NEW MEXICO TECH
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Procedures for Resolving Alleged Violations of the Student Code of Conduct

Office of the Student Affairs

Related Policy: Student Code of Conduct Policy

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Purpose 3
Resolving Conduct Issues 3
Alleged Violations of the Student Code of Conduct 3
Informal Resolution 4
Formal Resolution 5
Order of the Student Conduct Board 6
Appeal Process 7
Grounds for appeal 7
Review of information 8
Appellate Decision 9
Sanctions Pending Appeal 9
Student Disciplinary File 9

PURPOSE

This procedure helps explain how New Mexico Tech will implement its Student Code of Conduct policy and details Tech's process for actions initiated against students or student organizations for alleged conduct violations of the Student Code of Conduct. This procedure, the Procedure for Resolving Academic Dishonesty and Academic Research Misconduct Violations, Procedures for Resolving Alleged Sexual Misconduct Offenses, and the associated policy links can be found on the NMT Student Support Resources website.

Resolving Conduct Issues

New Mexico Tech has a similar campus-wide disciplinary process, managed by Academic Affairs, Graduate Studies, Division of Student Life, and various administrative units (e.g. Residential Life), who handle most matters involving alleged Student Code of Conduct and rule violations. The various administrative units follow their own due process that includes a prompt, fair, and impartial process:

1. Academic Affairs maintains its own hearing process for resolving alleged academic integrity, dishonesty and research misconduct.

2. Administrative units such as Housing & Residential Life, Recreation & Well-being, and Intramurals also maintain disciplinary processes for violations of each unit's own rules of conduct.

3. The Student Government Association (SGA), Graduate Student Association (GSA), Sports Clubs, and other student clubs have their own processes but still fall under the overarching Student Code of Conduct and its associated procedures. The Dean of Students (DOS) aids with formal resolutions and appeals to these student groups as needed.

Regardless of the process, the Dean of Students is a resource for students and administrative units with questions and guidance in student conduct and disciplinary matters.

Alleged Violations of the Student Code of Conduct

All alleged violations of the Student Code of Conduct will be resolved in a manner that is prompt, fair, and impartial. This will include the following:

1. Alleged violations will be resolved within a reasonably prompt time, allowing for an extension of the period for good cause. If the time must be extended, the respondent and impacted person will be notified in writing of the delay and the reason for the delay.

2. Proceedings will be conducted in a manner consistent with University policy and transparent to both the respondent and complainant.

3. Provide timely notice of meetings at which the respondent, complainant, or both may be

present.

4. Timely and equal access to the respondent, complainant and appropriate officials to any information that will be used during informal meetings and formal hearings.

5. Both the respondent and the complainant are permitted to have one (1) support person or advocate (e.g. friend, attorney) present for any initial meetings, interviews, and/or hearings).

6. Proceedings will be conducted by NMT officials who do not have a conflict of interest or bias for or against the respondent or complainant.

The decision whether to take action for an alleged conduct violation of the Student Code of Conduct shall belong to the Dean (i.e. Dean of Students for undergraduates and Dean of Graduate Studies for graduate students). The Dean or their designee may proceed with a University investigation and disciplinary action against a student or student group without waiting for the results of criminal proceedings.

Informal Resolution

The following offices and administrators have the authority to informally resolve alleged violations the Student Code of Conduct Policy:

Dean of Students Office (DOS)

1. The DOS seeks to resolve alleged violations of NMT's Student Code of Conduct Policy for all undergraduate students informally. The DOS will assign an individual(s) to conduct an investigation, interview, and adjudicate the case. The respondent and complainant may be accompanied by an advocate/support person of their choice at any meetings or hearings related to the disciplinary process.

2. In all cases, the confidentiality of the impacted persons and other necessary parties will be protected to the extent allowable by law.

3. The Administrative Adjudicator/Hearing Officer will develop a written Letter of Determination (LOD) to summarize the findings and a proposed written resolution, including (1) a decision regarding if the student was found to be responsible for violating the Student Code of Conduct, (2) sanctions where appropriate, and (3) the option for a formal hearing.

4. Decisions on whether the Student Code of Conduct has been violated will be based on a preponderance of the evidence standard, meaning that it is more likely than not that a violation of the Student Code of Conduct occurred or it is more likely than not that a violation did not occur.

Office of Graduate Studies

1. Utilizing the same procedures as the DOS, the Office for Graduate Studies (OGS) attempts to informally resolve complaints of non-academic violations of Tech's Student Code of Conduct Policy for all graduate students. The OGS and the DOS work collaboratively, as needed. The Dean of Graduate Studies will receive the Investigation Draft Report (IDR) and then develop the LOD to be submitted to the parties.

Administrative Units

1. Housing & Residential Life has an internal disciplinary process (i.e. Community Standards), which may overlap with the Student Code of Conduct. These administrative units are authorized to issue and resolve complaints of their rule violations through their own process. Unit/Club violations or minor and moderate rule violations of the Student Code of Conduct can be resolved through the administrative unit's process. Student Code of Conduct for alleged violations that are serious as to potentially warrant sanctions beyond the authority of the administrative units should be forwarded by the unit to DOS for disposition. Housing & Residential Life has an administrator who handles informal processes for all minor and moderate conduct cases.

2. If the administrative unit (e.g. club sport, student organization, SGA, GSA) does not have policies or procedures for handling any specific violations, the incident can be referred to the Dean of Students for resolution. The case can be forwarded to SGA for resolution if it is a student organization-specific violation.

Formal Resolution

If a non-academic complaint under the Student Code of Conduct is not resolved informally, the student is entitled to a formal hearing. Students desiring a formal hearing must submit a written request to the DOS within five (5) business days of receiving the Informal Letter of Determination (LOD). The hearing body and procedures vary depending on the circumstances of the student and the nature of the complaint. The hearing bodies are:

Student Conduct Board (SCB) - also known as Student and Faculty Conduct Committee

1. The Student Conduct Board (SCB) is a formal, campus-wide hearing body comprised of faculty, staff, and students housed within the Faculty Senate that convenes to hear and decide upon complaints under the Student Code of Conduct. The SCB has the authority to hear all types of alleged violations and render a disciplinary action decision under the Student Code of Conduct, including:

2. Alleged violations under the Student Code of Conduct. Members of the Student Conduct Board receive annual training on how to conduct an investigation and the hearing process that protects the safety of all involved and promotes accountability.

3. The SCC is also the appellant body for appeals from these units.

A formal record, an audio recording, or a transcript of the hearing must be kept for appellate

purposes. Student Code of Conduct hearings are not court cases; court rules of process, procedure, or evidence do not apply.

ORDER OF THE STUDENT CONDUCT BOARD

1. The Student Conduct Board (SCC) will convene and review all written information. If the respondent or complainant has written information to share with the SCC, it must be submitted two (2) business days prior to the scheduled SCC proceedings. Each SCC member will receive a copy; electronic submission via UNO email is preferred.

2. The SCC will conclude its executive session and admit both the respondent and complainant to the room. Both the respondent and complainant (where applicable) will be present during the questioning. Support Persons and Advocates (as defined) will also be admitted.

3. The complainant may make a statement to the Board of Review about the reported incident or event.

4. The respondent may make a statement concerning the incident or event.

5. The SCC members may ask questions to the respondent and complainant. The Advocates may also question the respondent and the complainant. Both the respondent and the complainant may question each other by directing questions through the chair.

6. The chair has the authority to decide whether the questions are germane to the case. Questions about any written information submitted to support the allegation may be raised even if the author is not present.

7. Witness(s) for both the respondent and complainant will be called into the room (or virtual meeting space alternative if the SCC is conducted wholly or in a hybrid manner online) one by one to provide information supporting or refuting the alleged violations. The SCC members may ask questions of the witnesses. The Advocates may ask questions of the witnesses. Both the respondent and the complainant may question witness(s) by directing questions through the chair.

8. The respondent, complainant, and the witnesses may refuse to answer any question if the answer could lead to violations of this code or to violations of local, state, or federal laws. The SCC will not make any assumptions based on a student's refusal to answer a question.

9. The respondent and complainant may each make a closing statement.

10. The chair may call the SCC into executive session at any time to discuss a procedural matter.

11. After all statements have been made and all questions asked by the SCC, all SCC members will be excused, and the SCC will go into executive session. At that time, the SCC will decide what actions were taken by the respondent and based on that information determine whether the respondent is responsible for violation of the code of conduct. The decision will be based on the information submitted to the SCC. The Student Conduct Board's determination of responsibility shall be made based on the preponderance of evidence.

12. If the respondent has been found in violation and has had accountability action taken and/or sanctions imposed in the past, the chair will inform the SCC of such in order that this history can be considered when recommending a sanction. If the SCC finds that a violation was committed, the SCC will submit notice of appropriate sanction(s) to the Dean or designee. If the recommended sanction is suspension or expulsion, the SCC's finding must be unanimous; if other sanctions are recommended, a majority vote is necessary.

13. The chair shall prepare a written finding from the SCC including the SCC's rationale. Within five (5) business days following the SCC, the Dean or designee will email the notice of finding to the respondent. The appeal date is established by the date that the decision is emailed. Appropriate University offices will be notified of the imposed sanction after the appeal deadline has passed.

14. No other recording devices may be used during the Student Conduct Board hearing. The respondent may request to review the official recording of the SCC. The recording will be kept in the Office of Student Affairs for at least 7 years after the last date of the student's attendance and indefinitely if the sanction is expulsion.

APPEAL PROCESS

A student or student group found to be in violation of the Student Code of Conduct is entitled to an appeal of disciplinary decisions (e.g. finding the student to be responsible and/or the related sanction) made in the formal hearing body. The Student Conduct Board does not have appellate jurisdiction over its own actions. The final source of appeal on New Mexico Tech Campus for action by the Student Conduct Board is to the Vice President of Student Affairs.

Grounds for appeal

A respondent may submit a written appeal of the finding of responsibility and any resulting sanctions to the Dean of Students or their designee within ten (10) business days of the emailed decision. Appeals must be submitted through the Dean of Students Office using the student's official email address and sent to deanofstudents@npe.nmt.edu.

Filing a letter of appeal is a formal written request and must contain the student's name, the date of the decision, the university's action taken, and a clear statement of the appeal's basis.

An appeal may be considered only if one or more of the following applies:

1. New information is submitted which could substantially impact the original finding or sanction, because such information was not known to the person appealing at the time of the review.

2. Contradictory evidence.

3. A procedural error or irregularity occurred which could substantially impact the original finding or sanction.

If the appeal is granted: the following actions are available:

1. Uphold the decision including the sanctions imposed.

2. Uphold the decision but impose different sanctions.

3. Resubmit the case to the Student Conduct Board for a new review or with specific instructions. This option may be used in cases involving a procedural error or when additional information becomes available.

4. Reverse the decision. The Dean of Students will, in writing, inform the parties involved in the appeal decision within ten (10) business days of receiving the appeal.

The sanctions will not take effect until after the appeal is finalized unless it is determined by university officials that the student's presence on campus poses a threat of danger to persons or property or is an ongoing threat to the academic process or the safety of the NMT community.

A student may appeal to the President of NMT if the sanction is one of suspension from the University for a period of one academic year or if the sanction is of greater severity. For appeals regarding less severe sanctions, the final appeal shall be at the University level

Review of information

To decide on an appeal, the appellate officer/body reviews the written appeal submitted by the appellant and may review any or all portions of the record. The appellate officer also has discretion to seek further information to assist in deciding the appeal, including one or more of the following:

1. Additional written information from the appellant (i.e. the student or student group who submitted the appeal, including citations to key portions of the record).

2. A written response from the respondent (i.e. formal hearing by chairperson or designated panel member).

3. Written responses to questions from either the appellant or the respondent.

4. Oral presentations from the appellant and respondent will be recorded. Appellants or respondents may have their advocate/support person present for the questioning, but the advocate/support person will not have an active role in the discussions

Appellate Decision

The appellate officer/body makes the final University decision. The appellate officer may accept, modify, or reject the disciplinary decision of the hearing body, or return the matter for further proceedings. The appellate officer will provide a written decision to the appellant and the chair of the hearing body.

Sanctions Pending Appeal

Disciplinary sanctions affecting the student's status/attendance at the University generally are stayed pending appeal, unless the President or delegate determines that sanctions should be immediately implemented because the underlying offense involved serious harm to another person or the student otherwise presents a continuing risk of harm or disruption to the community.

Student Disciplinary File

The file is considered part of the student's academic record, private information protected by FERPA and University policies. Any sharing of information external by the University is done only with the student’s consent or as required by law.