shall be composed of three faculty members selected by the chairperson of the Faculty Senate Committee on Graduate Studies. One faculty member shall be from the student's department, program, or non-departmentalized college and two faculty members shall be members of the Faculty Senate Committee on Graduate Studies. The chairperson of the Judicial Board shall be chosen by the chair of the Faculty Senate Committee on Graduate Studies and shall be selected from one of the Graduate Committee members appointed to the Judicial Board who are not members of the student's academic unit.

3. Chairperson

The Chairperson shall be responsible for conducting hearings according to the judicial procedures outlined in Section II E., Conduct of Judicial Hearings. The Chairperson shall have a vote. Before the Judicial Board begins its deliberations, the Chairperson shall meet with the Administrator for Graduate Student Academic Affairs to review judicial procedures.

D. Rights of the Accused

If a Judicial Hearing or appeal is conducted, a student accused of a violation is entitled to:

1. A Judicial Hearing within a reasonable period of time after the charge(s) is formally communicated in writing to the student. Postponements may be granted for cause by the Associate Provost for Graduate Studies.

2. A written notice that shall be given to all parties at least 48 hours prior to the hearing, stating the time and place of the hearing.
3. An opportunity to review the available evidence and documents that are under the care of the Administrator for Graduate Student Academic Affairs.
4. Appear in person and present information in his or her own behalf, call witnesses, and ask questions of anyone present at the hearing.
5. Elect not to appear at the hearing. Absence shall be noted without prejudice and the hearing shall be conducted in the student's absence.
6. Refuse to answer any questions or make a statement. However, the Judicial Board shall make its decision on the basis of the evidence available to it.
7. Be assisted by an adviser of student's choice from among the members of the University community. The Administrator for Graduate Student Academic Affairs shall be informed of the name of the adviser prior to the hearing so that the adviser may be informed of the procedures. Although the responsibility for conducting the defense is primarily that of the student, the adviser may:
 - a. Advise the student on the preparation and presentation of the case;
 - b. Accompany the student at the Judicial Hearing;
 - c. Question the Judicial Board on points of order;
 - d. Interrupt the proceedings to advise the student during the Judicial Hearing;
 - e. Question witnesses and the accuser;
 - f. Advise the student in the preparation of appeals.

8. The accused may challenge any member of the Judicial Board on grounds of prejudice. The Judicial Board shall deliberate in private and determine, by majority vote (excluding the member being challenged) whether the member should continue to sit on the case. If the Judicial Board member is dismissed, the Judicial Hearing shall be postponed until the Chairperson of the Faculty Senate Committee on Graduate Studies selects a replacement.
9. In cases where a student(s) is accused of committing an on-campus violation of University rules or regulations which constitute a felony in law and:
 - a. Where the student is charged both within the University Student Judicial System and the off-campus court system, and
 - b. Where the student's judicial hearing will occur before the off-campus court hearing has been held, the student may also be accompanied to the judicial hearing by legal counsel. The primary purpose of allowing legal counsel into the hearing is to safeguard the student's rights at the pending criminal proceeding. The counsel's function shall be limited to advising the student on whether or not to answer questions and on what the student should not say so as to safeguard the student from self-incrimination. The Administrator for Graduate Student Academic Affairs shall be informed of the name of the legal counsel prior to the hearing.
10. A student may waive, in writing, any of the rights outlined above.

E. Conduct of Judicial Board Hearing

The Chairperson of the Judicial Board shall be responsible for conducting the hearing according to the following procedures. If a procedural ruling is required during the course of a hearing, any member of the Judicial Board may require the Board to go into private session to discuss and decide a ruling by majority vote.

1. All Judicial Hearings shall be closed unless the student charged requests that the hearing be open to members of the University community. A limit of three persons from the University community will be permitted to attend. To attend an open hearing, a member of the University community must inform the Administrator for Graduate Student Academic Affairs at least 24 hours prior to the hearing. In the event that any person disrupts the hearing, the Chairperson of the Judicial Board may exclude the individual and proceed with the hearing.
2. The person bringing the charge shall be required to attend the Judicial Hearing. Failure to attend a hearing without prior notification may result in a dismissal of charges. A second postponement, even with cause, will result in a dismissal of charges unless there are serious extenuating circumstances.
3. All Judicial Hearings shall be open to the person(s) bringing charges, to the accused, to an adviser, to the Administrator for Graduate Student Academic Affairs, and to witnesses. Witnesses shall be present only during the time they are testifying. Because it is imperative that there be complete disclosure and candid discussion of the facts involved in the case, all individuals presenting evidence before the Judicial Board should be assured that the Judicial Board will maintain confidentiality.
4. The person(s) bringing the charge(s) shall present the case against the student(s) and call witnesses to support the charge(s). The members of the Judicial Board may question the witnesses. The student and the student's adviser will then have the opportunity to cross examine each of the accuser's witnesses. The student(s) will then present the defense. The accusing party(ies) may cross examine defense witnesses. The Judicial Board maintains the right to question or recall witnesses at any time during the Judicial Hearing. Both the accuser and the accused may present concluding remarks. The concluding remarks will be presented first by the accuser and second by the accused.

5. Guilt must be established on the basis of clear and convincing evidence in support of the charge. The Chairperson or officer conducting the hearing shall rule on the admissibility of evidence and testimony. Evidence or testimony not bearing specifically on the case shall not be admissible. Only evidence introduced during the hearing and matters of which judicial notice may be taken shall be considered by the Judicial Board in its deliberations. The person charged may introduce testimony or evidence regarding his or her character; however, the testimony of character witnesses tends to be of negligible value in determining guilt or innocence of specific charges.
6. After all evidence has been presented and both accuser and accused have been given an opportunity to make a final statement, the Chairperson shall dismiss those who are not members of the Judicial Board. The Judicial Board shall then discuss the case in private session and reach its decision by majority vote. If a decision of guilt is reached, the Administrator for Graduate Student Academic Affairs will supply to the Judicial Board information concerning the student's past disciplinary record including student judicial system actions, civil or criminal court convictions and proprietary actions for the Board's consideration in determining an appropriate sanction. In all cases where a student is found guilty, a specific sanction in Section III must be applied.
7. The Administrator for Graduate Student Academic Affairs shall make a tape recording of all judicial hearings. The accused shall have the right to listen to the tape in the presence of the Administrator for Graduate Student Academic Affairs. The student may request a duplicate copy of the tape at the student's expense. Tape recordings of judicial hearings will be erased one year following all proceedings related to the case.

8. The Chairperson shall be responsible for ensuring that a written report of the hearing be filed in the Graduate Office consisting of:
 - a. Statement of charges,
 - b. Summary of the information presented at the hearing,
 - c. Findings and rationale for the findings,
 - d. Sanction(s) and rationale for the sanction(s),
 - e. Statement regarding the right to appeal and the procedures.

The report shall be forwarded to the Associate Provost for Graduate Studies (normally within 72 hours after the hearing) who shall notify the student by registered mail and the individual(s) who brought the charges of the finding(s), rationale, and sanctions(s) if the verdict was guilty as charged or if the verdict was innocent. Those individuals shall have seven calendar days in which to request an appeal (as outlined below). If no request is received, the Associate Provost for Graduate Studies shall implement the decision.

9. A copy of all judicial decisions (exclusive of names and participants in the hearing) shall be maintained in the Office of Graduate Studies and be available to any member of the University community.

F. Requests for Appeal

1. Either party to a hearing may present a written request for an appeal to the Associate Provost for Graduate Studies within seven calendar days of receipt of the original decision.
2. Either party to the hearing may request an appeal on the grounds that there was a hearing procedure violation. The request must state the specific procedure(s) allegedly violated and provide all available evidence to substantiate the allegation.
3. In addition, the student(s) charged may request an appeal on the grounds that:

- a. The sanction imposed is inappropriate, unreasonable, or unjust;
 - b. The decision is contrary to the evidence; or
 - c. There is new relevant information that could not have been known by the accused at the time of the original hearing.
4. To initiate the appeal process, the student must submit a petition to the Associate Provost for Graduate Studies. The petition should state in what ways the hearing procedures were violated, the sanction was inappropriate, unreasonable, or unjust, the decision was contrary to the evidence, or present new information unknown at the time of the Judicial Board hearing. If there are new witnesses or new testimony from previous witnesses, this information should be included in the petition. Upon receipt of the petition for an appeal, the Associate Provost for Graduate Studies shall send a copy of the petition request to the accuser and the Chairperson of the Judicial Board asking for their comment to be received within seven calendar days. The Associate Provost for Graduate Studies will listen to the tape of the Judicial Hearing. The Associate Provost of Graduate Studies will then determine whether there is sufficient grounds for an appeal hearing and if so shall defer the imposition of the sanction of the Judicial Board pending the decision on the appeal.
 5. If the appeal is not granted, the decision of the original Judicial Board will become effective as of the date that the Associate Provost decides not to grant an appellate hearing.

G. Appellate Hearing Procedures

1. At least 48 hours prior to the appellate hearing, the Associate Provost for Graduate Studies will notify the accused and the accuser of the grounds for the appeal and the time and place of the appellate hearing. The Associate Provost for Graduate Studies may postpone the appellate hearing to a mutually satisfactory time if the accused or accuser cannot be present.

2. The only persons permitted to attend the appellate hearing will be the petitioner, the other party, the student's adviser from the Judicial Hearing, and the Administrator for Graduate Academic Affairs whose duty will be to tape record the appellate hearing. Witnesses shall be present only during the time they are testifying.
3. The party who initiated the appeal is required to attend the appellate hearing. Failure to attend an appellate hearing without prior notification may result in the denial of the appeal. A second postponement, even with cause, will result in denial of the appeal unless there are serious extenuating circumstances.
4. The Associate Provost for Graduate Studies shall open the hearing by reading the petition for appeal and informing the person(s) involved in the appeal of the appellate hearing procedures. The Associate Provost for Graduate Studies shall inform all parties of their rights and shall answer any questions about procedures.
5. The procedures of the appellate hearing shall be as follows:

The party that petitioned for the appeal shall make a brief statement of the reasons for the appeal. If those reasons include the presentation of new evidence, the new evidence shall be presented. If the new evidence requires the testimony of witness(es), the witness(es) will be heard at this time and will be subject to cross examination by the other party. The other party will then address the specific issues presented in the petition. The other party may present new evidence including witness(es) that addresses the points at issue in the appeal. The petitioner may cross examine the witness(es). The Associate Provost for Graduate Studies may interrupt the proceedings at any time to ask questions or to focus the proceedings on the specific points at issue.

6. Normally within 72 hours following the conclusion of the hearing, the Associate Provost for Graduate Studies shall make a written report of the appellate hearing consisting of the grounds for the appeal, the decision and the rationale for the decision. Copies of this report shall be forwarded to the accused and the accuser and the Chairperson of the Judicial Board.
7. The decision of the Associate Provost for Graduate Studies is final and shall be implemented immediately.

III. DISCIPLINARY SANCTIONS

The sanctions below may be imposed upon a student for an infraction of the Code of Conduct or residence hall regulations of the University of Delaware. This list is not exhaustive and other sanctions may be imposed if the situation warrants.

A. Disciplinary Warning

An official written notice to the student of disapproval of the student's conduct which is in violation of University rules or regulations.

B. Disciplinary Probation

A more severe sanction than a warning that includes a period of review and observation during which the student must demonstrate the ability to comply with University rules, regulations, and other requirements stipulated for the probation period.

C. Suspension from the University

A sanction of suspension will initiate the action of withdrawing a student from all courses and all divisions of the University and separating the student from the University for a least the remainder of the session/semester in progress at the time of the hearing. The suspension from the University will be stated for a specific period of time in which the student will not be eligible to register as a student at the University.

D. Expulsion from the University

Permanent separation from all divisions of the University. The sanction of expulsion must be approved by the President of the University.

E. Academic Dishonesty Sanction

A guilty finding of academic dishonesty will result in the student receiving an "F" in the course in which the offense occurred. This action will not preclude additional sanctions.

F. Restitution

Assessment of charges in an amount not in excess of damage or loss incurred. Restitution may be required with any sanction when appropriate.

IV. RETENTION OF DISCIPLINARY RECORDS

- A. In cases where students are found guilty and receive a sanction of disciplinary warning, disciplinary probation, or suspension, records will be retained in the judicial files of the Administrator for Graduate Student Academic Affairs through the student's graduation from the University or for a minimum of three years whichever is longer. For students who withdraw from the University, such records will be retained in the Administrator's file through the end of the year in which the student was initially expected to graduate from the University or, if the student returns to the campus, through the appropriate graduation date, or for a minimum of three years whichever is longer.
- B. In cases where students are found guilty and receive the sanction of expulsion from the University, records relating to the hearing will be retained in the Administrator's file indefinitely.
- C. In cases where students are found not guilty, the records will be destroyed.
- D. Tape recordings of all judicial hearings will be maintained by the Administrator for a period of three years after the conclusion of the final hearing, after which they will be erased.

V. JUDICIAL HEARINGS FOR REGISTERED STUDENT ORGANIZATIONS

- A. Registered student organizations may be charged with violations of the Code of Conduct.
- B. A judicial hearing for a registered graduate student organization will be conducted in a manner similar to the procedures outlined in Section II of this document. Hearings shall be conducted with one student member representing the organization (usually the organization's president). This individual may have an adviser as provided for in Section II D. 7, Rights of the Accused.
- C. The sanctions below may be imposed upon a registered student organization for an infraction of the University Code of Conduct. This list is not exhaustive, but is in order of severity.
 1. **Disciplinary Warning**

An official written notice to the organization of disapproval in that the organization's conduct is in violation of the University's rules or regulations.
 2. **Disciplinary Probation**

A more severe sanction than a warning, to include a period of review and observation during which the organization must demonstrate the ability to comply with University rules, regulations, and other requirements stipulated for the probation period.
 3. **Deferred Suspension**

A definite period of observation and review. If the organization is again found guilty of violating a University rule or regulation or an order of a judicial body or administrative hearing officer, suspension of privileges or registration status will take effect immediately.

4. Suspension of Registration Privileges

Any/all of the registration privileges may be suspended:

- a. Recruitment of members on campus
- b. Scheduling the use of University buildings, grounds, and equipment when they are available
- c. Reserving University facilities for a variety of programs such as meetings, social functions, membership recruitment, campus programs
- d. Publicizing activities through the publications of the Office of Information Services
- e. Using designated bulletin boards to publicize activities
- f. Utilizing the services of the University (i.e., Graphics Communication, Central Stores, Food Service, Campus Mail, Purchasing, Motor Vehicle Pool, etc.)
- g. Participating in workshops
- h. Requesting funds from the Office of Graduate Studies
- i. Soliciting funds (including the charging of admission to programs) on campus for the support of organizational activities which must be used for campus programming.

5. Revocation of Registration Status

The revocation of the organization's privilege to exist as a registered student organization. This revocation may be for a definite or indefinite period of time. This sanction must be approved by the Associate Provost for Graduate Studies.

Revised February 27, 1990