



## RUTGERS POLICY

**Section:** 10.2.11

**Section Title:** Student Academic Regulations & Policies

**Policy Name:** Code of Student Conduct

**Formerly Book:** 4.2.7

**Approval Authority:** Board of Governors

**Responsible Executive:** Executive Vice President for Academic Affairs

**Responsible Office:** Office of Student Affairs

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**Errors or changes?** Contact: Office of Student Conduct at [conduct@rci.rutgers.edu](mailto:conduct@rci.rutgers.edu) or 732-932-9414

### The Policy

#### 10.2.11 UNIVERSITY CODE OF STUDENT CONDUCT

##### PREAMBLE

A university in a free society must be devoted to the pursuit of truth and knowledge through reason and open communication among its members. Its rules should be conceived for the purpose of furthering and protecting the rights of all members of the University community in achieving these ends.

All members of the Rutgers University community are expected to behave in an ethical and moral fashion, respecting the human dignity of all members of the community and resisting behavior that may cause danger or harm to others through violence, theft, or bigotry. All members of the Rutgers University community are expected to adhere to the civil and criminal laws of the local community, state, and nation, and to regulations promulgated by the University. All members of the Rutgers University community are expected to observe established standards of scholarship and academic freedom by respecting the intellectual property of others and by honoring the right of all students to pursue their education in an environment free from harassment and intimidation.

This document ~~and the accompanying annotations~~ describes the University's Code of Student Conduct. It specifies prohibited types of behavior, the sanctions that can be applied, and the jurisdiction, structure, and operation of the University system for adjudicating student disciplinary cases. It supersedes those documents pertaining to student disciplinary hearing procedures, in conflict herewith, currently in force in any division of the University. It is the responsibility of all University students to familiarize themselves with these regulations.

## **AUTHORITY FOR STUDENT DISCIPLINE**

1. Ultimate authority for student discipline is vested in the Board of Governors of Rutgers, The State University of New Jersey. Disciplinary authority may be delegated to University administrators, faculty members, students, committees, and organizations, as set forth in this Code, or in other appropriate policies, rules, or regulations adopted by the Board.

## **RATIONALE**

2. The primary purpose for the imposition of discipline in the University setting should be to foster the personal, educational, and social development of those students who are held accountable for violations of University regulations, to ensure the orderly functioning of the University, and to protect the University community and its integrity.

## **DEFINITIONS**

3. When used in this Code:
  - (a) the term "college" means any academic division of the University.
  - (b) the term "regional campus" means any of the three major geographic divisions of the University, i.e., Camden, Newark or New Brunswick/Piscataway.
  - (c) the term "Vice President for Student Affairs" means that official or that individual(s) to whom the Vice President has assigned any one or more of his or her responsibilities under this document.
  - (d) the term "Chancellor" means that official on the Newark or Camden Campus, or the individual(s) to whom the Chancellor has assigned any one or more of his or her responsibilities under this document. On the New Brunswick Campus, the term "Chancellor" means the Executive Vice President for Academic Affairs or the individual(s) to whom the Executive Vice President for Academic Affairs has assigned any one or more of his or her responsibilities under this document.
  - (e) the term "Senior Dean of Students" shall mean that official or the person(s) at that campus designated to have the responsibilities assigned to the Senior Dean of Students by this document.
  - (f) the term "Dean of Students" shall mean that official or the person(s) at that campus designated to have the responsibilities assigned to the Dean of Students by this document.
  - (g) the term "Director of Student Conduct" means that official or other such title to whom that responsibility has been assigned or that individual to whom the Director has assigned one or more of his or her responsibilities under this document.
  - (h) the term "Student Conduct Officer" shall mean that official or the person designated to have the responsibilities assigned to the Student Conduct Officer by this document.
  - (i) the term "respondent" means any student who has been accused of an act prohibited under this Code.
  - ~~(j) the term "complainant" means any member of the University community who has elected to serve as the complaining party in Hearings or Conferences conducted under this Code.~~

- (j) **the term "complaint initiator" means a member of the University community who initiates a complaint of a violation of this Code against a respondent**
- (k) the term "victim" means a member of the University community who alleges that she or he has suffered personal harm or injury as a result of an alleged violation(s) of part 10 of this Code.
- (l) the term "Campus Adviser" means a member of the University community who has been selected by a respondent or by a complainant to assist him or her in Hearings or Conferences conducted under this Code.
- (m) the term "support person" means a person who has been asked by the respondent or complainant to attend a Disciplinary Conference or hearing to provide support and assistance. A support person does not represent either party during the a disciplinary conference or hearing and cannot speak during the process.
- (n) the term "working day" means any day, except Saturday and Sunday, which is not listed as a University holiday on the University Calendar. Days when class is not in session, but which are not University holidays, are "working days."
- (o) the term "notice sent to a student" means a notice delivered to the student or his or her residence by any reasonable means. Such means may include e-mail, hand delivery or first class mail to a student's most recent local address as it appears in the Registrar's records, or to the student's current home address as it appears in the Registrar's records.
- (p) the terms "institution" and "University" mean Rutgers, The State University of New Jersey and all of its undergraduate, graduate and professional schools and colleges, divisions, and programs.
- (q) the term "student" means any person for whom the University maintains educational records, as defined by the Family Educational Rights and Privacy Act of 1974 and related regulations, and who has not yet been awarded his or her degree from the University **at the time the alleged violation took place. A person who has been awarded one or more degrees from the University, but how undertakes further studies at the University is a student.**
- (r) the term "faculty" means any person who holds a current academic appointment within the University.
- (s) the term "administration or staff" means any person who currently holds a non-faculty appointment within the University. This does not include faculty who serve as department chairs
- (t) the term "member of the University community" means any student, faculty, administration or staff member at the University.
- (u) the term "University premises," for purposes of this Code, means buildings or grounds owned, leased, operated, controlled or supervised by the University.
- (v) the term "University sponsored activity" means any academic, co-curricular, extra-curricular or other activity on or off campus, which is initiated, aided, authorized or supervised by the University.
- (w) the term "weapon" means any object or substance designed or which may be utilized to inflict a wound, cause injury, or incapacitate. A harmless instrument designed to look like a firearm, explosive or weapon that is used by a person to

cause reasonable apprehension of harm, or to assault another person, is expressly included within the meaning of weapon.

- (x) the term "aggravated violation" means a violation which resulted or foreseeably could have resulted in significant damage to persons or property or which otherwise posed a substantial threat to the stability and continuance of University activities or University sponsored activities.
- (y) the term "distribution" means any form of sale, exchange or transfer.
- (z) the term "reckless" means conduct which one should reasonably be expected to know would create a substantial risk of harm to persons or property or which would otherwise be likely to result in substantial interference with University activities or University sponsored activities.
- (aa) the term "shall" is used in the imperative sense.
- (bb) the term "may" shall be used in the permissive sense
- (cc) On the New Brunswick campus, the term "Chief Academic Officer" means the Executive Vice President for Academic Affairs, or the individual(s) to whom the Executive Vice President for Academic Affairs has assigned any one or more of his or her responsibilities under the **Interim** Academic Integrity Policy (see Appendix 1). On the Newark and Camden campuses, the term "Chief Academic Officer" means the Chancellor or the individual(s) to whom the Chancellor has assigned any one or more of his or her responsibilities under the **Interim** Academic Integrity Policy.
- (dd) On the New Brunswick Campus, the "Senior Student Affairs Officer" is the Vice President for Student Affairs. On the Newark Campus the "Senior Student Affairs Officer" is the Vice Chancellor for Student and Community Affairs. On the Camden Campus, the term "Senior Student Affairs Officer" is the Associate Chancellor for Student Affairs.
- (ee) the term "Academic Integrity Facilitator" (AIF) means an academic staff or faculty member appointed to investigate and adjudicate allegations of nonseparable violations of academic integrity. AIFs may also carry out Preliminary Review of cases of alleged separable violations of academic integrity.**
- (ff) the term "Honor Council" means the organization of undergraduate and graduate students on each of the three Rutgers regional campuses dedicated to promoting academic integrity and the Code of Student Conduct.**
- (gg) the term "Community Advocate" means a specially trained member of the Honor Council who provides information, advice, and assistance to faculty members who suspect that a student has committed academic dishonesty. The Community Advocate may bring a complaint forward on behalf of the complaint initiator at a University Hearing or Disciplinary Conference.**
- (hh) the term "Student Advocate" means a specially trained member of the Honor Council who provides information, advice, and assistance to students accused of violating the Academic Integrity Policy and may present information and ask questions on behalf of the respondent at a University Hearing or Disciplinary Conference.**

## INTERPRETATION OF REGULATIONS

4. Disciplinary regulations at the University are set forth in writing in order to give students general notice of prohibited conduct. This Code is not written with the specificity of a criminal statute and is not designed to define misconduct in exhaustive terms.<sup>4</sup>

#### **INHERENT AUTHORITY**

5. The University reserves the right to take necessary and appropriate action to protect the safety and well being of the campus community. Such action may include taking disciplinary action against those students whose behavior off University premises indicates that they pose a substantial danger to others in the University community. **The University will not routinely invoke the disciplinary process for student misconduct that occurs off University premises unless it occurs at a University sponsored activity. Nonetheless, it will be necessary to endeavor to protect the campus community when there are reasonable grounds to believe that a student may pose a substantial danger to others. Normally, such "substantial danger" will be manifested by a pending criminal charge, usually relating to a crime of violence, burglary, sexual assault, substantial theft or fraud, the distribution of illegal drugs, or the possession of substantial quantities of illegal drugs.**

#### **VIOLATIONS OF LAW AND DISCIPLINARY REGULATIONS**

6. Students may be accountable to both external authorities and to the University for acts which constitute violations of law and this Code. Action at the University will normally proceed during the pendency of administrative, civil or criminal proceedings arising out of the same or other events, and shall not be subject to challenge on the ground that criminal charges involving the same incident have been dismissed or reduced, or are pending. **A member of the University community initiating a complaint under this Code is not precluded from filing civil or criminal charges outside the University.**

#### **INTERIM SUSPENSION**

7. The Senior Student Affairs Officer's designee may suspend a student from the University for an interim period pending disciplinary or criminal proceedings. The interim suspension shall become immediately effective without prior notice whenever the Senior Student Affairs Officer's designee determines there is a reasonable basis to conclude that the continued presence of the student at the University poses a substantial and immediate threat to himself/herself, to others, or to property. For students on the Newark and Camden campuses, the responsibilities of the Senior Student Affairs Officer's designee under this section shall be carried out by the Chancellor or designee.
8. A student suspended on an interim basis shall be given an opportunity to appear personally before the Senior Student Affairs Officer or a designee within two working days in order to discuss the following issues only:
  - (a) the reliability of the information concerning the student's alleged misconduct, including the matter of his or her identity.
  - (b) whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on University premises poses a substantial and immediate threat to himself/herself, to others, or to property.

The Senior Student Affairs Officer may affirm or alter the decision to suspend on an interim basis based on such discussion. If the decision is affirmed, it shall be the responsibility of the Senior Student Affairs Officer to notify the student in writing of the basis for this decision and to see that a University Hearing, as described in Parts 23 – **46 47**, proceeds as expeditiously as possible. Any student placed on interim suspension will be given an opportunity to appear at a formal Hearing within ten working days of being

placed on suspension or as soon as practical after the respondent is prepared to participate in a Hearing. **A student who requests such a Hearing will be entitled to receive the notice of Hearing described in Part 29 of this Code five working days in advance of the scheduled Hearing date. Notice limits described in Parts 30, 31, 33 and 34 of this Code will be reduced to two working days in such instances.** If the University fails to provide the respondent such an opportunity, the interim suspension shall cease although the original charges shall not be dropped.

## STANDARDS OF CLASSROOM BEHAVIOR

9. The primary responsibility for managing the classroom environment rests with the faculty. Students who engage in any prohibited or unlawful behavior that results in disruption of a class may be directed by the faculty member to leave the class for the remainder of the class period. Longer suspensions from a class, or dismissal on disciplinary grounds, must be preceded by a Hearing or Disciplinary Conference, as set forth in Parts 23 - 46 47 or 49 - 55 of this Code, or in accordance with Parts 7 - 8. **The term "prohibited or unlawful behavior" would include behavior prohibited by a faculty member. It must be emphasized that this provision shall not be used to punish classroom dissent. The lawful expression of a disagreement with a faculty member is not in itself disruptive behavior. A student who believes that he/she has been treated in an arbitrary manner in this regard should contact his/her Dean of Students.**

## PROHIBITED CONDUCT

10. Students who engage in the following conduct on University premises, or at University sponsored activities, or at activities involving University recognized organizations may be subject to disciplinary action. Although violations of standards (a) through (u) may result in either expulsion or suspension from the University, lesser sanctions will be considered whenever appropriate. Violations of standards (v) through (aa) may not, standing alone, result in expulsion or suspension from the University, except as specified in Part 11 of this Code.

### Separable Offenses

- (a) violations of academic integrity. **Standards of academic integrity are set forth in Rutgers University Academic Integrity Policy**
- (b) forgery, unauthorized alteration or unauthorized use of any University documents or records, or any instrument or form of identification.
- (c) intentionally furnishing false information to the University.
- (d) intentionally initiating or causing to be initiated any false report, warning or threat of fire, explosion or other emergency.
- (e) use of force against any person or property or the threat of such force.
- (f) sexual assault or nonconsensual sexual contact.
- (g) hazing. **A person is responsible for hazing if, in connection with the training, initiation, or acceptance of applicants to or members of any organization (including, but not limited to fraternal organizations, athletic teams, and student clubs) he/she knowingly or recklessly organizes, promotes, facilitates or engages in any conduct, other than competitive athletic events, which places or may place another person in danger of bodily injury. The consent of the victim shall not be a legitimate defense in hazing incidents.**
- (h) **violation of the University's Student Life Policy Against Verbal Assault, Defamation and Harassment.**

**Bullying, intimidation, and harassment. A person acts with the purpose to bully, intimidate, and harass another when that person:**

- 1. makes, or causes to be made, communications (including electronically or through social media) to another person in any manner likely to seriously annoy or cause alarm; or**
- 2. subjects another person or threatens to subject another person to striking, kicking, shoving, or other offensive touching; or**
- 3. engages in any other course of alarming conduct or repeatedly commits acts with the purpose of seriously annoying or alarming another person**

**The behavior should be sufficiently severe, pervasive, or persistent as to substantially disrupt or interfere with the orderly operation of the institution or the rights of students to participate in or benefit from the educational program.**

- (i) unauthorized entry into, unauthorized use of, or misuse of University property, including computers and data and voice communication networks.
- (j) intentionally or recklessly endangering the welfare of any individual.
- (k) intentionally or recklessly interfering with any University activity **or University sponsored activity. This charge may include any willful act which disrupts or obstructs an academic class or lecture, an administrative or support function or official University event (including studying, teaching, research, meetings, interviews, ceremonies, public events, official University business, or fire, police or emergency services), other creative or productive activities, or public services rendered by the University**
- (l) ~~intentionally or recklessly interfering with any University sponsored activity.~~

**Intentionally or recklessly starting a fire or misusing fire safety equipment. This violation does not prevent University approved programs which include fire (i.e. approved bonfires).**

- (m) use, possession or storage of any weapon, dangerous chemical, fireworks, or explosive, whether or not a federal or state license to possess the same has been issued to the possessor. **The possession and storage of personal protection devices such as small containers of Mace, which are permitted under New Jersey law, are specifically excluded from this definition. The legal use of such devices is also excluded from this definition. Law enforcement officials who are authorized by law to carry firearms are also excluded from this definition.**
- (n) the distribution of alcohol, narcotics or dangerous drugs on University property or among members of the University community, if such distribution is illegal, or the possession of a sufficiently large quantity as to indicate an intention to distribute illegally. **Such prohibited distribution of alcohol shall include providing or facilitating the consumption of alcohol by any person without taking reasonable and prudent precautions to insure that the person is of legal drinking age in New Jersey.**
- (o) theft of University services or theft of, or intentional or reckless damage to, University property, or property in the possession of, or owned by, a member of the University community, including the knowing possession of stolen property. **Intentional or reckless misuse of fire safety equipment shall be regarded as damage under this section of the Code.**
- (p) ~~the violation of the ethical code of one's intended profession either by graduate students enrolled in any of the University's professional or~~

~~graduate schools or by undergraduate students in clinical courses or settings related to their intended profession.~~

**defamation. Defamation includes unprivileged oral, written, or electronic publication of a false statement of fact that exposes the person about whom it is made to hatred, contempt, or ridicule, or subjects that person to loss of the good will and confidence of others, or so harms that person's reputation as to deter others from associating with him or her.**

- (q) violations of federal, state or local law where such violations have an adverse effect on the educational mission of the University.
- (r) failure to comply with the lawful directions of University officials, including campus police officers, acting in performance of their duties.
- (s) knowingly providing false testimony or evidence, disruption or interference with the orderly conduct of a Disciplinary Conference or Hearing, violating the terms of any disciplinary sanction imposed in accordance with this Code, or any other abuse of the University's disciplinary procedures.
- (t) stalking. **A person is responsible for stalking if s/he purposely and repeatedly engages in a course of conduct directed at a specific person that would cause a reasonable person to fear bodily injury or death to him or herself or a member of his or her immediate family.**
- (u) Making, attempting to make, transmitting, or attempting to transmit audio or video of any person(s) on University premises in bathrooms, showers, bedrooms, or other premises where there is an explicit expectation of privacy with respect to nudity and/or sexual activity, without the knowledge and consent of all participants subject to such recordings.

#### Non-Separable Offenses

- (v) disorderly conduct on University premises or at University sponsored activities.
- (w) obstruction of the free flow of pedestrian or vehicular traffic on University premises or adjacent to University premises, or at University sponsored activities.
- (x) violations of other published University regulations or policies. Such regulations or policies may include regulations governing the residence hall lease agreement and accompanying regulations, as well as those regulations relating to the use of amplifying equipment, parking office rules and regulations, and regulations governing student organizations.
- (y) illegal use or possession of alcohol or any controlled substance or illegal drug.
- (z) the willful failure or refusal to testify as a witness at a University Disciplinary Hearing or Disciplinary Conference. **Witnesses may invoke their privilege against self-incrimination.**
- (aa) Undisclosed and unauthorized recording of other individuals within the University community\*

\*Students are expected to respect the reasonable expectations of privacy of other individuals within the University community. Accordingly, students are not permitted to make or attempt to make an audio or video recording of private, non-public conversations and/or meetings on University premises, without the knowledge and consent of all participants subject to such recordings. In such circumstances the uses of undisclosed hidden recording devices is prohibited, as is the transmission and/or distribution of any such recordings. This provision does not extend to the recording of public events or discussions, or to recordings made for law enforcement purposes.



11. Repeated convictions for violations of established University rules and regulations regardless of the seriousness of the individual offense involved, or any aggravated violation, may result in either expulsion or suspension from the University.
12. Attempts to commit acts prohibited by this Code or assisting others to commit acts prohibited by this Code shall be treated in the same manner as completed violations and subject to the same sanctions.

## **SANCTIONS**

13. Sanctions for violations of disciplinary regulations consist of:
  - (a) Warning: Notice, orally or in writing, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action. Notice of this action may appear on the student's academic transcript for up to one year.
  - (b) Disciplinary Probation: A student who is placed on disciplinary probation may continue to participate in student activities but shall be ineligible to represent the university in any official function or leadership position, including but not limited to: varsity athletics, student leadership position, cheerleader, standing committee chairperson, university senator, officer of a student government association, or an elected office in any registered student organization. After at least one semester free of behavioral violations, the student may petition the senior student affairs officer for the campus, or designee, for the restriction on participation to be removed as a condition of the probation. Violations of the terms of disciplinary probation, or any other violation of this Code during the period of probation, will normally result in suspension or expulsion from the University. Notice of this action may appear on the student's academic transcript for up to two years.
  - (c) Restitution: Repayment to the University or to an affected party for damages resulting from a violation of this Code.
  - (d) Suspension: Exclusion from University premises, and other privileges or activities, as set forth in the suspension notice. Suspension is of two types, term and/or conditional. A term suspension shall be for a stipulated period of time after which the student may return to the University community at the commencement of a regular period of study for which he or she is eligible. A conditional separation shall condition re-entry of the student into the University community upon fulfillment of specified requirements. The suspension shall continue until the Director of Student Conduct determines that the conditions have been satisfied. While on term or conditional suspension, a student shall not be permitted to earn credits at any other institution for the purpose of transferring those credits and making progress towards a Rutgers degree. Notice of the suspension shall appear on the student's academic transcript for the term of the suspension and may appear on the student's academic transcript for up to five years.
  - (e) Expulsion: Permanent termination of student status, and exclusion from University premises, privileges and activities. This action shall be permanently recorded on the student's academic transcript.
  - (f) Other Sanctions: Other sanctions may be imposed instead of, or in addition to, those specified in sections (a) through (e) of this part. For example, students may be subject to removal from University housing for disciplinary violations. Likewise, students may be subject to restrictions upon or denials of University parking privileges for violations involving the use of registration of motor vehicles on campus and the loss of privileges for access to University computers or networks. Service or research projects may also be assigned and the student may be required to attend a specified University class or workshop at his or her own expense. For violations of academic integrity, appropriate academic penalties may also be applied.

- (g) A student may receive more than one sanction for a single incident. For example, a student found responsible of stealing may be suspended, be required to make restitution, and be required to complete some form of community service.

## STANDARDS OF DUE PROCESS

14. Students subject to expulsion or suspension shall have the right to a University Hearing as specified in Parts 23 - ~~46~~ **47** of this Code. Students subject to less severe sanctions will be entitled to a Disciplinary Conference as set forth in Parts 49- 55. Instead of a University Hearing, a student may request to have his or her case referred to a Disciplinary Conference, as set forth in Part 22. Students accused of nonseparable violations of academic integrity shall have the right to an investigative review by a faculty member or Academic Integrity Facilitator as specified in the Rutgers Academic Integrity Policy.
15. The focus of inquiry in disciplinary proceedings shall be to determine whether a student(s) has violated the University Code of Student Conduct. Formal rules of evidence shall not be applicable. Deviations from prescribed procedures shall not invalidate a decision or proceeding unless, in the opinion of the Hearing Officer, significant prejudice to a student respondent resulted from the deviation.

## COMPLAINTS AND PRELIMINARY REVIEW

16. Any individual may report a student suspected of violating this Code to the Director of Student Conduct. However, individuals who are not members of the University community may not ~~serve as the complainant~~ bring forward a complaint in any proceedings conducted under this Code.
17. **If Conduct Cases:** if the individual initiating the complaint is a member of the University community, ~~including~~ **excluding** members of the University police, he or she will normally be expected to ~~serve as the complainant~~ bring forward the complaint and to present relevant evidence in Disciplinary Conferences or Hearings that may result from his/her complaint. The ~~complainant~~ person bringing forward the complaint may request the assistance of a Campus Adviser, as set forth in Parts ~~54-55~~ **55-56** of this Code. ~~On occasion a Dean of Students may serve as the complainant; however, that Dean may not conduct the Preliminary Review concurrently. A member of the University Community may be appointed by the Director of Student Conduct to bring forward a complaint if a victim of an alleged act is not a community member or is a community member that is unwilling to serve as the complaint party. When a Dean of Students brings forward the complaint that Dean may not conduct the Preliminary Review concurrently.~~
- Academic Integrity Cases: the person bringing forward the complaint shall be the individual initiating the complaint, a Community Advocate from the Honor Council, an Academic Integrity Facilitator, or member of the decanal staff of the respondent's school or college, as set forth in Part 47 of this Code.
18. In all disciplinary matters, except in cases of Interim Suspension as specified in Part 7, there shall be a Preliminary Review of information and evidence that may result in a charge(s) being brought against the student. The purpose of this Review shall be to determine if there is sufficient evidence to proceed with a Hearing. It shall be the responsibility of the ~~Student Conduct Officer~~ person who conducts the Preliminary Review to advise the respondent that:

- (a) he or she has the right to remain silent throughout any proceedings conducted under this Code and this silence will not be held against him or her; and
  - (b) matters discussed during the Preliminary Review become part of the case record and may be presented during any Hearing or Disciplinary Conference.
19. The Director of Student Conduct shall assign jurisdiction for the Preliminary Review. **In conduct cases, the Preliminary Review shall be conducted by a Student Conduct Officer; in academic integrity cases, it shall be conducted by a Student Conduct Officer or Academic Integrity Facilitator.**
20. The Student Conduct Officer **or Academic Integrity Facilitator** conducting the Preliminary Review shall make one of the following determinations:<sup>2</sup>
- (a) dismissal of the complaint. **A decision to dismiss the complaint is subject to the discretionary review of the Director of Student Conduct.**
  - (b) a charge(s) against the student which, in the Student Conduct Officer's **or Academic Integrity Facilitator's** opinion, ~~does not merit separation~~ **does not include a separable offense. Cases will be addressed as follows: and which shall be referred to a Disciplinary Conference as described in Parts 49 – 55**
    - (i) If the case does not involve academic integrity, the matter will be sent for a Disciplinary Conference as outlined in Parts 49-55 of this Code..**
    - (ii) if the case involves academic integrity the matter will be sent for a review as described in the Academic Integrity Policy and the document "Procedures for Adjudicating Alleged Nonseparable Violations of Academic Integrity".**
  - (c) a charge(s) against the student which, in the Student Conduct Officer's **or Academic Integrity Facilitator's** opinion, may ~~merit separation~~ **include a separable offense** and which shall be referred to a University Hearing as described in Parts 23 – ~~46~~ **47**.
  - (d) a charge(s) against the student involving both separable and non-separable offenses, which offenses are related to a single incident or set of incidents, which shall be referred to a University Hearing as described in Parts 23 - ~~46~~ **47** or a Disciplinary Conference as described in Parts 49 – 55.
  - (e) a decision to defer disciplinary proceedings for alleged minor violations of this Code for a period not to exceed ninety days. Pending charges may be withdrawn or pursued on or before the ninetieth day, at the discretion of the Student Conduct Officer **or Academic Integrity Facilitator**. **Students may be referred for dispute resolution during this period. If the dispute resolution is successful, the disciplinary charges may be dropped.**
  - (f) If the individual conducting the Preliminary Review makes the determination that the charges warrant a University Hearing or Disciplinary Conference, he or she may recommend to the Director of Student Conduct that a hold be put on the student's transcript, including the awarding of the student's degree, until the Hearing process is complete.**
21. Disciplinary matters may be disposed of without the initiation of any formal hearing process if the individual conducting the Preliminary Review determines that there is not adequate cause or evidence to proceed with a formal Hearing (see Part 20 (a)), if the respondent acknowledges engaging in conduct prohibited by the Code, or if the respondent elects not to contest the charge(s). If the respondent acknowledges engaging in prohibited conduct or elects not to contest the charges, the individual conducting the Preliminary Review may assign any of the sanctions specified in Part 13.

Any disciplinary determination for suspension or expulsion, as specified in Parts 13 (d) and (e), constitutes a recommendation to the Senior Student Affairs Officer (in conduct cases) or to the appropriate Chief Academic Officer (in academic integrity cases). Prior to acting upon a sanction recommendation from the Student Conduct Officer who conducts the Preliminary Review, the Senior Student Affairs Officer or Chief Academic Officer shall give the respondent and the complainant at least five working days to submit written statements concerning the sanction. The Senior Student Affairs Officer or Chief Academic Officer may also solicit written comments from the Student Conduct Officer who conducted the Preliminary Review and the Director of Student Conduct. The Senior Student Affairs Officer or Chief Academic Officer shall mail notice of his/her decision to the student in a timely fashion and a copy shall be sent to the Student Conduct Officer who conducted the Preliminary Review and the Director of Student Conduct. This notice shall include a brief explanation of the Senior Student Affairs Officer's or Chief Academic Officer's rationale for his/ her decision. In reaching his/her decision, the Senior Student Affairs Officer or Chief Academic Officer shall also take note of the student's prior disciplinary record and the penalties provided in previous cases involving similar offenses. Any appeal of a sanction determination made by the Senior Student Affairs Officer or the Chief Academic Officer for a respondent who acknowledges engaging in prohibited conduct or who elects not to contest the charges, shall be directed to the Appeals Committee at the campus of the student's registration pursuant to Part 56 of this Code. In such cases, appeals only will be considered on the ground that the sanction may be grossly disproportionate to the offense.

22. For cases which are referred to a University Hearing in Part 20, a respondent may request instead to have his or her case referred to a Disciplinary Conference as described in Parts 49-55 of this Code. Such requests shall not be granted unless the Student Conduct Officer has obtained the agreement of the complainant.

#### **UNIVERSITY HEARING BOARD PROCEDURES**

23. The intent of University Hearings is to provide the University community a forum in which alleged incidents of student misconduct may be reviewed. Except as specified in Part 31, University Hearings shall take place before a Hearing Board comprised of individuals from the regional campus of the University in which the respondent(s) is enrolled. University Hearings give the Hearing Board an opportunity to determine the relevant facts in a case upon which they may make an informed decision. To this end, both the Hearing Officer and members of the Hearing Board are expected to play investigatory and adjudicative roles. They shall be allowed to call witnesses, to question the complainant, and to question any witnesses appearing at a Hearing in an effort to determine the relevant facts about the complainant's charge(s) and the respondent's response. The Hearing Officer and the Hearing Board shall also be allowed to question the respondent if he/she waives his/her privilege against self-incrimination. It shall be the responsibility of the Hearing Officer to advise the respondent that he or she has the right to remain silent.
24. It shall be the responsibility of the Director of Student Conduct to develop and train a pool of qualified individuals to serve as Hearing Officers.
25. The Director of Student Conduct shall be responsible for annually assembling and training a pool of qualified students, faculty, and staff eligible to serve on University Hearing Boards.<sup>3</sup>
26. When a University Hearing is to be convened, three students and two faculty members or staff members (staff members for non-academic integrity cases only) shall be selected from the pools described in Part 25 of this Code to serve as a Hearing Board. Should a selected individual be unable to serve for any reason, his/her replacement shall be assigned by the Director of Student Conduct from the appropriate Hearing Board pool. If a Hearing Board member becomes unable to serve once a Hearing has commenced, the

Hearing may proceed or continue provided that there remains a minimum of two students and one faculty member on the Board.

27. The Director of Student Conduct may appoint Ad Hoc Hearing Boards whenever any University Hearing Board is not constituted, is unable to obtain a quorum, or is otherwise unable to hear a case. Ad Hoc Hearing Boards shall consist of a minimum of two students and one faculty member (or one staff member for non-academic integrity cases) and a maximum of three students and two faculty members (or two staff members, or a combination of faculty and staff members for non-academic integrity cases). Ad Hoc Hearing Boards may consist of members of the University community who are not part of the Hearing Board pool assembled in accordance with Part 25 of this Code.
28. Hearing Officers or Hearing Board members who are charged with a violation of this Code or a criminal offense may be suspended from their positions by the Director of Student Conduct, or his or her designee, during the pendency of the charges against them. Members found guilty of any such violation or offense will be disqualified from further participation in University disciplinary proceedings by the Director of Student Conduct or his or her designee. The Director of Student Conduct may establish additional grounds and procedures for removal.
29. The Director of Student Conduct shall give the respondent(s) notice of the Hearing and the specific charges against the student(s) at least ten working days in advance of the Hearing date. This notice shall contain: a statement of the charge(s) to be presented at the Hearing in sufficient detail to enable the student(s) to understand the nature of the offense(s) charged; the names of the Hearing Officer and the members of the Hearing Board for the case in question; the date, time and place of the Hearing; a listing of the names and addresses of available Campus Advisers and **Student Advocates**; the link to review this document or a hard copy upon request; and a list of the names of the witnesses who will testify at the Hearing on behalf of the complainant and a brief summary of the facts to which each will testify. Within five working days of the receipt of notice, the respondent(s) shall supply the Director of Student Conduct a list of witnesses who will testify on his/her behalf and a brief summary of the facts to which each will testify. The Hearing Officer may, at his or her discretion, allow a respondent(s) a greater period of time in which to prepare a list of witnesses. Witnesses whose names have not been submitted in accord with this provision will be allowed to testify only at the discretion of the Hearing Officer.
30. Any party may challenge the Hearing Officer or a member of the Hearing Board on the ground of personal bias by delivering a written statement setting forth the facts on which he or she relies to the Director of Student Conduct at least five working days prior to the scheduled date of the Hearing. **The term "personal bias" means animosity toward a party or favoritism toward the opposite party.** The Director shall determine whether the facts presented are grounds for disqualification and his/her decision shall not be subject to appeal. In the event of the disqualification of a Hearing Officer, the Director of Student Conduct shall assign a new Hearing Officer. In the event of a disqualification of a member of the Hearing Board, a replacement will be assigned by the Director of Student Conduct from the appropriate Hearing Board pool.
31. Where more than one student is charged with an offense arising from a single occurrence or, in the opinion of the Director of Student Conduct, out of connected occurrences, a single Hearing may be held for all students so charged. The Director of Student Conduct will establish the site of this Hearing. At least five working days before the scheduled Hearing, any student charged may make written application to the Director of Student Conduct for a separate Hearing setting forth the facts on which he or she relies to demonstrate that a consolidated Hearing would prejudice him or her. The decision of the Director of Student Conduct shall not be subject to appeal.
32. Respondents and complainants shall be accorded reasonable access to the case file, which will be retained in the office of the Director of Student Conduct. The case file shall

contain a written summary of the Preliminary Review, as described in Parts 18 – 20. This summary also will be made available to the Hearing Officer and members of the Hearing Board or the individual conducting the Disciplinary Conference. **Copies of Rutgers University Police Department reports will not be provided to any individual involved in a Hearing or Conference under this Code without the approval of the chief of the Rutgers University Police Department or his/her designee. Reports that are not made available to the accused cannot be used as evidence in any Hearing or Conference.**

33. Written applications setting forth good cause may be made to the Hearing Officer by either party for a postponement of the scheduled Hearing. Except in emergency situations, no application for a postponement shall be considered unless received at least five working days before the scheduled Hearing date. The decision of the Hearing Officer shall not be subject to appeal.
34. At least five working days before the scheduled Hearing, respondents and **person bringing forward complaint complainants** shall inform the Director of Student Conduct of their choice of Campus Adviser (Part 54), and/or support person, if any, who will assist them in the Hearing. The respondent shall be free to pick any member of the University community as his/her Campus Adviser.
35. The Hearing Officer:
  - (a) shall conduct the University Hearing in such a manner as to insure a fair Hearing to all concerned. He/she shall take all necessary action to maintain an orderly Hearing.
  - (b) shall exercise control over the proceedings to avoid needless consumption of time and to achieve orderly completion of the Hearing. The Hearing Officer may exclude any person, including the respondent, who disrupts a Hearing.
  - (c) may summon witnesses upon the request of either party or the referring Student Conduct Officer **or Academic Integrity Facilitator**. The Hearing Officer may also summon additional witnesses who he/she believes may provide pertinent information. A notice to appear as a witness may be delivered by any reasonable means, including e-mail, hand delivery or first class mail to the individual's most recent campus or home address as it appears in University records. Members of the University community are expected to comply with a summons issued pursuant to this procedure, unless compliance would result in significant and unavoidable hardship. If either party believes that a fair Hearing cannot be held without the testimony of a particular witness and, after good faith attempts are made, the witness either fails to or refuses to appear, the Hearing Officer may postpone the Hearing until the witness agrees to appear, he/she may dismiss the charges against the respondent, or he/she may direct that the Hearing proceed without the witness.
  - (d) shall make all necessary rulings on evidence. In the exercise of this responsibility, the following general guidelines shall apply. Formal rules of evidence shall not be applicable in disciplinary proceedings conducted pursuant to this Code. The Hearing Officer shall respect the rules of confidentiality and privilege, but shall otherwise admit all matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs. The Hearing Officer may exclude evidence if its probative value is substantially outweighed by its potential to cause unfair prejudice, confusion, or needless delay of the Hearing. **In cases involving allegations of sexual assault, the Hearing Officer will ensure that protections afforded under New Jersey's "Rape Shield Law" are followed.**
  - (e) shall advise the respondent at the beginning of the Hearing that he or she has the right to remain silent.

36. Respondents who fail to appear after proper notice shall be deemed to have pled no contest to the charges pending against them. Nonetheless, the **complainant person bringing forward the complaint** shall be required to present evidence to demonstrate that the respondent probably engaged in the conduct that is the subject of the charge.
37. University Hearings shall ordinarily be closed to the public, except for the respondent, the respondent's Adviser, the respondent's support person, the **complainant person bringing forward the complaint, the complainant's that person's Adviser and support person, the complainant's support person, and** the Director of Student Conduct, and the Student Conduct Officer or **Academic Integrity Facilitator who conducting conducted** the Preliminary Review. The respondent and the **complainant person bringing forward the complaint** may each petition the Hearing Officer to admit one additional support person. If the victim of an alleged act of misconduct is not the **complainant person bringing forward the complaint**, the Hearing Officer may also allow the victim to attend, subject to Part 55 of this Code. An open Hearing will be held if requested by the respondent unless the victim or **complainant person bringing forward the complaint** objects. In such cases, the Director of Student Conduct will be responsible for determining whether the Hearing is open or closed.
38. A ~~tape~~ recording of the Hearing, but not the closed deliberations of the Hearing Board, shall ordinarily be made and shall be preserved in the custody of the Director of Student Conduct. If a recording is not made for any reason, the decision of the Board must include a summary of the testimony and shall be sufficiently detailed to permit review by the Senior Student Affairs Officer, ~~or~~ Chief Academic Officer, **or Appeals Committee.**
39. Witnesses shall be asked to affirm that their testimony is truthful and may be subject to charges of intentionally providing false information to the University, pursuant to Part 10 (s) of this Code.
40. The Hearing Officer and members of the Hearing Board shall be accorded an opportunity to question all witnesses who testify at a Hearing. After the Hearing Officer and the Hearing Board have completed their initial questioning of a witness, the **complainant person bringing forward the complaint** and then the respondent, ~~or their Campus Advisers,~~ will be accorded an opportunity to question that witness. ~~However, the respondent and his/her Campus Adviser or the complainant and his/her Campus Adviser may not both question witnesses. Both the complainant and respondent shall elect at the beginning of any Hearing whether they or their Campus Adviser will question witnesses. This election will be binding throughout the Hearing unless the Hearing Officer permits a party to rescind his or her election.~~
41. Prospective witnesses other than the victim(s) shall ordinarily be excluded from the Hearing during the testimony of other witnesses. Under highly unusual circumstances the Hearing Officer, in his/her discretion may choose not to exclude one or more witnesses during the testimony of other witnesses. If a victim will be present during a Hearing, that victim will ordinarily be the first witness to present testimony and to be subject to questioning.
42. Affidavits shall only be admitted into evidence if signed by the affiant and witnessed by the referring Student Conduct Officer, **Academic Integrity Facilitator,** or a notary. Unless the individual making the affidavit personally appears at the Hearing, it may be used for the purpose of supplementing or explaining other evidence only, but shall not be sufficient to support a finding by itself.
43. ~~Board members may take judicial notice of matters that would be within the general experience of members of the University community. It is not necessary to prove matters in a Hearing or Conference that would be common knowledge to members of the University community.~~

44. At the completion of the presentation of all the facts on the charge(s), the Hearing Board shall retire to closed deliberations. Hearing Board deliberations shall not be recorded or transcribed. Each respondent shall be regarded as not responsible unless the Hearing Board determines the contrary based on the facts adduced at the Hearing. The decision shall be by majority vote. Each Board member shall vote and may not abstain. The Hearing Officer and the Director of Student Conduct shall not be considered voting members of the Hearing Board and the Director of Student Conduct shall not be present in the hearing room during the Hearing Board's deliberations regarding the finding. Both the Hearing Officer and the Director of Student Conduct shall be available to the Hearing Board to entertain clarification questions or questions of a technical nature. The Hearing Officer may reconvene the hearing with all parties present, if he/she feels it is appropriate to have the question(s) answered on the record.
45. The standard of ~~clear and convincing evidence~~ preponderance of information shall be employed in all Hearings and Conferences conducted under this Code. This standard requires that the Hearing Board (the Student Conduct Officer in Disciplinary Conferences) be persuaded that ~~there is a high probability it is more likely than not~~ that the allegations brought against the respondent are true., i.e., that there is a ~~reasonable certainty that the charges are true.~~
46. The decision shall be read by a member of the Hearing Board in a reconvened University Hearing and a copy provided to the respondent either at the hearing or as soon thereafter as is practical. The victim, if any, and the ~~complainant~~ person bringing forward the complaint may be present during the reading of the Hearing Board's decision; however, other witnesses will be excluded. The determination of the Board with respect to each charge shall be supported by a brief written summary of the findings relied upon by the Hearing Board. The written summary will be placed in the case file and made available to the respondent.

#### **UNIVERSITY HEARING BOARD PROCEDURES (ACADEMIC INTEGRITY CASES)**

47. The procedures for University Hearings for alleged separable violations of academic integrity are the same as the Hearing Board procedures for conduct cases delineated in Parts 23 through 46 of this Code with the following exceptions and modifications:
- (a) The respondent shall ordinarily choose his or her Adviser from among trained Campus Advisers or trained Student Advocates from the Honor Council. The respondent may request the Director of Student Conduct to allow another member of the University community to serve as his or her Adviser. If the student does not choose a Campus Adviser or Adviser, the Office of Student Conduct will make available a resource to him/her before the hearing to go over the process and answer questions.
- (b) The faculty member or other member of the University community who initiates the complaint ordinarily will have two options with respect to his or her role in the Hearing: (i) elect to bring forward the complaint, with the assistance of a Campus Adviser if desired, or (ii) request that a Community Advocate from the Honor Council bring forward the complaint. If no Community Advocate is available, an Academic Integrity Facilitator or member of the decanal staff of the respondent's school or college may bring forward the complaint.
- (c) A faculty member or other member of the University Community who initiates a complaint but elects not to bring forward the complaint shall be required to serve as a witness at the Hearing and may be present during the testimony of other witnesses.



- (d) In addition to the respondent and the person bringing forward the complaint, the individual who initiated the complaint may be present during the reading of the Hearing Board's decision.
- (e) The makeup of the University Hearing Board shall only include faculty and students; staff members may not serve on Academic Integrity Policy violation hearings.

## DETERMINATION OF SANCTIONS

- ~~48.~~ 47. Any determination of responsibility will generally be immediately followed by a supplemental proceeding in which the respondent, the complainant person bringing forward the complaint, the victim (if he or she is not the complainant person bringing forward the complaint), the referring Student Conduct Officer or Academic Integrity Facilitator, and the Director of Student Conduct may submit evidence or make statements concerning the appropriate sanction to be imposed. The past disciplinary record of the respondent shall be supplied to the Board by the referring Student Conduct Officer only if a determination of responsibility has been reached. A student's "disciplinary record" includes only those incidents where the student either has admitted responsibility or has been determined to be responsible for a previous violation of the University Code of Student Conduct.

At the completion of any presentations, the Hearing Board shall retire to closed deliberations to determine a recommended sanction., which shall be forwarded to the Senior Student Affairs Officer (in conduct cases) or the Chief Academic Officer (in academic integrity cases), as well as to the complainant, the respondent, and Hearing Officer, and the Director of Student Conduct. The recommended sanction shall be by majority vote and each Board member shall vote and may not abstain. Neither the Hearing Officer nor the Director of Student Conduct shall be considered voting members of the Hearing Board and the Director of Student Conduct shall not be present in the hearing room during the Hearing Board's deliberation regarding the sanction. Both the Hearing Officer and the Director of Student Conduct shall be available to the Hearing Board to entertain clarification questions or other questions of a technical nature. The Hearing Officer may reconvene the hearing with all parties present, if he/she feels it is appropriate to have the question(s) answered on the record.

- ~~48.~~ Prior to acting upon such recommendation, the Senior Student Affairs Officer or Chief Academic Officer shall give the respondent and the complainant at least five working days to submit written statements concerning the sanction recommended by the Hearing Board. The Senior Student Affairs Officer or Chief Academic Officer may also solicit written comments from the Hearing Officer assigned to the case and/or the Student Conduct Officer who conducted the Preliminary Review. The Senior Student Affairs Officer or Chief Academic Officer shall mail notice of his/her decision to the student in a timely fashion and a copy shall be sent to the Student Conduct Officer who conducted the Preliminary Review. This notice shall include a brief explanation of the Senior Student Affairs Officer's or Chief Academic Officer's rationale for his/her decision. In reaching his/her decision, the Senior Student Affairs Officer or Chief Academic Officer shall also take note of the student's prior disciplinary record and the penalties provided in previous cases involving similar offenses.

## DISCIPLINARY CONFERENCES

49. Students charged with a non-separable conduct offense (Part 10 (v) through (aa)) who contest the charge will be referred to a Disciplinary Conference. Additionally, students charged with separable offenses (Part 10 (a) through (u)) who have been referred to a University Hearing may request instead to have their case referred to a Disciplinary Conference. Requests for Disciplinary Conferences shall not be granted unless the Student Conduct Officer has obtained the agreement of the person bringing forward the complaint.

The Disciplinary Conference is designed to reduce unnecessary proceduralism and contentiousness in disciplinary proceedings. A Disciplinary Conference is an informal, non-adversarial hearing usually conducted between the respondent and the Student Conduct Officer assigned by the Director of Student Conduct. **Either the respondent or complainant may challenge the Student Conduct Officer on the basis of personal bias according to the same procedures set forth for challenging Hearing Officers (see Part 30). In the event of the disqualification of the Student Conduct Officer, the Director of Student Conduct shall designate a replacement who will be a member of the University community who has been trained to serve in this capacity.**

**Complainants Complaint initiators** would not be required to participate in the Disciplinary Conference, unless ~~cross-examination questioning~~ was necessary to resolve a dispositive factual issue. **In such cases, the person bringing forward the complaint may be accompanied by a Campus Adviser. Documentary evidence and written statements could be relied upon, so long as the respondent was given access to them in advance, and allowed to respond to them at the Conference.**

The Student Conduct Officer shall conduct the Disciplinary Conference in such a manner as to insure a fair conference to all concerned and shall exercise control over the process to avoid needless consumption of time and to achieve orderly completion of the Disciplinary Conference. The standard of proof shall be ~~clear and convincing evidence~~ **preponderance of information** as more fully explained in Part 45.

50. In the event of a Disciplinary Conference, the respondent shall be accorded the following procedural protections:
- (a) written notice of charges at least five working days prior to the scheduled Disciplinary Conference.
  - (b) reasonable access to the case file prior to and during the Disciplinary Conference, subject to Part 32 of this Code. **Copies of Rutgers University Police Department reports will not be provided to any individual involved in a Hearing or Conference under this Code without the approval of the chief of the Rutgers University Police Department or his/her designee. Reports that are not made available to the accused cannot be used as evidence in any Hearing or Conference.**
  - (c) an opportunity to respond to the evidence against him or her and to call appropriate witnesses on his or her behalf.
  - (d) the right to be ~~advised~~ **supported** by an attorney as provided in Part 53 of this Code.
  - (e) the right to be assisted by a Campus Adviser, as provided in Part ~~54~~ **53-55** of this Code.
  - (f) the right to appeal the determination of responsibility or the sanction in accordance with Parts 56-66 of this Code.
  - (g) **the right to challenge the Student Conduct Officer on the basis of personal bias according to the same procedures set forth for challenging Hearing Officers (see Part 30). In the event of the disqualification of the Student Conduct Officer, the Director of Student Conduct shall designate a replacement who will be a member of the University community who has been trained to serve in this capacity.**
51. Any of the sanctions specified in Part 13 may be assigned as the result of a Disciplinary Conference, except that the sanctions of suspension and expulsion are not available when a student is charged with only non-separable offenses (See Part 10 (v) through (aa)). **Written notice of the decision and of any sanction imposed shall be mailed to**

the student charged and a copy shall be sent to the Director of Student Conduct. Any disciplinary determination for suspension or expulsion as specified in Parts 13 (d) and (e) of this Code, constitutes a recommendation to the Senior Student Affairs Officer (in conduct cases) or the Chief Academic Officer (in academic integrity cases).

52. A ~~tape~~ recording of the Disciplinary Conference shall ordinarily be made and shall be preserved in the custody of the Director of Student Conduct. If a recording is not made for any reason, the decision of the Student Conduct Officer conducting the Disciplinary Conference must include a summary of the testimony that shall be sufficiently detailed to permit review.

## **SUPPORT PERSONS AND ADVISERS**

53. Both ~~complainants~~ person bringing the complaint and respondents may have an attorney serve as a support person. The role of this attorney shall be limited to consultation and he/she may not address Hearing Officers, Hearing Boards, speak in Disciplinary Conferences, or question witnesses.
54. The Director of Student Conduct will maintain a list of qualified individuals who are currently eligible to serve as Campus Advisers, Community Advocates, and Student Advocates and who may be selected to assist ~~complainants~~ individuals bringing forward complaints or respondents in Disciplinary Conferences or University Hearings on any campus. ~~Campus Advisers~~ In Academic Integrity cases, Community Advocates and Student Advocates shall be allowed to speak in Disciplinary Conferences and Hearings, make procedural objections, question witnesses, and make opening and closing statements. Campus Advisors are there to assist but do not have speaking roles during non-academic integrity cases. If a person bringing a complaint or a responding student needs additional assistance from a Campus Adviser in the form of an accommodation, the student is instructed to speak with the Director of Student Conduct.
55. ~~Any respondent in a Disciplinary Conference or University Hearing shall have the option of selecting the Campus Adviser of his or her choice from the trained corps of Advisers described in Part 54, or from the University community at large.~~ Any respondent or person bringing forward a complaint in a Disciplinary Conference or University Hearing shall have the option of selecting the Campus Adviser of his or her choice from the trained corps of Advisers described in Part 54 of this Code.
- (a) In conduct cases, the respondent or person bringing forward the complaint shall also have the option of selecting an Adviser from the University community at large.
- (b) In academic integrity cases, the respondent and person bringing forward the complaint may choose an Adviser who is not on the list of Campus Advisers maintained by the Office of Student Conduct only with the approval of the Director of Student Conduct. The complainant, subject to the limitations of Part 34, shall also have the right to be assisted by a Campus Adviser.
- (c) If the victim of an alleged instance of misconduct is not the ~~complainant person~~ bringing forward the complaint, he/she may have a support person present, but shall not be entitled to have a Campus Adviser or attorney present at any Hearing.
- (d) As a matter of University policy, the conversations between a Campus Adviser, Student Advocate, or Community Advocate and a person being assisted by that ~~adviser person~~ in a Hearing or Conference under this Code will be deemed confidential in subsequent University proceedings.

## **APPEAL PROCEDURES**

56. Any determination of responsibility by a University Hearing Board or by a Student Conduct Officer conducting a Disciplinary Conference for a ~~suspension~~ separable

offense (Part 10 (a) through (u)) or determination of sanction by the Senior Student Affairs Officer or the Chief Academic Officer may be appealed to the Appeals Committee of the regional campus of the student's registration, as described in Part 76 – 77.

57. Appeals ~~for~~**of** decisions made by Student Conduct Officers in Disciplinary Conferences for non-separable conduct offenses will be referred to the Director of Student Conduct in New Brunswick and to the Chancellor for cases involving students registered in Newark or in Camden. The appeals procedures to be followed on each campus are available in the Office of Student Conduct.
58. **Appeals of findings of responsibility and/or sanctions selected by faculty members or Academic Integrity Facilitators for nonseparable violations of academic integrity will be referred to the appropriate Campus Appeals Committee for consideration under the procedures specified in the Rutgers Academic Integrity Policy and the document "Procedures for Adjudicating Alleged Nonseparable Violations of Academic Integrity."**
- ~~59.~~ 58. Requests for appeals must be submitted in writing to the Director of Student Conduct, who will transmit the appeal to the appropriate appeals venue. Such requests must be received within ten working days from the date of the letter notifying the respondent of the finding and sanction. Respondents may appeal on any or all of the following grounds:
- (a) appeal the finding that the Respondent violated the Code;
  - (b) appeal the sanction imposed; and
  - (c) appeal on the basis of specified procedural errors in the disciplinary process.
- Failure to appeal within the allotted time will render the original decision final and conclusive. **An appellant may request an extension of the deadline for filing his/her appeal by written application to the Director of Student Conduct stating the reason(s) why such an extension is needed. Under unusual circumstances the Director may grant such a delay.**
- ~~60.~~ 59. The Appeals Committee may solicit written clarification on any issue raised on appeal from the Hearing Officer assigned to the case, the ~~Student Conduct Officer individual~~ who conducted the Preliminary Review or Disciplinary Conference, the Senior Student Affairs Officer or the Chief Academic Officer, the Director of Student Conduct, the respondent, and/or the **complaint initiator complainant**. Such written comments shall be retained as part of the case record.
- ~~61.~~ 60. In the preparation of an appeal, the respondent may have access to the **recorded tape of the** proceedings of the University Hearing or Disciplinary Conference. The respondent may not have custody of the original **recording tape**, but may obtain a copy from the Director of Student Conduct.
- ~~62.~~ 61. Appeals shall be decided upon the record of the original proceeding and upon written briefs submitted by any of the parties described in Part 59. The Appeals Committee shall not conduct a new hearing.
- ~~63.~~ 62. **If the finding of responsibility is being appealed, the** The Appeals Committee may:
- (a) affirm the finding of the Hearing Board or Student Conduct Officer and the sanction imposed by the Student Conduct Officer or Vice President for Student Affairs or Chief Academic Officer.
  - (b) affirm the finding and remand the determination of sanction to the Student Conduct Officer or Vice President for Student Affairs or Chief Academic Officer. On remand, neither the Student Conduct Officer nor the Vice President may increase the sanction originally imposed.

~~(b)-(c)~~ remand the case **for a new Hearing or Disciplinary Conference to the original Hearing Board or Student Conduct Officer, in accordance with Part 63.**

~~64~~ **63.** Deference shall be given to the determinations of Hearing Boards and Student Conduct Officers concerning findings of responsibility and to the Student Conduct Officer and Vice President for Student Affairs or Chief Academic Officer concerning the determination of sanctions.

- (a) Sanctions may only be remanded if found to be grossly disproportionate to the offense.
- (b) Cases may be remanded to the original Hearing Board or Student Conduct Officer who conducted the Disciplinary Conference if new and significant evidence becomes available which could not have been discovered by a properly diligent respondent before or during the original Hearing or Conference or if specified procedural errors or errors in interpretation of University regulations were so substantial as to effectively deny the respondent a fair Hearing or Conference. In the latter case, the Hearing Board or Student Conduct Officer will be directed by the Appeals Committee not to repeat the specified errors that caused the remand. If the finding of the original Hearing Board or Student Conduct Officer is held to be arbitrary and capricious, the case shall be remanded to a new Hearing Board or Student Conduct Officer. In this case, no indication or record of the previous Hearing will be introduced or provided to members of the new Hearing Board or Student Conduct Officer, except to impeach contradictory testimony at the discretion of the Hearing Officer.

~~65~~ **64.** The Appeals Committee will generally be expected to mail notice of its decision to the Respondent within fifteen working days of the filing of the appeal by the respondent. A copy shall be sent to the Senior Student Affairs Officer or Chief Academic Officer and Director of Student Conduct. In cases where a respondent is found to have violated the Academic Integrity Policy, the faculty member(s) of the affected course(s) will also be notified.

~~66~~ **65.** Within ten working days of the decision of the Appeals Committee, the respondent may petition the President of the University in writing, to review the finding and/or sanction. The decision to review or not to review shall be solely within the discretion of the President.

~~67~~ **66.** At the discretion of the Senior Student Affairs Officer or the Chief Academic Officer, the imposition of sanctions will normally be deferred during any appellate proceedings and the status of a student shall not change until the avenues of appeal described in this Code have been exhausted, except that a hold may be put on a student's transcript and no degree will be awarded to the student pending completion of the appeals process. Once these avenues have been exhausted, or when a respondent elects to forego further appeal, it shall be the responsibility of the Director of Student Conduct to oversee the implementation of the imposed sanction. Where permitted by state and federal laws, the Director of Student Conduct may notify the victim of an act of student misconduct of any sanction imposed.

#### **CLEMENCY FOR EXPULSION**

~~68~~ **67.** Rutgers University has established standards of conduct for students, and imposes sanctions for violations of these standards in order to sustain the personal, educational, and social development of its students. The University expels students when the student's behavior is so egregious that the University concludes that their continued affiliation with the University is antithetical to the safety or interests of the University community.

The University recognizes that, following a long separation from the University, people may change. Consequently, it is appropriate that the University consider granting clemency to expelled former students in circumstances where they are able to provide significant evidence of rehabilitation and a renewed commitment to the standards of conduct and scholarship expected of Rutgers students. For the purposes of this document, a petition for clemency is a procedure whereby the expelled individual requests the opportunity to complete her/his degree, and asks the University to consider new circumstances and facts that might alter the original sanction.

Individuals who have been expelled from the University may seek clemency under the following circumstances and conditions:

1. The individual must wait a minimum of four (4) calendar years after the original expulsion before initiating a request for clemency. If the individual has taken classes elsewhere in the intervening period, those credits will not transfer towards the Rutgers degree.
2. The request for clemency must be made in writing to the Executive Vice President for the New Brunswick/Piscataway Campus or to the Chancellor in Camden or Newark, hereafter referred to as the Clemency Officer. The written request should include appropriate documentation concerning the individual's status during the intervening years since the expulsion, any additional mitigating circumstances with appropriate documentation, and any additional information about character or change of behavior that may be appropriate. This documentation may include records pertaining to mental health status, employment, criminal or probation records, educational records, social service records, and letters of recommendation. NOTE: A victim impact statement will be allowable if relevant. The Clemency Officer should arrange for its inclusion in the assembled documents.
3. Upon receipt of the request for clemency, the Clemency Officer may consult with whomever s/he wishes and may empower an advisory panel to advise her/him. The Clemency Officer or advisory panel will review the request for clemency, and may conduct a personal interview with the individual, and/or conduct other forms of inquiry as needed.
4. The Clemency Officer will make a recommendation to the President on clemency including specific conditions, if any, for admission/re-admission.
5. The final decision (with any special conditions) will be made by the President and transmitted to the Clemency Officer on the campus from which the individual was expelled.
6. The decision of the President is final.

If clemency is granted, the individual will be readmitted to the University and to the school, program, or successor unit from which s/he was expelled (assuming s/he is academically qualified for re-enrollment). If the individual wants to attend a different academic unit within the University, s/he will be subject to the same requirements and approval processes of any current student. S/he will remain on disciplinary probation, noted on the transcript, until the degree is completed, at which time it will be removed as will the notation regarding the original expulsion. The individual must meet whatever graduation requirements are in place at the time of readmission. The President may impose additional conditions on the individual's readmission.

A record of the expulsion will remain in the student's disciplinary records maintained by the Office of Student Conduct, and is not subject to expunction.

## **DISCIPLINARY FILES AND RECORDS**

- 69. 68.** Case referrals may result in the development of a disciplinary file in the name of the respondent, which shall be voided if the respondent is found not responsible for the

charges. Voided files shall be so marked, shall not be kept with active disciplinary records, and shall not leave any student with a disciplinary record. Voided files will be destroyed at the end of six years.

~~70.~~ **69.** The disciplinary files of respondents found responsible for any charges against them shall be retained as a disciplinary record for a minimum of three years from the date of the letter providing notice of final disciplinary action. Disciplinary records may be reported to third parties, in accordance with University regulations and subject to the Family Educational Rights and Privacy Act of 1974.

~~71.~~ **70.** After all the terms of a sanction have been fulfilled, disciplinary records may be voided by the ~~Vice President for Student Affairs~~ **Senior Student Affairs Officer** (in conduct cases) or by the Chief Academic Officer (in academic integrity cases) for good cause, upon written petition of respondents. Factors to be considered in review of such petitions shall include:

- (a) the present conduct of the respondent.
- (b) the conduct of the respondent subsequent to the violation.
- (c) the nature of the violation and the severity of any damage, injury, or harm resulting from it.

## **TRANSCRIPT NOTATIONS**

~~72.~~ **74.** A hold may be placed on a student's University records by the Director of Student Conduct while disciplinary proceedings are pending.

~~73.~~ **72.** Permanent notation of disciplinary action shall be made on the transcript whenever a student is expelled and as otherwise provided in Part 13. Transcript notations of disciplinary action will also be made if a suspension is implemented. When the transcript notation has expired, the notation will be removed.

## **COMMITTEE ON STUDENT CONDUCT**

~~74.~~ **73.** The Committee on Student Conduct will be a standing University-wide committee that will be responsible for advising the Vice President for Student Affairs on issues pertaining to student discipline. The duties of the Committee on Student Conduct include reviewing this Code and suggesting appropriate amendments or modifications.

~~75.~~ **74.** The Vice President for Student Affairs shall annually appoint the members of the Committee on Student Conduct. Members may be reappointed at the discretion of the Vice President for Student Affairs.

~~76.~~ **75.** It will be the responsibility of the Vice President for Student Affairs to inform the University Senate, the President and the Board of Governors of any substantive changes in the student disciplinary process recommended by the Committee on Student Conduct review.

## **APPEALS COMMITTEE**

~~77.~~ **76.** ~~Each regional campus will have its own Appeals Committee, which shall be composed of the following members:~~

- ~~(a) — One faculty member.~~
- ~~(b) — One administrative member.~~
- ~~(c) — One undergraduate student.~~
- ~~(d) — One graduate student.~~

Each regional campus shall have its own Appeals Committee, composed of faculty members, undergraduate students, graduate students, staff members, and administrators. Panels selected from the Campus Appeals Committee shall consider appeals of determinations of responsibility and/or sanction for separable offenses as set forth in Parts 56-66 of this Code and shall consider appeals of determinations of responsibility and/or sanction for nonseparable violations of academic integrity as set forth in the Rutgers Academic Integrity Policy

The Chancellor on each campus will be responsible for establishing reasonable and fair procedures by which members of the Appeals Committee shall be appointed or selected on their campus.

~~78. 77.~~ Appeals shall be referred to the Appeals Committee of the respondent's regional campus.

~~A panel drawn from the Appeals Committee consisting of the faculty member, the administrator, and one student will consider each appeal. If the respondent is an undergraduate, the student member of the Appeals Committee shall be the undergraduate student member. If the respondent is a graduate student, the student member of the Appeals Committee shall be the graduate student member. If one of these members is unable to serve in this role for any reason, the appropriate Chancellor shall name a replacement. In all cases, however, the Appeals Committee shall consist of one student, one administrator, and one faculty member.~~

- (a) In separable conduct cases, the appeal shall be considered by a panel consisting of one faculty member, one administrator, and one student. If the respondent is an undergraduate student, the student member of the panel shall be an undergraduate student; if the respondent is a graduate student, the student member of the panel shall be a graduate student.
  - (b) In separable academic integrity cases, the appeal shall be considered by a panel consisting of one faculty member and two students. If the respondent is a graduate student, at least one of the students on the panel shall be a graduate student.
  - (c) In nonseparable academic integrity cases, the appeal shall be considered by a panel consisting of two students, one faculty member, and one nonvoting staff member called the Staff Investigator.
  - (d) Committee members who, in the opinion of the Director of Student Conduct, have played any role in a particular case shall be disqualified from the appeal process.
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