

## **Proposed Changes to the Code of Student Conduct (2013 – 2014) and Student Policies**

### **Item 1: From the Code of Student Conduct:**

Current Wording of Policy (<http://www.udel.edu/stuguide/12-13/code.html#alcohol>)

#### **2. Prohibited Activities**

The University prohibits alcohol intoxication (regardless of age); the unauthorized possession, use, consumption, manufacture, sale, or distribution of alcohol; and driving while impaired due to alcohol consumption. Specifically this offense includes, but is not limited to:

- a. The possession, use, consumption, manufacture, sale, or distribution of alcohol by anyone under the legal age to do so;
- b. The possession, use, consumption, manufacture, sale, or distribution of alcohol in violation of any applicable law, including the laws of the State of Delaware or the City of Newark, Delaware;
- c. The possession, use, consumption, manufacture, sale, or distribution of alcohol in any University building, facility, or property except in the confines of a student's own residence hall room if the student is over the legal age to do so;
- d. The possession of beer kegs in any University building, facility, or property;
- e. The possession or use of any apparatus, including but not limited to beer pong tables and beer funnels, used to facilitate 1) the rapid consumption of alcohol or 2) drinking games; or
- f. A violation of any University policy or procedure concerning the use of alcohol or enacted to monitor or control the use of alcohol.

#### **Proposed Change 1.**

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- property except in the confines of a student's own residence hall room if the student is over the legal age to do so;
- c. The possession of beer kegs in any University building, facility, or property;
  - d. The possession or use of any apparatus, including but not limited to beer pong tables and beer funnels, used to facilitate 1) the rapid consumption of alcohol or 2) drinking games;
  - e. A violation of any University policy or procedure concerning the use of alcohol or enacted to monitor or control the use of alcohol;  
or
  - f. A violation of any applicable law of the State of Delaware or the City of Newark, Delaware relating to alcohol (including but not limited to possession of an open container of alcohol, public intoxication and underage entry into a liquor store).

## **Item 2: From the Student Guide to University Policies**

Current Wording of Policy (<http://www.udel.edu/stuguide/12-13/conduct.html>)

### **D. Procedures for Undergraduate Student Conduct Process**

#### **1. Initiation of Student Conduct Process**

The student conduct process shall be governed by the following policies and procedures:

- c. During the pre-hearing meeting, the charged student will be invited to review and discuss information in his or her disciplinary file (including prior cases, if any) and will be encouraged to ask questions about the complaint and the options available within the Student Conduct System.

### **Proposed Change 2.**

## **II. Student Conduct System**

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#### **1. Initiation of Student Conduct Process**

The student conduct process shall be governed by the following policies and procedures:

- c. During the pre-hearing meeting, the charged student will be invited to review and discuss information in his or her disciplinary file (including prior cases, if any) and will be encouraged to ask questions about the complaint and the options available within the Student Conduct System.

The student may also provide additional information (written documents, photographs, audio/video files, etc.) to be added to his or her disciplinary file, which will then become a permanent part of that file.

### **Item 3. From the Student Guide to University Policies Current Wording of Policy**

#### **2. Procedures for Administrative Hearings and Appeals**

a. **For Administrative Hearings involving charges of sexual assault or sexual harassment** (and any other concurrent charges), the Administrative Hearing Officer will conduct the hearing according to the following procedures:

- vii. The complainant shall present information regarding the allegation(s) against the charged student and may present witnesses to support the complaint. The charged student, with the assistance of his or her advisor (if any), will then have the opportunity to question the complainant and each of the complainant's witnesses who are present for the hearing, with the exception that the charged student may not directly address or ask questions of the victim of sexual assault or sexual harassment. Rather, questions shall be provided to the Administrative Hearing Officer, who, after screening for appropriateness and relevance, shall ask the questions to the victim. The victim may elect to have the charged student directly ask questions. The charged student then may present a response to the allegation(s). The complainant may question the charged student and the charged student's witnesses who are present for the hearing. The Administrative Hearing Officer has the right to

#### **Proposed Change**

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- vii. The complainant shall present information regarding the allegation(s) against the charged student and may present witnesses to support the complaint. The charged student, with the assistance of his or her advisor (if any), will then have the opportunity to question the complainant and each of the complainant's witnesses who are present for the hearing, with the exception that the charged student may

not directly address or ask questions of the victim of sexual assault or sexual harassment. Rather, questions shall be provided to the Administrative Hearing Officer, who, after screening for appropriateness and relevance, shall ask the questions to the victim. The victim may elect to have the charged student directly ask questions. The charged student then may present a response to the allegation(s). [This response may include information \(written documents, photographs, audio/video files, etc.\) to be added to the charged student's disciplinary file, which will then become a permanent part of that file.](#) The complainant may question the charged student and the charged student's witnesses who are present for the hearing. The Administrative Hearing Officer has the right to question or recall witnesses at any time during the hearing. The complainant and the charged student may, in that order, present concluding remarks. The Administrative Hearing Officer will then close the hearing.

**Item 4. From the Student Guide to University Policies**  
**Current Wording of Policy**

xvi. Requests for Appeal

b. Appeal of Decision of Administrative Hearing

9. The Appellate Board, by majority vote, may decide to:

- a. Deny the appeal;
- b. Reduce or otherwise limit the sanction(s) applied as a result of the Administrative Hearing. A reduction in penalty or duration may be accompanied by the imposition of a fee or educational assignment(s) or exercise(s);
- c. Increase the sanction(s) applied as the result of the Administrative Hearing;
- d. Delay a final review of the appeal to receive additional information regarding issues raised in the appeal. Responses may be solicited from the charged student, the victim of sexual assault or sexual harassment, the complainant, the Administrative Hearing Officer, and any relevant witnesses; or
- e. Direct the Office of Student Conduct to provide a new hearing conducted by the Appellate Board, or allow the case to be handled beginning at any specific stage of the Student Conduct process.

10. The Appellate Board's decision, except any decision reached as the result of a re-hearing initiated as a result of a due process or victim's rights violation, is final and will be implemented immediately by the Office of Student Conduct. The charged student and victim of sexual assault or sexual harassment will receive notice of the decision. Copies of this notice will be entered into the student's disciplinary record and forwarded to the complainant and hearing officer. A decision reached as a result of a re-hearing initiated as a result of a due process or victim's rights violation will be subject to all appeal options as described in Section **2.a.xvi.b.**
11. A copy of the Appellate Board's decision will be maintained in the Office of Student Conduct in accordance with the retention policy, as defined in **Section II.G.**

### Proposed Change

- xvi. Requests for Appeal
  - b. Appeal of Decision of Administrative Hearing
    9. The Appellate Board, by majority vote, may decide to:
      - a. Deny the appeal;
      - b. Reduce or otherwise limit the sanction(s) applied as a result of the Administrative Hearing. A reduction in penalty or duration may be accompanied by the imposition of a fee or educational assignment(s) or exercise(s);
      - c. Increase the sanction(s) applied as the result of the Administrative Hearing (permitted only if the Appellate Board reviews relevant portions of the hearing that support the increase in sanctions);
      - d. Change the decision regarding responsibility on any or all charges (permitted only if the Appellate Board reviews the recording of the hearing in its entirety);

- e. Delay a final review of the appeal to receive additional information regarding issues raised in the appeal. Responses may be solicited from the charged student, the victim of sexual assault or sexual harassment, the complainant, the Administrative Hearing Officer, and any relevant witnesses; or
- f. Direct the Office of Student Conduct to provide a new hearing conducted by the Appellate Board; (to determine responsibility or sanctions), or
- g. Allow the case to be handled beginning at any specific stage of the Student Conduct process (caused by a due process or victim's rights violation).

10. The Appellate Board's decision is final except when:

- a. Responsibility is changed from Not Responsible to Responsible and/or the sanctions are increased. In this situation, the charged student will have the opportunity to appeal this outcome and request that responsibility and/or sanctions be reverted to the status originally made by the hearing officer. This appeal must be submitted within 5 business days, and follow the content and length requirements as outlined in Section D.2.a.xvi; or
- b. The case is handled at any specific stage of the Student Conduct process. In this situation, the procedural and appeal rights available at that specific stage will be honored.

11. The charged student and victim of sexual assault or sexual harassment will receive

notice of the decision. Copies of this notice will be entered into the student's disciplinary record and forwarded to the complainant and hearing officer. A copy of the Appellate Board's decision will be maintained in the Office of Student Conduct in accordance with the retention policy, as defined in Section II.G.

#### **Item 4. From the Following Section**

##### **Current Wording**

- b. **For Administrative Hearings involving all other charges**, the Administrative Hearing Officer will conduct the hearing according to the following procedures:
  - vi. The complainant shall present information regarding the allegation(s) against the charged student and may present witnesses to support the complaint. The charged student, with the assistance of his or her advisor (if any), will then have the opportunity to question the complainant and each of the complainant's witnesses who are present for the hearing. The charged student then may present a response to the allegation(s). The complainant may question the charged student and the charged student's witnesses who are present for the hearing. The Administrative Hearing Officer has the right to question or recall witnesses at any time during the hearing. The complainant and the charged student may, in that order, present concluding remarks. The Administrative Hearing Officer will then close the hearing.

##### **Proposed Change**

- b. **For Administrative Hearings involving all other charges**, the Administrative Hearing Officer will conduct the hearing according to the following procedures:
  - vi. The complainant shall present information regarding the allegation(s) against the charged student and may present witnesses to support the complaint. The charged student, with the assistance of his or her advisor (if any), will then have the opportunity to question the complainant and each of the complainant's witnesses who are present for the hearing. The charged student then may present a response to the allegation(s). This response may include information (written documents, photographs, audio/video files, etc.) to be added to the charged student's disciplinary file, which will then become a permanent part of that file. The complainant may question the charged student and the charged student's witnesses who are present for the hearing. The Administrative Hearing Officer has the right to question or recall witnesses at

any time during the hearing. The complainant and the charged student may, in that order, present concluding remarks. The Administrative Hearing Officer will then close the hearing.

## **Item 5. From the Student Guide to University Policies Current Wording**

### **I. Emergency Suspension**

When a student or student organization repeatedly or persistently commits a violation of the Code of Conduct, either on campus or off, or where the continued presence of the student or organization on-campus poses a threat to safety or the rights, welfare, or property of another, the **Director of the Office of Student Conduct** or his or her designee (for undergraduate students and organizations) or the **Assistant Provost for Graduate and Professional Education** or his or her designee (for graduate students) may impose an emergency suspension subject to the following provisions:

1. An emergency suspension is an interim action, effective immediately.
2. The emergency suspension shall last until the charged student's case is resolved in accordance with prescribed procedures.
3. The suspended student shall have the right to have the complaint or charges leading to the emergency suspension processed through the Undergraduate or Graduate Student Conduct System within 3 business days from the imposition of the emergency suspension.
4. A request for an extension of the hearing for an emergency suspension by the charged student, if granted, will be extended only for an additional two days and no further notice will be required.

**Note: In the case of certain criminal charges, the imposition of an Emergency Suspension may be superseded by the Withdrawal process set forth below.**

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1. An emergency suspension is an interim action, effective immediately.
2. The emergency suspension shall last until the charged student's case is resolved in accordance with prescribed procedures.
3. Should the student request an Administrative Hearing, this hearing will be conducted within 3 business days from the imposition of the emergency suspension.
4. At the conclusion of the administrative hearing, a decision regarding the continuation, termination or alteration of the emergency suspension will be made by the hearing officer. This decision will be shared with the charged student immediately following the hearing and cannot be appealed.
5. Within 3 business days of the conclusion of the administrative hearing, a decision regarding responsibility and sanctions (if appropriate) will be made and shared with the charged student.
6. An appeal of the administrative hearing outcome will follow the standards as outlined in Section D.2.a.xvi (for cases involving sexual assault or sexual harassment) or Sections D.2.b.xv (for all other cases) except that all deadlines will be 3 business days rather than 5 business days.

A request by the charged student for an extension of the hearing for an emergency suspension or the appeal deadline, if granted, will be extended only for an additional two days and no further notice will be required.