



**Institutional Handbook of Operating Procedures (IHOP)**

<b>Section:</b>	<b>Section 12 Academics – Education and Student Related</b>	<b>First Release Date:</b> <u>1/23/2012</u>	
<b>Policy Name:</b>	12.9 Student Conduct and Discipline		
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<b>Scope:</b>	This policy applies to all UTHSCT students.
<b>Purpose:</b>	To set out standards of student conduct and discipline.

**1. Standards of Conduct.**

All students are expected and required to obey federal, State, and local laws, to comply with the Regents' *Rules and Regulations*, with The University of Texas System and institutional rules and regulations, with directives issued by an administrative official of the U. T. System or **The University of Texas Health Science Center at Tyler** in the course of his/her authorized duties, and to observe standards of conduct appropriate for an academic institution.

**2. Applicability.**

Each student is responsible for the notice of and compliance with the provisions of the Regents' *Rules and Regulations* and the rules of the institution.

**2.1 Who is Subject to Discipline.**

Any student who engages in conduct that violates the Regents' *Rules and Regulations*, the U. T. System or institutional rules and regulations, specific instructions issued by an administrative official of the institution or the U. T. System acting in the course of his/her authorized duties, or federal, State, or local laws is subject to discipline. A student is subject to discipline for prohibited conduct that occurs on or off campus, including but not limited to institution or U.T. System sponsored off-campus activities such as field trips, internships, rotations or clinical assignments, regardless of whether civil or criminal penalties are also imposed for such conduct.

**2.2 Prohibited Conduct.**



(a.) Scholastic Dishonesty.

Any student who commits an act of scholastic dishonesty is subject to discipline. Scholastic dishonesty includes but is not limited to cheating, plagiarism, collusion, the submission for credit of any work or materials that are attributable in whole or in part to another person, taking an examination for another person, any act designed to give unfair advantage to a student or the attempt to commit such acts.

(b.) Drugs.

Any student who is found responsible for the illegal use, possession and/or sale of a drug or narcotic is subject to discipline. If a student is found responsible for the illegal use, possession, and/or sale of a drug or narcotic on campus, the minimum sanction assessed shall be suspension from the institution for a specified period of time and/or suspension of rights and privileges.

(c.) Health or Safety.

Any student who engages in conduct that endangers the health or safety of any person may be subject to discipline.

(d.) Disruptions.

Any student who, acting singly or in concert with others, obstructs, disrupts, or interferes with any teaching, educational, research, administrative, disciplinary, public service, or other activity or public performance authorized to be held or conducted on campus or on property or in a building or facility owned or controlled by the U. T. System or institution is subject to discipline. Obstruction or disruption includes but is not limited to any act that interrupts, modifies, or damages utility service or equipment, communication service or equipment, university computers, computer programs, computer records or computer networks accessible through the university's computer resources.

(e.) Inciting Lawless Action.

Any student who engages in speech, either orally or in writing, which is directed to inciting or producing imminent lawless action and is likely to incite or produce such action is subject to discipline;

(f.) Unauthorized Use of Property.



Any student who engages in the unauthorized use of property, equipment, supplies, buildings, or facilities owned or controlled by the U. T. System or institution is subject to discipline.

(g.) Hazing.

Any student who, acting singly or in concert with others, engages in hazing is subject to discipline. Hazing in State educational institutions is prohibited by State law (*Texas Education Code* [Section 51.936](#) and [Sections 37.151-37.157](#)). Hazing with or without the consent of a student whether on or off campus is prohibited, and a violation of that prohibition renders both the person inflicting the hazing and the person submitting to the hazing subject to discipline. Knowingly failing to report hazing can subject one to discipline. Initiations or activities of organizations may include no feature that is dangerous, harmful, or degrading to the student, and a violation of this prohibition renders both the organization and participating individuals subject to discipline.

(h.) Altering of Official Documents.

A student who alters or assists in the altering of any official record of the U. T. System or institution or who submits false information or omits requested information that is required for or related to an application for admission, the award of a degree, or any official record of the U. T. System or institution is subject to discipline. A former student who engages in such conduct is subject to bar against readmission, revocation of degree, and withdrawal of diploma.

(i.) Vandalism.

Any student who defaces, mutilates, destroys, or takes unauthorized possession of any property, equipment, supplies, buildings, or facilities owned or controlled by an institution or the U. T. System is subject to discipline.

(j.) Use of Explosives, Weapons or Hazardous Chemicals.

Unless authorized by federal, State, or local laws, a student who possesses or uses any type of explosive, firearm, imitation firearm, ammunition, hazardous chemical, or weapon as defined by State or federal law, while on campus or on any property or in any building or facility owned or controlled by the U. T. System or institution, is subject to discipline.

(k.) Prohibited Conduct During Suspension.



A student who receives a period of suspension as a disciplinary sanction is subject to further disciplinary action for prohibited conduct that takes place during the period of suspension.

### **3. Bar from Campus.**

A former student who has been suspended or expelled for disciplinary reasons is prohibited from being on the campus of any U.T. System institution during the period of such suspension or expulsion without prior written approval of the Chief Student Affairs Officer of the U.T. System institution at which the suspended or expelled student wishes to be present. In a request for such approval, the former student is required to disclose in writing each institution from which the individual has been suspended or expelled and the conduct leading to the disciplinary action.

### **4. Disciplinary Process.**

The Office of Academic Administration will conduct an investigation, determine whether to proceed with the charges, and if so, propose the appropriate sanction. The Office of Academic Administration may proceed with the disciplinary process even if the student is subject to concurred criminal or civil proceedings. Students will have the opportunity to appeal disciplinary action.

If there is a more specific policy that specifies the procedures for investigation, such as the Sexual Harassment/Sexual Misconduct policy, that policy will govern; however, all the powers provided herein to the Office of Academic Administration for investigations involving student witnesses, including summons, interim disciplinary action, and withholding transcripts, grades and degrees are delegated to the investigator designated in that policy.

#### **4.1 Investigation.**

Allegations of misconduct will be investigated by the Office of Academic Administration or the Office of Academic Administration's designee. The Office of Academic Administration may contact a student for a meeting for purposes of the investigation and/or to discuss the allegations. The Office of Academic Administration may also issue a summons for these purposes. A summons shall be in writing, specify a place for the meeting and a time at least three (3) weekdays after the date of the written request if the request is sent regular mail, or at least two (2) weekdays after the date of the request if the request is sent by email or hand delivered. The written request may be mailed to the address appearing in the records of the registrar, emailed to the student at the e-mail address on record with the U.T. System institution, or may be hand delivered to the student. If a student fails to appear without good cause, as determined by the Office of Academic Administration, the Office of Academic Administration may bar or cancel the student's enrollment or otherwise alter the status of the student



until the student complies with the summons. If the student failing to appear as directed in a summons is the student against whom charges are being reviewed, in addition to the above, the Office of Academic Administration may proceed with disciplinary action based upon other information available using the disciplinary procedures below. The refusal of a student to accept delivery of the notice, the failure to maintain a current address with the registrar, or failure to read mail or e-mail will not be good cause for the failure to respond to a summons.

#### 4.2 Reviewing the Evidence and Determining the Sanction.

The Office of Academic Administration will review the evidence, determine whether to proceed with charges, and, if so, determine the sanction appropriate to the charges. Before proceeding with disciplinary action, the Office of Academic Administration will offer the student the opportunity to meet to provide a response to the charges and, upon request, to review the available evidence supporting the charges.

#### 4.3 Interim Disciplinary Action.

Pending a hearing or other disposition of the allegations against a student, the Office of Academic Administration may take such immediate interim disciplinary action as is appropriate to the circumstances when such action is in the best interest of the institution. This includes but is not limited to a suspension and bar from the campus when it reasonably appears to the Office of Academic Administration from the circumstances that the continuing presence of the student poses a potential danger to persons or property or a potential threat for disrupting any activity authorized by the institution. In the event interim disciplinary action is taken, an expedited hearing will be offered in accordance with Section 5 below.

#### 4.4 Withholding Transcripts, Grades, Degrees.

The Office of Academic Administration may also withhold the issuance of an official transcript, grade, diploma, certificate, or degree to a student alleged to have violated a rule or regulation of the U. T. System or the institution that would reasonably allow the imposition of such sanction. The Office of Academic Administration may take such action pending a hearing, resolution by administrative disposition, and/or exhaustion of appellate rights if the Office of Academic Administration has provided the student an opportunity to provide a preliminary response to the allegations and in the opinion of the Office of Academic Administration, the best interests of the U. T. System or the institution would be served by this action.

#### 4.5 Uncontested Cases with Agreed Sanctions.

In any case, except in a case finding a violation of the Sexual Harassment/Sexual Misconduct Policy, where the accused student elects not to dispute the facts upon



which the charges are based and agrees to the sanctions the Office of Academic Administration assesses, the student may execute a written waiver of the hearing procedures and waiver of any appeals under the policy. This administrative disposition will be final, and there will be no subsequent proceedings regarding the charges.

In any case finding a violation of the Sexual Harassment/Sexual Misconduct Policy, the case will proceed under 4.6 of this Policy unless both the accused and the accuser agree to the terms of the administrative disposition and thus waive the hearing and appeals.

#### 4.6 Challenging the Disciplinary Action.

- (a) Cases in which Proposed Sanction involves Suspension, Academic Sanctions or Expulsion. In those cases in which the Office of Academic Administration proposes suspension, including suspension of rights and privileges, academic sanctions, or expulsion as a sanction, the charges will be heard and determined by a fair and impartial Hearing Officer in accordance with Section 5 below. However, a student not found in violation of the Sexual Harassment/Sexual Misconduct Policy may elect to sign an administrative disposition waiving the right to the hearing under Section 5, but reserving the right to appeal only the sanction. Such an appeal regarding the sanction will be to the President of the institution or his/her designee as determined by institutional procedures in accordance with Section 7 below. In cases where a student is found in violation of the Sexual Harassment/Sexual Misconduct Policy, the case will proceed before a Hearing Officer unless both the accused and the accuser agree to the waiver of the hearing procedures.
- (b) Cases in Which Neither Suspension, an Academic Sanction, or Expulsion is Proposed as a Sanction. In those cases not subject to 4.6(a), institutional rules may provide for a hearing process, other than that provided for in Section 5, that at a minimum provides that the Office of Academic Administration inform the student in writing of the charges, evidence, findings, and the sanction(s); allows the student an opportunity to meet with the Office of Academic Administration to provide evidence on his/her behalf; provides an appeal process to a designated appeals officer that includes a reasonable time to submit the student's position as to why the facts do not support the charges and/or why the sanction is inappropriate and provides for a designated appeals officer who will review and consider the file pertaining to the case.

In any case involving a violation of the Sexual Harassment/Sexual Misconduct Policy, the accuser will be provided an equal opportunity to participate in the process.



- (c) Burden of Proof. Upon a hearing of the charges, the Office of Academic Administration or other institutional representative has the burden of going forward with the evidence and has the burden of proving the charges by the greater weight of the credible evidence.

## **5. Hearing Process.**

In those cases in which the accused student disputes the facts upon which the charges are based, such charges will be heard and determined by a fair and impartial Hearing Officer.

In any case involving a violation of the Sexual Harassment/Sexual Misconduct Policy, the accuser will be provided the same rights and responsibilities outlined in this section as the accused, including the right to have notice of the hearing.

### **5.1 Interim Disciplinary Action Accelerated Hearing.**

When interim disciplinary action has been taken by the Office of Academic Administration under Section 4.3 above, the student will be given the opportunity to have a hearing of the charges in accordance with the procedures specified in Section 5.5 below within ten (10) days after the interim disciplinary action was taken; however, if the Office of Academic Administration determines that there is good cause, the 10-day period may be extended for a reasonable period.

### **5.2 Notice of Hearing.**

Except in those cases where immediate interim disciplinary action has been taken, the accused student will be given at least ten (10) days written notice of the date, time, and place for such hearing and the name of the Hearing Officer. The notice will include a statement of the charge(s) and a summary statement of the evidence supporting such charge(s). The notice will be delivered in person to the student or mailed to the student at the address appearing in the registrar's records. A notice sent by mail will be considered to have been received on the third (3<sup>rd</sup>) day after the date of mailing, excluding any intervening Sunday. The date for a hearing may be postponed by the Hearing Officer for good cause or by agreement of the student and Office of Academic Administration.

### **5.3 Impartiality of the Hearing Officer(s).**

The accused student may challenge the impartiality of a Hearing Officer(s). The challenge must be in writing, state the reasons for the challenge, and be submitted to the Hearing Officer(s) through the Office of the Office of Academic Administration at least three (3) days prior to the hearing. The Hearing Officer(s) will be the sole judge of whether he/she can serve with fairness and objectivity. In the event a Hearing Officer(s) disqualifies himself/herself, a substitute will be chosen in accordance with procedures of the institution.



#### 5.4 Duties of Hearing Officer(s).

The Hearing Officer(s) is responsible for conducting the hearing in an orderly manner and controlling the conduct of the witnesses and participants in the hearing. The Hearing Officer(s) will rule on all procedural matters and on objections regarding exhibits and testimony of witnesses, may question witnesses, and is entitled to have the advice and assistance of legal counsel from the Office of General Counsel of U.T. System. The Hearing Officer(s) will render and send to the Office of Academic Administration and the accused student a written decision that contains findings of fact and a conclusion as to whether the accused student is responsible for the violations as charged. Upon a finding of responsibility, the Hearing Officer(s) will assess a sanction or sanctions specified in Section 6 below. When an accused student is found responsible for the illegal use, possession, or sale of a drug or narcotic on campus, the assessment of a minimum sanction provided in Section 2.3 above is required.

#### 5.5 Procedures.

The hearing will be conducted in accordance with procedures adopted by the institution that are consistent with the following:

- (a) Each party will provide the other party a list of witnesses, a brief summary of the testimony to be given by each, and a copy of documents to be introduced at the hearing at least five (5) days prior to the hearing.
- (b) Each party will have the right to appear, present testimony of witnesses and documentary evidence, cross-examine witnesses (as permitted by the hearing officer), and be assisted by an advisor of choice. The advisor may be an attorney. If the accused student's advisor is an attorney, the Office of Academic Administration's advisor may be an attorney from the Office of General Counsel of the U.T. System. An advisor may confer with and advise the Office of Academic Administration or accused student, but will not be permitted to question witnesses, introduce evidence, make objections or present argument to the Hearing Officer(s). In sexual harassment/sexual assault cases, the alleged victim will have the right to be present throughout the hearing, to have an advisor present during the hearing, to have irrelevant past sexual history with third parties excluded from the evidence, and to have a closed hearing.
- (c) The Office of Academic Administration may recommend a sanction to be assessed by the Hearing Officer(s). The recommendation may be based upon past practice of the institution for violations of a similar nature, the past disciplinary record of the student, or other factors deemed relevant by the Office of Academic Administration. The accused student will be entitled to respond to the recommendation of the Office of Academic Administration.





- (d) The hearing will be recorded. If either party desires to appeal the decision of the Hearing Officer(s) in accordance with Section 7 below, the official record will consist of the recording of the hearing, the documents received in evidence, and the decision of the Hearing Officer(s). At the request of the President of the institution or his/her designee for the appeal, the recording of the hearing will be transcribed, and both parties will be furnished a copy of the transcript.

## **6. Sanctions.**

The following sanctions may be assessed by the Office of Academic Administration or by the Hearing Officer(s) as applicable, in accordance with these procedures:

- 6.1 Disciplinary probation.
- 6.2 Withholding of grades, official transcript, and/or degree.
- 6.3 Bar against readmission.
- 6.4 Restitution or reimbursement for damage to or misappropriation of institutional or U. T. System property.
- 6.5 Suspension of rights and privileges, including participation in athletic or extracurricular activities.
- 6.6 Failing grade or reduction of a grade for an examination, assignment, or for a course.
- 6.7 Denial of degree.
- 6.8 Suspension from the institution for a specified period of time or until the student meets specified conditions. Students who are currently enrolled will be administratively withdrawn from all courses, and refunds will not be issued. Suspension will be noted on the academic transcript. The notation can be removed upon the request of the student when all conditions of the suspension are met.
- 6.9 Expulsion (permanent separation from the institution) Expulsion creates a permanent notation on the student's academic transcript.
- 6.10 Revocation of degree and withdrawal of diploma.
- 6.11 Other sanction as deemed appropriate under the circumstances.

## **7. Appeal Procedures.**



A student may appeal a disciplinary sanction assessed by the Office of Academic Administration in accordance with Section 4.6(a) above. Either the Office of Academic Administration or the student may appeal the decision of the Hearing Officer(s). In sexual harassment/sexual misconduct cases, the alleged victim may pursue an appeal under the same procedure as the accused student. An appeal shall be in accordance with the following procedures

#### 7.1 Appeal Procedures.

The appealing party must submit a written appeal stating the specific reasons for the appeal and any argument to the President of the institution or his/her designee (hereafter "Appeal Official"), with a copy to the other party. The appeal must be stamped as received in the office of the Appeal Official no later than fourteen (14) days after the appealing party has been notified of the sanction assessed by the Office of Academic Administration or the decision of the Hearing Officer(s). If the notice of sanction assessed by the Office of Academic Administration or the decision of the Hearing Officer(s) is sent by mail, the date the notice or decision is mailed initiates the 14-day period for the appeal. The non-appealing party and in sexual harassment/sexual misconduct cases, the alleged victim, may submit a response to the appeal, which must be received by the Appeal Official no later than five (5) days after receipt of the appeal, with a copy to the other party. An appeal of the sanction assessed by the Office of Academic Administration in accordance with Section 4.6(a) above will be reviewed solely on the basis of the written argument of the student and the Office of Academic Administration. The appeal of the decision of the Hearing Officer(s) will be reviewed solely on the basis of the record from the hearing. The Office of Academic Administration will submit the record from the hearing to the Appeal Official as soon as it is available to the Office of Academic Administration. The Appeal Official, may, at his/her discretion, entertain oral argument in an appeal from the decision of the Hearing Officer(s).

#### 7.2 Appeal Official's Authority.

The Appeal Official may approve, reject, or modify the decision in question or may require that the original hearing be reopened for the presentation of additional evidence and reconsideration of the decision. It is provided, however, that upon a finding of responsibility in a case involving the illegal use, possession, and/or sale of a drug or narcotic on campus, the sanction may not be reduced below the sanction as prescribed by Section 2.3 above.

#### 7.3 Communication of Decision.

The action of the Appeal Official will be communicated in writing to the student(s) and the Office of Academic Administration within thirty (30) days after the appeal and related documents have been received. The decision of the Appeal Official is the final appellate review.



## **8. Disciplinary Record.**

The academic transcript of a student suspended or expelled for disciplinary reasons will be marked accordingly. Each institution will maintain a permanent written disciplinary record for every student assessed a sanction of suspension, expulsion, denial or revocation of degree, and/or withdrawal of diploma. A record of scholastic dishonesty will be maintained for at least five (5) years unless the record is permanent in conjunction with the above stated sanctions. A disciplinary record will reflect the nature of the charge, the disposition of the charge, the sanction assessed, and any other pertinent information. This disciplinary record will be maintained by the Office of the Office of Academic Administration of Students. It will be treated as confidential, and will not be accessible to anyone other than the Office of Academic Administration or university officials with legitimate educational interests, except upon written authorization of the student or in accordance with applicable State or federal laws or court order or subpoena.

## **9. Definitions**

**Administrative Disposition** – A document signed by the student and Office of Academic Administration which includes a statement of the disciplinary charges, the findings, the sanction and a waiver of the hearing procedures and possibly a waiver of appeals under Regents' *Rules and Regulations*, Rule 50101, Section 2, and institutional rules regarding student discipline.

**Campus** – Consists of all real property, buildings, or facilities owned or controlled by the institution.

**Chief Student Affairs Officer** – The administrative officer primarily responsible for the development and administration of policies relating to students, for the development and implementation of services to students, and for the initial preparation of institutional regulations that will implement the policies and regulations set forth in this rule.

**Office of Academic Administration** – Refers to the administrative officer or officers responsible for the administration of the disciplinary process at each institution. The Office of Academic Administration may designate individual(s) to administer disciplinary cases under this policy.

**Hearing Officer** – An individual or individuals selected in accordance with procedures adopted by the institution pursuant to the recommendation of the Chief Student Affairs Officer to hear disciplinary charges, make findings of fact, and, upon a finding of responsibility, impose an appropriate sanction(s).



Student – The following persons will be considered students for purposes of these policies and regulations:

1. A person currently enrolled at an institution of the U. T. System.
2. A person accepted for admission or readmission to an institution of the U. T. System.
3. A person who has been enrolled at an institution of the U. T. System in a prior semester or summer session and is eligible to continue enrollment in the semester or summer session that immediately follows.
4. A person who engaged in prohibited conduct at a time when he/she met the criteria of 1, 2, or 3 above.

Day – A calendar day, except for any day that is an official holiday of the institution or when regularly scheduled classes are suspended due to emergent situations.

Business Day– Monday through Friday, excluding any day that is an official holiday of the institution or when regularly scheduled classes are suspended due to emergent situations.

#### **10. Authority/Related Policies**

[Regents' Rules and Regulations, Rule 50101](#)  
[Sexual Misconduct policy](#)