Judicial Process

Summary/Purpose: To describe the University judicial process from notice of charge through the appellate process.

Below is the outline for the complete University judicial process.

1. Notice of Charge
When a charge is initiated against a student, the Office of the Dean of Students or Student Housing sends the involved student written notification in the form of an email or letter, asking the student to meet with a representative of that department for a prehearing. This notice will inform the student of the specific policy, rule, or regulation that the student or organization is charged with having violated; the date, time, and place of the prehearing; and any other information deemed pertinent to the specific case.

2. Prehearing
At the prehearing, a representative of the Office of the Dean of Students or Student Housing will discuss the charges with the affected student(s). With the consent of all parties involved, the case may be immediately heard before an administrative hearing officer (a representative of the Office of the Dean of Students or Student Housing). If the parties do not so agree, the case shall be forwarded to a judicial hearing body.

If the parties agree for the case to be heard by an administrative hearing officer, the parties, including the charged student or student organization, waive all right to appeal; any decision rendered and sanction assigned by the administrative hearing officer is final.

3. Notice of Hearing
If a student will face a hearing before a panel of the University Judicial Council, the student will be provided written notice of the charges and the date, time, and place of the hearing along with a copy of this policy

4. Hearing Process
Below are hearing procedures used within the University Judicial Council; similar procedures would be followed for all judicial bodies within the University judicial system. These procedures assume a prehearing has taken place or that the Office of the Dean of Students or other judicial officer has determined that the case should immediately be forwarded to a judicial body for hearing.

   a. Student disciplinary hearings are not intended to be adversarial but educational, conducted in an atmosphere of informality and fairness. Formal rules of process, procedure, and/or technical rules of evidence such as those applied in criminal or civil court are not used in the University judicial process.
b. The charging party bears the burden of demonstrating that a violation of University policy has occurred by a preponderance of the evidence. The charging party has satisfied this burden if the hearing panel concludes, based upon the information presented, that it is more likely than not that the charged party is responsible for the alleged violation.

c. The chair of the hearing panel will preside over the hearing. The chair, with the aid of the Office of the Dean of Students or other judicial officer, shall notify all interested parties of the hearing and their rights at the hearing (which will include providing the parties with a list of the members of the judicial body), distribute copies of all relevant materials to the parties and members of the judicial body before the hearing, and at the beginning of the hearing, explain the process that will be followed.

d. During the course of the hearing, the chair of the panel shall make all procedural and evidentiary determinations, which are final.

e. In determining whether the charged party is responsible for violations of University policy, the University judicial system may consider information which institutions normally make academic and business judgments, including but not limited to pertinent records, exhibits, and oral and written statements.

f. If a charging party brings a charge against a student based upon the student’s criminal conviction by any trial court of competent jurisdiction, the criminal conviction may be accepted as a final factual determination that the student has violated applicable University policy. The function of the University’s judicial process shall be limited to determining whether the conduct falls within the jurisdiction of the University judicial system and determining the appropriate University sanction under this and other University policies.

g. The parties shall have the right to present their own case. This includes the right to make an opening statement, present witnesses and other evidence, to ask questions of witnesses presented by others, and to make a closing statement. Following opening statements by the parties, the charging party will present the witnesses and evidence against the charged party first. The charging party retains the burden of proof throughout the process.

h. The parties have the right for an adviser or counselor of their choosing to attend the hearing, but any advisor or counselor accompanying a party will not be permitted to speak or participate directly in the hearing but will be limited to speaking only to the party for which they are advising.

i. As the parties present information for the panel’s consideration, members of the hearing panel, including the chair, may ask questions of the parties and other witnesses concerning the information presented or other information pertinent to the charge.

j. Refusal to respond to questions posed during a hearing may lead to an adverse inference by the hearing panel concerning the subject matter of the question posed, and this adverse
inference, if applicable, may be one factor considered by the hearing panel in making its decision.

k. In a case in which the student or organization has admitted the wrongful conduct, the hearing panel may elect to proceed directly into deliberation concerning appropriate sanctions rather than hear evidence of the misconduct.

l. At the conclusion of all evidence, the hearing panel will deliberate in private and will determine by majority vote (if the hearing panel consists of more than one person) whether it is more likely than not that the student or organization being charged violated University policy, and if so, will determine an appropriate sanction.

m. The hearing will be closed to the public.

n. Hearings involving several students or organizations may be consolidated if, in the opinion of the Office of the Dean of Students or other judicial officer, the issues involved arise from a common nucleus of facts and circumstances.

o. The hearing will be recorded in some fashion.

5. **Failure to Appear**

If a student fails to attend a prehearing, an administrative hearing, or a hearing before a judicial body, the hearing may be held in the student’s absence, which may lead to further charges for disregard of University authority.

6. **Appeal**

If the decision of a University judicial body may be appealed, the student or organization must submit a Request for Appellate Consideration form to the Office of the Dean of Students within twenty-four (24) hours of the decision being appealed unless a longer period of time is specified in writing.

a. **Basis for Appeal**

The appellate decision-maker shall review the decision solely based upon the written Request for Appellate Consideration and the information presented to the University judicial body. The role of the appellate decision-maker is not to substitute his, her or its judgment for the decision of the University judicial body. Rather, appellate review only considers the following:

i. whether prescribed University disciplinary procedures were followed, including whether the alleged misconduct falls within the jurisdiction of the University judicial system;

ii. whether the decision reached by the University judicial body was arbitrary and capricious (that is, the decision was not based on substantial evidence);
iii. whether the sanction(s) imposed by the judicial body were appropriate for the violation that the student or organization was found to have committed; and
iv. whether new evidence exists sufficient to alter the original decision that was not considered at the original hearing and was not known by the charged party at the time of the hearing.

b. Appellate Consideration Board
Cases involving violations of University policy heard by any University judicial body, including the University Judicial Council, which result in sanctions other than suspension or expulsion from the University, may be appealed to the Appellate Consideration Board. A panel consisting of at least three members of the Appellate Consideration Board will consider each case appealed to it based on the aforementioned criteria. Once a decision has been made, the student or organization will be notified in writing of the Appellate Consideration Board’s ruling. The Chancellor has delegated final authority of review to the Appellate Consideration Board for cases for which they convene.

c. Suspension or Expulsion
If the sanction appealed includes suspension or expulsion from the University, that decision should be appealed to the Vice Chancellor for Student Affairs, whose decision may be further appealed to the Chancellor. In accordance with the policies and bylaws of the Mississippi Institutions of Higher Learning, the decision of the Chancellor will be final.

d. Appellate Decisions
After reviewing the Request for Appellate Consideration and documents pertaining to a particular case, the appellate body may:
   i. request additional information from the appealing party or the charging party;
   ii. remand the case back to the original judicial panel or officer for reconsideration;
   iii. uphold the decision of the hearing panel;
   iv. modify by changing the imposed sanctions; or
   v. reverse the decision of the judicial panel and dismiss the case.

6. Actions Including Student Holds
If a student fails to appear in response to a notice of charge, a notice of hearing, or a notice to appear before any University judicial body or officer under another University judicial process, and/or if a student receives sanctions based on a finding that he or she was in violation of a University policy and has neglected to complete those sanctions, a hold may be placed on the student’s account. A hold restricts a student’s ability to conduct the following nonexclusive list of activities: register for classes, drop or add classes, obtain transcripts, receive a diploma, withdraw from the University, and have access to grades. It is within the discretion of the office which places the hold (typically the Office of the Dean of Students or Student Housing and Residence Life) to determine under what circumstances a hold may or may not be released.