

Chapter Five: The Student Judicial Process

5.1.1 General Information

The student judicial process is intended to respond to violations of the Student Code of Conduct, and of general university community standards. Academic matters involving academic integrity, cheating, plagiarism, etc., are under the jurisdiction of the faculties and the Deans of Arts & Sciences, Education, Health Professions and Optometry. Further, the student judicial process is not intended to respond to violations of professional standards in the professional schools. However, behavior that violates the Student Code of Conduct may also be in violation of professional standards. Thus, students may be found in violation of the Student Code of Conduct, and may also be found, by their respective faculties and deans, to be in violation of professional standards.

The Dean of Students, or designee, serves as Judicial Advisor. The Judicial Advisor manages the student judicial process, and ensures that it is in keeping with University policy. The Judicial Advisor does not make determinations nor impose sanctions.

Infractions of the Student Code of Conduct are reported to the Judicial Review Committee, which is an advisory group to the Dean of Students. This group advises in each case whether sufficient evidence exists to refer the matter to the Peer Review Board. (In cases that are best handled at lower levels of intervention, the Judicial Review Committee may recommend matters to Resident Directors, or to the Assistant Dean of Students.)

A mediator may be designated by the Judicial Advisor to mediate disputes within the student community in cases which do not involve a violation of the Student Code, or in cases that are best responded to by mediation. All parties must agree to mediation. Issues may be disposed of without a hearing on a basis acceptable to the Judicial Advisor if all parties involved consent to such a process. If the issues cannot be disposed of by mutual consent, the Judicial Advisor shall refer the matter to the relevant judicial body. The decision to pursue matters through the disciplinary system ultimately lies with the Judicial Advisor on behalf of the University, or with the student complainant in some circumstances.

5.1.2 University Jurisdiction

Upon enrollment, students become representatives of this academic community, and their actions are the actions by which others judge Pacific University both here and abroad. Thus they should be aware that any behavior, regardless of location, may become the subject of scrutiny if brought to the university's attention. Generally, university jurisdiction and discipline shall extend to all conduct whether on or off university premises which adversely affects the university community and the pursuit of its objectives. The Vice President for Student Affairs shall decide whether any particular case involving off-campus or out-of-term behavior merits consideration; that is, whether the alleged behavior so adversely affects the university community and the pursuit of its objectives that disciplinary action should be instituted.

5.1.3 The Judicial Process

a. The Peer Review Board (PRB)

The Peer Review Board adjudicates all issues referred to it by the Judicial Review Committee, which include both minor and major infractions of the Student Code of Conduct.

The University Council, in consultation with the Judicial Advisor or designee, shall determine the membership of the Peer Review Board according to adopted procedures for committee appointments. In matters involving undergraduates, membership of the Peer Review Board shall consist of seven undergraduate students and one non-voting PRB Advisor, as designated by the Judicial Advisor. In matters involving professional school students, membership of the Peer Review Board shall consist of seven professional students and one non-voting PRB Advisor, as designated by the Judicial Advisor. Alternates will also be selected for every position on the Board.

The Peer Review Board is responsible for:

Developing procedures for hearing cases.

Hearing cases involving infractions of the student code of conduct by individuals or groups.

Imposing sanctions commensurate with the infraction(s).

The Peer Review Board will make its determination by majority vote based on whether it is more likely than not that the Student Code of Conduct has been violated. In general, the Peer Review Board may impose the following sanctions:

1. *Warning* - A notice in writing to the student that the student has violated the Student Code of Conduct or university community standards.
2. *Loss of Privileges* - Denial of specified privileges for a designated period of time.
3. *Fines* - Previously established and published fines may be imposed.
4. *Restitution* - Compensation for loss, damage or injury.
5. *Discretionary Sanctions* - Work assignments, service to the University or other related discretionary assignments.
6. *Behavioral Contracts* - A contract developed for students or organizations who have already received a formal warning, or whose conduct indicates that formal ongoing structure is beneficial.
7. *Probation* - A written reprimand for violation of specified regulations. Probation is for a designated period of time, and includes the warning of more severe disciplinary sanctions if the student is found to be in violation of any institutional regulation(s) during the probationary period.

8. *Residence Hall Suspension* - Separation of the student from the residence halls for a definite period of time, after which the student is eligible to return. Conditions for re-admission may be specified.
9. *Residence Hall Expulsion* - Permanent separation of the student from the residence halls.
10. *University Suspension* - Separation of the student for a definite period of time, after which the student is eligible to return. Conditions for re-admission may be specified.
11. *University Dismissal* - Separation of the student from the university, with opportunity to reapply to the university when certain conditions are met.
12. *University Expulsion* - Permanent separation of the student from the university.

Additional sanctions (such as fines, behavioral contracts, restitution, and more than one of the sanctions listed above) may be imposed for any single violation.

In addition to the sanctions listed above, the Peer Review Board may impose the sanction of deactivation (loss of all privileges, including university recognition for a specified period of time) on a student group.

All appeals of decisions by the Peer Review Board shall be heard by the Student Judicial Council, which shall be the final hearing authority.

b. The Student Judicial Council (SJC)

The Student Judicial Council is responsible for hearing appeals from the Peer Review Board.

The University Council shall determine the membership of the Student Judicial Council according to adopted procedures for Committee appointments.

Membership of the Student Judicial Council shall consist of six members of the University community. In cases involving an undergraduate student, the composition of the Council shall be the Vice President for Student Affairs, who convenes the Council in all cases and is non-voting, one faculty member and one staff member from the College of Arts and Sciences, and three undergraduate students. In cases involving a professional program student, the Council shall have one faculty member and one staff member from the graduate colleges, and three professional program students. At least one of the students shall be from the respondent's school.

Membership of the Student Judicial Council normally shall be for a term of two years, but no less than one year.

The chair of the Student Judicial Council shall be elected by its membership.

The University Council shall select alternates for every position on the Student

Judicial Council.

Other than university expulsion, disciplinary sanctions shall not be made part of the student's permanent academic records, but may become part of the student's confidential record in the Dean of Students' office. Confidential files in the Dean of Students' office are protected under the Family Rights and Privacy Act. Educational records are maintained for five years from the last date of attendance. After that time period, the student's confidential record shall be expunged of disciplinary actions, except those involving major infractions that posed a significant risk to the safety or well-being of that student, other students, or other members of the university community. University expulsion shall remain a permanent part of the student's academic record.

5.1.4 Complaints and Hearings

- a. Any member of the university community may file a report of misconduct against any student. Reports shall be directed to the Judicial Advisor or designee. In all instances where an infraction of the Student Code of Conduct is at issue and the matter is to be heard by the Peer Review Board, it is the university which takes the role of complainant by levying allegations against one or more students.
- b. In matters involving possible sexual misconduct, the student reporting the incident shall be informed of the existence of all resources available, and the ramifications of each possible course of action. As much as possible, decisions to pursue or not pursue judicial action or invoke administrative intervention will be left to the student reporting the incident, except in those matters when his or her safety, or the safety of others, may dictate that some action or intervention be taken by the university.
- c. All formal allegations shall be presented to the respondent (the student accused of violating the Student Code of Conduct) in written form by the Judicial Advisor or designee. The respondent shall also be informed, in writing, about the judicial process, and the options that are open to him or her, including the right to an advocate. A time shall be set for a hearing not less than two, or more than fifteen, calendar days after the student has been notified of the allegations. Maximum time limits for the scheduling of hearings may be extended at the discretion of the Judicial Advisor.
 1. Normally, hearings shall be conducted in private, and shall be closed to members of the community. Only when the student at issue requests an open hearing, and when there are no overriding issues of privacy or safety involved, as determined by the Peer Review Board, will the Board grant a request to open the hearing.
 2. Admission of any person to the hearing shall be at the discretion of the judicial body.

3. In hearings involving more than one respondent, the chairperson of the judicial body may permit the hearings concerning each student to be conducted separately.
4. The respondent(s) have the right to be assisted by an advisor, at their own expense. Advisors are not permitted to speak or to participate directly in any hearing before a judicial body. In cases where criminal charges are pending, likely, or have been handled in the criminal justice system, the student(s) may have an attorney as their advisor. The advisor may only advise the student, and may not directly participate in the hearing. In cases where no criminal charges are pending or likely, the advisor may not be an attorney, but may be any non-attorney member of the University community.
5. The university, the respondent, and the Peer Review Board shall have the privilege of presenting witnesses. Witnesses may remain anonymous only if there are compelling reasons to do so. Whether there are compelling reasons shall be determined by the Peer Review Board.
6. The questioning of witnesses shall be done only by the judicial body.
7. Pertinent records, exhibits and written statements may be accepted as evidence for consideration by the Board at the discretion of the chairperson.
8. All procedural questions are subject to the final decision of the chairperson.
9. Based on the evidence presented, the Board shall determine by a majority vote whether it is more likely than not that the Student Code of Conduct has been violated. All votes shall be by secret ballot.
10. All seven members of the Peer Review Board must be present for a hearing to take place. However the respondent may agree to a hearing with only five voting members present if he or she chooses.
11. There shall be a single taped record of all hearings before the Peer Review Board. The record shall be the property of the university.
12. Except in the case of a student charged with failing to obey the summons of a judicial body or university

official, no student may be found to have violated the Student Code solely because the student failed to appear before a judicial body. In all cases, whether or not the respondent appears before the judicial body, the evidence in support of the allegation shall be presented and considered.

5.1.5 Interim Suspension

In certain circumstances, the Judicial Advisor or designee may impose an interim university or residence-hall suspension prior to the hearing before a judicial body.

Interim suspension may be imposed only: a) to ensure the safety and well-being of members of the university community, or preservation of university property; b) to ensure the student's own physical or emotional safety and well-being; or c) if the student poses a definite threat of disruption of, or interference with, the normal operations of the university.

During the interim suspension, students may be denied access to the residence halls or to the campus, (including classes) and all other University activities or privileges for which the student might otherwise be eligible, as the Judicial Advisor may determine to be appropriate.

5.1.6 Violation of the Law and the Student Judicial Process

University disciplinary proceedings may be instituted against a student without regard to pending criminal charges, or civil litigation which may arise from the same situation. Proceedings under the Student Judicial Process may be carried out prior to, simultaneously with, or following, civil or criminal proceedings off-campus.

The Vice President for Student Affairs will determine the university's response when the law has been violated. Under some circumstances, the university may elect to postpone a hearing, pending the outcome of a case in the courts, but is not obligated to do so.

A student who is disciplined, suspended or expelled from the university by the Peer Review Board for behavior that was also alleged to be illegal, and is later found not guilty of charges by a criminal court, may appeal the Peer Review Board ruling to the Student Judicial Council.

When a student is charged by federal, state or local authorities with a violation of law, the university will not request nor agree to special consideration for that individual because of their status as a student. If the alleged offense is also involved in a proceeding of the student judicial process, the university may advise off-campus authorities of the existence of the Student Judicial Process, and of how such matters will be handled internally within the University community.

5.1.7 Appeals

Decisions of the Peer Review Board may be appealed (under the conditions described below) to the Student Judicial Council.

A decision reached by the Peer Review Board may be appealed by the respondent within five (5) business days of the decision. Such appeals shall be in writing, and shall be delivered to the Judicial Advisor or designee. Except when required to explain the basis of new evidence, an appeal shall be limited to review of the record of the initial hearing and supporting documents for one or more of the following purposes:

1. To determine whether the original hearing was conducted fairly in light of the allegations and evidence presented, and in conformity with prescribed procedures, giving the University a reasonable opportunity to prepare and present evidence that the Student Code was violated, and giving the respondent a reasonable opportunity to prepare and to present a rebuttal of those allegations.
2. To determine whether the decision reached regarding the respondent was based on substantial evidence, that is, whether the facts in the case were sufficient to establish that a violation of the Student Code occurred.
3. To determine whether the sanction(s) imposed were appropriate to the violation of the Student Code which the student was found to have committed.
4. To consider new evidence sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such evidence was not known, and could not have been known to the person appealing at the time of the original hearing.

Generally, except for those cases in which overly harsh sanctions were imposed, or in which some bias was found to have existed at the original hearing, the Student Judicial Council should send valid appeals back to the Peer Review Board for rehearing. Those cases involving new evidence which are sent back to the PRB will be regarded as new cases, which can be appealed to the Student Judicial Council.

All six members of the Student Judicial Council must be present to consider an appeal, which will be determined by majority vote.

5.1.8 Exceptional Circumstances

The university reserves the right, in exceptional circumstances, when the safety and well-being of the university is at stake, to have the Vice President for Student Affairs, in consultation with the Judicial Advisor and the President, intervene and resolve the matter administratively. Examples of exceptional circumstances would be when the Judicial Process is not functioning according to established policy, or in circumstances where a student's behavior warrants a treatment program or placement in a treatment facility, rather than a disciplinary response.

5.1.9 Interpretation and Revision

Any questions of interpretation regarding the Student Code or the Student Judicial process should be referred to the Vice President for Student Affairs.

The Student Code and the Student Judicial Process shall be reviewed no less than every two (2) years under the direction of the Student Judicial Council.