

*Handout at 10/11/91
Board of Regents' Meeting*

"STUDENT DISCIPLINE FOR SCHOLASTIC DISHONESTY"

**A Guide for Administrators,
Faculty, and Hearing Officers**



**The University of Texas System
July 1991**

"Student Discipline for Scholastic Dishonesty"

A Guide for Administrators, Faculty, and Hearing Officers

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[This pamphlet is not a statement of official policy of The University of Texas System. It provides advice and information for personnel at component institutions who are involved in the student disciplinary process. The official rules, regulations, and policies related to student discipline are published in the Rules and Regulations of the Board of Regents of The University of Texas System and the institutional Handbook of Operating Procedures and Catalog.]

The U. T. System Student Advisory Group for the 1990-1991 academic year encouraged the U. T. System Administration to provide a model guide for use by administrators, faculty, and hearing officers. This guide is intended to provide information that will promote consistency in the application of rules and procedures to assure that all students are treated consistently and to minimize the prospect for litigation that might arise out of disciplinary matters.

I. BACKGROUND

The Board of Regents of The University of Texas System is charged with responsibility for the governance of The University of Texas System. In furtherance of that responsibility, the Texas Legislature has given the U. T. Board of Regents the authority to adopt and enforce such rules and regulations as it deems necessary for the operation, control, and management of the U. T. System and the component institutions. The Rules and Regulations adopted by the Board of Regents include provisions relating to the standards of conduct expected of students at the component institutions of the U. T. System. (See Part One, Chapter VI, Section 3 of the Regents' Rules at *Attachment 11*.) Each component institution is also authorized to enact additional rules and regulations related to student conduct and disciplinary procedures consistent with Regents' Rules and Regulations. Students, faculty and administrators involved in the disciplinary process are expected to abide by the standards articulated in the Regents' Rules and Regulations and the institutional rules.

Students who fail to conform to the established standards of conduct are subject to one or more of the disciplinary penalties listed in the Regents' Rules and Regulations or institutional rules. The courts have held that a disciplinary penalty may not be imposed upon a student for engaging in prohibited conduct unless the student has been offered an opportunity for a hearing that conforms to certain minimal procedural due process standards. The Rules and Regulations adopted by the U. T. Board of Regents have been drafted to establish disciplinary hearing procedures that conform to the procedural due process requirements of the courts. All component institutions of the System are required to use those procedures in student disciplinary matters.

II. PRACTICAL ADVICE FOR THE DEAN OF STUDENTS

The Regents' Rules and Regulations place primary responsibility for student disciplinary actions with the "dean of students". They define "dean of students" as the officer or officers directly responsible for the administration of the disciplinary process at each component institution. That officer, whether designated as dean of students, discipline coordinator or other title ("Dean"), is charged with initial intake of complaints (*Attachment 1*), contact with the accused student, and initial investigation of the charges.

The Dean is not charged with determining whether a student is guilty or innocent of the charges, but the Rules and Regulations do require the Dean to determine initially whether the charges "are not unfounded." As a general rule, the Dean will contact the accused student by letter (*Attachment 2*) that informs the student of the charges and sets a time for a personal interview with the student. During the interview, the student's version of the incident or charges should be solicited although the student may not be forced to comment on the incident. If the Dean desires legal assistance, an attorney from the Office of General Counsel will be assigned to provide advice prior to the preparation of the initial letter.

Notice to Student

It is recommended that all correspondence to the accused student be sent by certified mail to the address of record shown by the registrar's records. The letter may be sent simultaneously by regular mail or hand delivered.

Interview

The Dean should explain the nature of the charge of misconduct and the supporting evidence. The accused student should be encouraged to present any explanation or defense that the student desires to offer regarding the alleged misconduct.

After hearing the student's explanation, the Dean may determine that the charges are unfounded or that there is insufficient evidence to pursue the matter and may dismiss the case at this point.

However, if the Dean decides that the charges are not unfounded, the student should be offered the following options:

1. admit the facts upon which the charge is based, sign a waiver of hearing, and have a disciplinary penalty assessed by the Dean; or
2. deny the facts upon which the charge is based and have the evidence presented at a hearing before a hearing officer who will determine the student's guilt or innocence and assess an appropriate penalty.

A student who admits the facts upon which the disciplinary charges are based should be offered the option of executing a waiver of hearing form (*Attachment 3*) that allows the Dean to impose a disciplinary penalty. The penalty should be appropriate to the offense admitted and, to the extent possible, should be consistent with prior penalties imposed for similar conduct. To the extent possible, the Dean should determine the direct and indirect impacts of any potential penalty prior to its assessment (for example, loss of financial aid eligibility, requirement to repeat a course or course sequence). If the student executes a waiver, appeal to the President (as discussed in Section V of this Guide) is permitted only on the issue of penalty.

If the student does not admit the facts upon which the charge is based, a hearing officer is appointed; a hearing is scheduled; and the student is notified using a hearing notice letter (*Attachment 4*).

If a student fails to appear for the interview without a valid reason, the Dean may implement hearing procedures and notify the student or may bar reenrollment until the student appears or responds to the interview notice.

Interim Discipline

The Dean may take immediate interim disciplinary action, including suspension pending a hearing, when the student's continuing presence poses a danger to persons or property or an ongoing threat of disrupting any authorized institutional activity. (See *Attachment 5*.) Additionally, the Dean may authorize the interim withholding of grades, degree or official transcript if such withholding is in the best interest of the institution (for example, when the disciplinary process cannot be completed before final grades are due or degrees are awarded). A hearing must be scheduled "as soon as practicable" within 10 days of the interim disciplinary action.

Hearing

A hearing officer is appointed in accordance with established institutional procedures. It is recommended that the President appoint the hearing officer.

The Dean should not discuss the allegations or evidence with the hearing officer. All evidence should be presented in the hearing in the presence of the student.

The Dean's role in the hearing is to present the institution's case if the student is not represented by counsel. If the student has legal counsel, the institution may be represented by an attorney from the Office of General Counsel. In such cases, the Dean will be the representative of the institution and may be called upon to testify to procedural compliance, to finding that the charges are not unfounded, and to events related to statements or conduct by the accused student.

Appeal

Either a penalty assessed by the Dean (when a student executes a waiver of hearing) or a decision and penalty of a hearing officer may be appealed if the student gives written notice to the President within fourteen (14) days after the date of the decision. The appellate

process is outlined in Section V of this Guide.

Discipline Record

Records of disciplinary action are retained in the Dean's office and are kept separate from the student's academic record. A student's disciplinary record is not ordinarily available to persons within the institution unless they have a legitimate need to know.

Disciplinary records, including information on scholastic dishonesty, may be released to persons outside the institution only with the consent of the student or in response to a court order. In the latter case, the institution must attempt to notify the student of the court order prior to release of the information. Some governmental agencies and professional schools will request that applicants grant them access to these records.

The primary purpose of maintaining the records is to alert the office of the Dean of repeated violations of regulations. Evidence of prior violations may be used when relevant to proof of the current disciplinary charge or to the imposition of appropriate penalty.

III. ADDRESSING SCHOLASTIC DISHONESTY*

A. FACULTY RESPONSIBILITIES

Confronting suspected dishonesty in academic assignments is a shared responsibility of faculty and students, although faculty members are called upon to play a greater role in that process. Many students, however, are becoming more and more concerned about scholastic dishonesty.

Guidelines for Faculty Members

1. Accusations that a student has cheated should be made in private and the investigation of a cheating incident should be handled as privately as possible. When there is reason to believe that scholastic dishonesty has occurred, the faculty member should gather all pertinent supporting evidence (such as tests, reports, computer programs, and other academic assignments) and make a note of any possible witnesses. During an examination, the faculty member may privately ask a student suspected of cheating to move to another location; however, the student should be allowed to complete the exam in question. After the exam, the faculty member should meet privately with the student involved and discuss the alleged violation and the supporting evidence. In this meeting every effort should be made to preserve the basic teacher/student relationship. The student should be given the opportunity to respond to the allegations but may not be forced to comment.

*With acknowledgement and thanks to U. T. Austin for permission to use selected excerpts from the 1990-91 publication "The Role of the Faculty in Confronting Scholastic Dishonesty"

2. If the faculty member does not accept the student's explanation, the matter must be referred to the Dean. The referral should include a written summary of the charge and may include the faculty member's recommendations, if any. Relevant documents such as notes, exams, or material plagiarized should also be forwarded.
3. The Dean is responsible for contacting the student, investigating the charges, and determining that the charges either are or are not unfounded. If the Dean determines that the charges are not unfounded, the student may waive hearing and accept disposition by the Dean or may request a hearing.
4. If a hearing is conducted, the office of the Dean prepares for the hearing. If the accused student is represented by an attorney, the institution is usually represented by a U. T. System attorney. The time required of the faculty member varies with the details of the case, but every effort will be made to minimize the time commitment.
5. Because an accused student is entitled to a hearing and may appeal a penalty that may be assessed as a result of a disciplinary hearing, the student must be allowed to attend all classes and complete all assignments until the process is complete unless interim discipline has been imposed by the Dean as authorized by the Regents' Rules and Regulations. Pending the outcome of a disciplinary action not completed at the end of a semester or summer session, the faculty member should contact the Dean regarding appropriate grade reporting procedures.

B. PROCTORING GUIDELINES

The following are suggestions for discouraging scholastic dishonesty during examinations. Please be aware that scholastic dishonesty may also occur in labs, on homework assignments and research papers, and in computer programs.

1. Enforce silence during the examination period.
2. Do not leave the room.
3. Do not let anyone leave the room during the testing period. Stress this policy at the beginning of the semester and immediately prior to each testing period.
4. Require students to remove caps and hats during the testing period.
5. Require students to bring blue books at the beginning of the semester, and distribute them yourself immediately prior to each testing period.
6. Forbid textbooks in the classroom on the day of the test.
7. Separate students or assign seats.
8. Distribute different test forms.
9. Check photo identification at every test.
10. Change tests each semester.
11. Check desks and the surrounding area for forbidden materials.
12. Require students to sign tests and check the signatures.
13. Photocopy completed exams for comparison in re-grade requests.
14. Do not post answers to exam prior to completion of all exam sessions.
15. Require all personal items including but not limited to caps, hats, gloves, books, backpacks, purses, and briefcases to be left at the front of the room.

C. NOTICE ON POLICY ON CHEATING

Faculty members should include a statement in their course syllabi, tests, assignment instruction sheets, or other forms of notification, stressing that scholastic dishonesty will not be tolerated. Syllabi should include test-taking rules such as "no one leaves the room," "no caps," "no books," "ID required." Faculty members should then follow through by confronting students who violate the policies. A suggested general statement is included as *Attachment 6*.

D. EXAMPLES OF DISHONESTY

According to the Regents' Rules and Regulations, 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. Some of the ways that students may engage in academic dishonesty are:

1. Coughing or using hand signals in a test;
2. Concealing notes on clothing, hands, caps, shoes or in pockets;
3. Writing in blue books prior to an examination;
4. Writing information on blackboards, desks, or keeping notes on the floor;
5. Obtaining copies of a test in advance;
6. Passing information concerning specific questions or answers from an earlier class to a later class;
7. Leaving information in the restroom;
8. Exchanging exams so that neighbors have identical test forms;
9. Having a substitute take a test and providing false identification for the substitute;
10. Fabricating data for lab or clinical assignments;

11. Changing a graded paper or answer sheet and requesting that it be regraded;
12. Failing to turn in a test and later suggesting the faculty member has lost it;
13. Stealing another student's graded test and affixing one's own name to it;
14. Submitting computer programs written by another person;
15. Recording two answers, one on the test form, one on the answer sheet;

16. Marking an answer sheet to enable another to see the answer;
17. Putting enlarged circles around two adjacent answers and claiming to have had the correct answer;
18. Stealing an exam or other assignment for transmission to someone in another section, or for placement in a test file;
19. Using a programmable calculator to store test information or otherwise passing information using electronic devices;
20. Taking another student's computer assignment printout from a computer lab;
21. Destroying library materials to gain an academic advantage;
22. Transferring a computer file from one person's account to another; or
23. Transmitting posted answers to exam to student in testing area via pager or radio transmitter.

IV. GUIDE FOR HEARING OFFICERS

A. INTRODUCTION

This section provides practical advice and assistance to persons who serve as hearing officers at disciplinary hearings for students who have been charged with engaging in conduct prohibited by the Rules and Regulations of the Board of Regents or the rules of a component institution or both. It is not intended to address all situations that may confront a hearing officer during the course of a disciplinary hearing. It is essential that the hearing officer become thoroughly familiar with the applicable Rules and Regulations of the Board of Regents and institutional rules relating to student conduct and student disciplinary hearings.

B. BEGINNING THE PROCESS

As members of the academic community, students are expected to observe the standards of conduct prescribed by the Board of Regents and the U. T. System component institution that the student attends. An allegation that a student has violated those standards is investigated by the Dean (or other administrative official responsible for the administration of student discipline). If the Dean determines that the allegations are not unfounded, the Dean notifies the student that he or she may:

- (1) admit the facts upon which the charges are based, execute a waiver of disciplinary hearing procedures, and allow the Dean to assess a disciplinary penalty; or
- (2) deny the facts upon which the charges are based and require the U. T. System component institution to proceed with a disciplinary hearing.

When the student chooses the second alternative, a person is appointed to serve as hearing officer at the disciplinary hearing. The Dean gives the accused student a written notice that contains the following: a statement of the charges; a summary of the evidence supporting the charges; a reminder of the right to counsel; the name, office address and telephone number of the hearing officer; and the date, time, and place for the hearing. (See *Attachment 4.*)

C. PRE-HEARING ISSUES

Prior to the date specified for the disciplinary hearing, the hearing officer may be called upon to deal with a challenge to his or her impartiality or with a request to postpone the date of the hearing.

1. Challenge to Impartiality

The concept of constitutional due process entitles an accused student to have disciplinary charges heard and decided by a fair and impartial hearing officer. The Rules and Regulations of the Board of Regents permit an accused student to challenge the impartiality of the hearing officer at any time up to three days prior to the hearing date. The challenge should be in writing and must clearly state the facts supporting the challenge to impartiality. The hearing officer is not automatically disqualified by an allegation of impartiality. The hearing officer is the sole judge of whether he or she is capable of considering the evidence and determining the facts with fairness and objectivity.

2. Requests to Postpone Hearing Date

Unless an accused student waives the opportunity for a disciplinary hearing, a disciplinary penalty may not be imposed until the student has been found guilty of the charges of scholastic dishonesty pursuant to the hearing

procedures provided for in the Rules and Regulations of the Board of Regents. An accused student must be given at least ten days notice of the date for the hearing except in those cases where immediate interim disciplinary action has been taken pursuant to the Regents' Rules and Regulations. In cases where interim disciplinary action has been taken, the hearing must take place as soon as practicable within ten days after the date of the interim disciplinary action. Consequently, it is essential to an effective disciplinary process that, to the extent possible, hearings take place when originally scheduled.

(a) Postponement by Agreement

The Dean and the accused student, or their legal representatives, may postpone the hearing date by agreement. The hearing officer should require written confirmation documenting the agreed postponement and setting the new hearing date for the record.

(b) Postponement for Good Cause

In the absence of an agreement by the parties to a postponement, the hearing officer has the authority to postpone a hearing to a date certain in the future for good cause. Requests for postponement should be addressed to the hearing officer and should set forth the reason for the requested postponement. The request and the response should be made part of the record of the proceedings.

D. HEARING PROCEDURES AND ISSUES

The hearing officer also has the responsibility for ensuring that the disciplinary hearing proceeds in accordance with the Regents' Rules and Regulations and that the Dean and accused student or their attorneys ("party or parties") and witnesses

conduct themselves in an orderly manner. It is recommended that the hearing officer begin the proceeding with a statement that outlines the hearing procedures (*Attachment 7*) and informs the parties that all procedural questions and all objections regarding exhibits or testimony are to be directed to and will be ruled upon by the hearing officer.

1. Persons Present During Hearing

- (a) To avoid issues concerning invasion of the accused student's right of privacy or unauthorized disclosure of information from student records protected by the federal Family Educational Rights and Privacy Act of 1974, the hearing should be closed to everyone except the institutional representative (usually the Dean), the accused student, the attorneys representing the institution and the accused student, the hearing officer, witnesses while giving testimony, and the person making the record of the hearing.

With proof that notice of the hearing was received or rejected by the student, the hearing may proceed in the student's absence.

- (b) Witnesses should testify from personal knowledge and without regard to what other witnesses may say; therefore, the hearing officer should require all potential witnesses, other than the accused student and the Dean, to leave the hearing room until such time as they are called to testify.

2. Examination of Witnesses

The university and the accused student are entitled to have witnesses testify regarding the issues. There is no power to require the attendance of witnesses at the hearing. Witnesses called to testify by one party may be cross-examined

by the other party. The hearing officer may ask questions of a witness after the parties have concluded their examinations.

3. Admissibility of Evidence

The hearing officer must rule upon objections that are made to the admissibility of evidence offered by the parties.

(a) Relevancy

In order to be admissible, evidence such as documents and testimony must be relevant to the issues to be decided by the hearing officer in the disciplinary hearing. Generally, evidence is relevant if it tends to prove or disprove the facts that are at issue. There must be some logical connection between the offered evidence and the facts that are in dispute. Upon objection, evidence that is not relevant should be excluded.

(b) Cumulative Evidence

Evidence that is admissible but is merely cumulative of evidence already in the record should be excluded by the hearing officer upon objection or upon a determination by the hearing officer that additional evidence of the same nature as that already admitted is merely repetitious and has no probative value. This issue arises most often with testimony relating to the character of the accused student. It rests within the discretion of the hearing officer to determine when further testimony on an issue becomes a waste of time.

(c) When No Objection to Evidence

It is the responsibility of the hearing officer to arrive at a fair and impartial decision. When irrelevant evidence or hearsay evidence is offered without objection, the hearing officer should recognize it as such and disregard it in arriving at a decision.

4. Final Statements of the Parties

After the presentation of the evidence has been concluded by both parties, each party may make a statement to the hearing officer that summarizes the evidence admitted and the conclusions the hearing officer is requested to reach. As the party with the burden of proof, the institution has the right to make an opening argument and may also make a closing argument after the statement of the accused student (or the student's representative). The hearing officer may establish an appropriate time limit for final statements and may require the parties to observe the time limits. Arguments regarding proposed penalties should be made at this time without prejudice to the hearing officer's determination of guilt or innocence.

E. DECIDING THE CASE

The hearing officer is required to render a written decision that makes findings of facts and a determination of the guilt or innocence of the accused student. If it is concluded that the accused student is guilty, an appropriate penalty will be assessed by the hearing officer from those penalties authorized in the Regents' Rules and Regulations and the institutional regulations. If the penalty is probation or suspension, the hearing officer should specify the beginning date, ending date and any conditions applicable during that time. A copy of the decision must be delivered to the accused student and the representative of the institution. (See *Attachment 8*.)

1. Burden of Proof

The institution has the burden of proving the charges by the greater weight of the credible evidence. Credible evidence is evidence that is believable. The burden is met if there is more believable evidence that supports the truth of the charges than there is evidence that supports their falsity. The mere number of witnesses who testify for a party or who testify as to a particular issue is not controlling in determining whether this burden has been met.

2. Credibility of Witnesses

The hearing officer is the sole judge of the credibility of a witness. A witness is credible when he or she is believable. In determining the credibility of a witness, the hearing officer may consider the demeanor of the witness, the opportunity of the witness to observe events or to acquire knowledge that is the subject of the testimony, any interest that the witness may have in the determination of the charges, or any other factor that is relevant to determining whether the witness is believable.

3. Direct and Indirect Proof

The facts at issue may be proven by direct or indirect evidence. Direct evidence is testimony by a witness who saw the events occur or who heard words spoken that establish the fact in question. Indirect evidence includes testimony or documents that establish collateral facts or circumstances from which the fact at issue may be inferred from common knowledge or experience.

F. APPEAL

The role of the hearing officer is completed upon transmission of the decision to the parties unless, upon appeal, the case is returned for the hearing to be reopened for the presentation of additional evidence. Either party may appeal the decision to the

President of the institution within fourteen days after notice of the decision or, if mailed, within fourteen days of the date of mailing of the decision.

V. GUIDE FOR THE PRESIDENT: APPELLATE DECISIONS

The Regents' Rules and Regulations vest final appellate authority in the institutional President. Appeals from punishment imposed by the Dean or the Dean's delegate pursuant to a signed waiver of hearing are limited to the issue of appropriateness of penalty only and no transcript is required. The decision of a hearing officer on the issue of guilt or innocence and on the issue of the penalty may be appealed by either the institutional representative or the student.

Appeal to the President must be made within fourteen days after notice of the disciplinary decision. The appealing party must file any written argument within 14 days of availability of the transcript if a transcript was required. This is accomplished by notice to the president of the intention to appeal. The transcript or recording of the hearing and all documentary evidence will be forwarded to the president by the Dean's office.

The President should be familiar with the Regents' Rules and Regulations applicable to student discipline and should review the transcript or recording of the hearing and documentary evidence prior to rendering a decision. The President's decision must be based solely upon the transcript, evidence and arguments of the parties. It is important that the President discuss the case only with legal counsel. It is important that the President understand the effect of the penalty being reviewed, the alternative penalties that are available, and the consequences that may result from assessing an alternative penalty. The President is encouraged to seek advice from the Office of General Counsel on these issues as well as any related legal issues prior to making a decision on appeal. The President may request that the parties present written or oral argument in support of their positions.

The President may invite oral argument from the parties. Within 30 days after the appeal and related documents are received, the President will issue a decision on appeal. The President 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. (Sample determination letters are included as *Attachments 9 and 10.*)

SAMPLE
COMPLAINT FORM

Name of Student _____

Address _____

Date of Birth _____ SSN _____ Classification _____

COMPLAINT

It is alleged that the above named student violated (Section _____) of the _____ (institutional rules) which states: [i.e. "Cheating" includes (1) copying from another students test paper; (2) using test materials not authorized by the person giving the test; (3) possession during a test of materials which are not authorized by the person giving the test, such as class notes or specifically designed "crib notes." The presence of textbooks constitutes a violation only if they have been specifically prohibited by the person administering the test; and (4) collaborating with or seeking aid from another student during a test or other assignment without authority.]

The facts supporting this allegation are as follows: _____

Name of individual(s) who filed complaint: _____

Signature of Administrative Official

Date

Sample Notice Letter

Date

Student Name

Address

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Dear Mr./Ms. _____:

It has been alleged that you have (describe conduct) _____

Such conduct is prohibited by (reference the applicable Regents' Rules and Regulations and institutional rules) _____

_____ and may result in disciplinary action against you.

It is important that you come to my office at _____m. (hour) on _____ (date at least 3 days after date of letter) for a detailed discussion of these allegations. You will have the opportunity at that time to make such explanation or response to these allegations as you think appropriate.

Sincerely,

Dean of Students

WAIVER OF DISCIPLINE HEARING
BEFORE A UNIVERSITY HEARING OFFICER

With regard to the pending discipline case against me, I hereby certify that I understand the allegation (optional: date of alleged conduct _____) with which I am charged, acknowledge the facts upon which the charge is based, acknowledge a violation of institutional or Regents' Rules, waive my right to a hearing before a university hearing officer, and authorize the Dean to assess a penalty.

I further understand that I will be notified of the penalty assessed by the Dean by U. S. mail at the address given below and that notice of an appeal of such penalty, if any, must be filed in writing with the President within 14 days after the notice has been mailed.

Penalty: _____

Signed: _____

Date: _____

Address: _____

Zip: _____

Sample Hearing Notice

Date

Student Name

Address

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Dear Mr./Ms. _____:

As you have been advised, an allegation has been made that you
(describe conduct):

This is a violation of _____ (reference institutional Handbook of Operating Procedures or Catalog) and also violates Section ____, Chapter VI, Part One of the Rules and Regulations of the Board of Regents of The University of Texas System.

I have determined that the charges are not unfounded.

You are hereby notified that:

1. A hearing has been set for _____.
2. A copy of the Complaint Form is enclosed.
3. The person designated as hearing officer is _____
(office address and phone number).
4. If you desire to challenge the impartiality of the hearing officer, you may do so by giving written notice of the basis of such challenges to this office 3 days prior to the hearing date.
5. The witnesses who may appear to give testimony supporting the allegations are: (list names and summary of testimony; include Dean of Students).
6. You may appear in person or with a representative at the hearing.
7. You may present witnesses, present documentary and other evidence, and argue in your behalf.

8. You may cross-examine witnesses who appear in support of the allegations and witnesses who appear on your behalf will be subject to cross-examination by me or my representative.
9. The hearing will be recorded and a transcript made in the event of an appeal.
10. Copies of the documentary evidence to be presented in support of the allegations are attached.
11. By _____, 19__ , you should send me:
 - a. The name and summary of the testimony of each witness you will present at the hearing.
 - b. A copy of all documentary and other evidence you will produce.
 - c. Any objection which, if sustained, would prevent the hearing.
 - d. The name of the representative, if any, who will appear with you.

Sincerely,

Dean of Students

Enclosures: Complaint Form
Copies of Documentary Evidence
Copy of Part One, Chapter VI, Section 3, Regents' Rules

Sample Interim Suspension Notice
(Appropriate Use is Limited)

DATE

Student Name
Address

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dear Mr./Ms. _____:

This letter is to inform you that effective immediately you have been suspended from The University of Texas at _____ pending a hearing on allegations that you (describe conduct).

This conduct violates _____ (cite provision of institutional Handbook of Operating Procedures or Catalog) and also violates _____ of the Regents' Rules and Regulations.

The interim disciplinary action of suspension is imposed in an effort to protect the safety and well being of the faculty, staff and students. The Regents' Rules and Regulations state the following regarding the authority to impose interim disciplinary action:

A hearing on these charges will be held within the next ten days and you will be informed of the time and the location of the hearing. You will be informed of the names of witnesses and provided a summary of their testimony in advance of the hearing.

If you have any questions concerning the action taken or the disciplinary procedures, you may contact me by calling _____.

Sincerely,

Dean of Students

Attachments: (Regents' Rules)
(Institutional Rules)

NOTICE OF POLICY ON CHEATING

Policy on Cheating: Students are expected to be above reproach in all scholastic activities. Students who engage in scholastic dishonesty are subject to disciplinary penalties, including the possibility of failure in the course and dismissal from the university. "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." Regents' Rules and Regulations, Part One, Chapter VI, Section 3, Subsection 3.2, Subdivision 3.22.

Since scholastic dishonesty harms the individual, all students, and the integrity of the university, policies on scholastic dishonesty will be strictly enforced.

Suggested Hearing Officer Outline

1. Introduction

"I am _____, _____ at The University of Texas at _____ and I will be the Hearing Officer for this disciplinary hearing.

2. "Would the parties identify themselves for the record?"

"Please provide me with your addresses for future correspondence."

3. "We will use the procedures specified in Section 3, Chapter VI, Part One of the Regents' Rules and Regulations."

"All procedural questions and all objections regarding exhibits or testimony must be directed to me."

"I will make findings on the matter and provide both parties with a written decision that will contain findings as to guilt or innocence of the student charged. If the student is found guilty, I will assess an applicable penalty or penalties in accordance with the Regents' Rules and Regulations and the University's Handbook."

4. (To University representative) "Is the University ready?"
(To student) "Are you ready?"

5. (To University representative) "Will you have any opening remarks?"
(To student) "Will you have any opening remarks?"

6. (To University representative) "Will you call your first witness?"

(The University calls witness).

(Witness sworn in by court reporter and questioned on behalf of University.)

7. (Witness passed for cross-examination on behalf of student.)

8. (University rests.)

9. (To student) "Will you call your first witness."
(Student calls witness.)

(Witness sworn in by court reporter and questioned on behalf of student.)

10. (Witness passed for cross-examination on behalf of University.)
11. Parties make closing statements including arguments regarding appropriate penalty if student is found guilty of charges (at the hearing officer's discretion).
12. "This hearing is concluded."

Sample Hearing Officer's Letter

Mr./Ms. _____

Dear Mr./Ms.:

A hearing was held on December 25, 1928 concerning the allegation that in 1925 you requested admission to The University of Texas at _____ and that at that time you falsified your application by failing to list your attendance at Vassar and the University of Georgia. You also failed to provide the Registrar with official transcripts from these institutions until you had complete 16 semester hours. You were represented at the hearing by your attorney, Sam Smith. Your witnesses included Bill Wilson, and Jane Brown. Ann Able served as legal counsel for the University. Witnesses for The University included Bob Baker, Sue Sands, and H. Harris, Dean of Students.

Bob Baker testified that you visited his office in July, 1927 and at that time you told him that you had attended Vassar and University of Georgia prior to your admission to U. T. _____ in 1925. Mr. Baker stated that he verified your social security number to ascertain that the signed application you had submitted in 1925 was indeed yours. That application was submitted as Exhibit 1. Mr. Baker also testified that during that meeting he asked you to read items on the application which requests a declaration of post-secondary schools attended and studies in progress, both of which were blank on your application. In addition, he testified that he called your attention to item 307 on the application which asks the applicant to declare circumstances that may possibly influence the admission of the applicant and to the signature block which requires the applicant to certify that the application is correct and informs the applicant that "false or incomplete information may result in dismissal from the university." He reported that your response to here question of why you had not listed all post-secondary institutions attended was that you did not think that you had to submit transcripts. Mr. Baker stated that he called your attention to the admissions requirements stated in the 1924-25 catalog, submitted as Exhibit 2, regarding the admission of transfer students (p. 1), requirements for admissions (p. 2), procedures to be followed (p. 4) and the declaration of previous college work attempted (p. 5).

Your transcript from Vassar was presented as Exhibit 3 and your transcript from the University of Georgia became Exhibit 4. Mr. Baker testified that you had attempted 24 semester hours prior to the fall of 1925 with a cumulative GPA of 1.53 and that you were on academic probation at both Vassar and University of Georgia. Such academic probation would have resulted in your not being in good standing at the last institution you attended. Either of those conditions would have prevented you from being admitted to U. T.

_____.

Sue Sands testified that she had prepared the memorandum to the Dean of Students, titled Exhibit 5. The memorandum states that if you had given all the true information requested on the application, you would not have been granted admission because you were not in good academic standing at the last school you attended and you did not have a 2.0 GPA on all previous work attempted.

Your attorney called Jane Brown to testify. She stated that she had many occasions to work with you. Your attorney asked her to testify about admissions policies at Oxford University regarding cases of this nature. The question was not allowed because I consider hearsay evidence on the admissions policies of another institution to be inappropriate and irrelevant to this hearing.

Bill Wilson testified, as a professor who worked with you, that you are a good student, that you are conscientious, active, and inquisitive, and that you demonstrated that you could improve your academic performance during the sequence of classes you took with him. He said that he considers you to be an exemplary student. In response to this testimony, I wish to remind you that your activities, however meritorious, are not an issue in this case. The issue is the falsification of the admissions application as it pertains to eligibility for enrollment.

You testified next that you spent one year at Vassar and then attended the University of Georgia. In 1925, you filled out the application that is Exhibit 1. You explained that you did not declare your work at those two institutions because you did not wish to transfer credits from either school. The admissions application does not give you such an option. It is explicit in its requirement to list all prior post-secondary academic work.

You stated that you did not intend to mislead The University when you filled out your application. However, during the years you attended U. T. _____, you made no effort to provide a true and complete record to the Registrar. In response to Mr. Baker's question about whether the information on the application was true and complete when you signed the form in 1925 and today, you stated that it was not complete then or now.

Dean Harris was called to testify about university policy in cases where a student falsifies an application for admission and the student signs a waiver admitting to the charges. He responded that in cases where a student has falsified an application and did not meet admission requirements, the student has been permanently expelled from the university and any semester hours completed while the student was fraudulently enrolled have been stricken from the record. As the disciplinary officer of the university, Dean Harris stated that students are not permitted to profit from course work they have not legally had the right to take.

The University's attorney made the point that because you did not supply all information required by the Office of Admissions and Registrar when making application for admission and because you signed the application form which states that with your signature you certify that all information given is correct, you have been fraudulently

enrolled since the fall term of 1925. She argued that this university is not an open admissions university and that you did not meet all requirements for admission when you enrolled in classes. If you had supplied all the information required for application, you would not have been admitted. Therefore, she argued, you were not entitled to enroll in any courses at this university and should not receive academic credit for courses you have completed here.

Given all the pertinent evidence presented at the hearing of December 25, 1928, I find that your application for admission to the University was incomplete and therefore incorrect in 1925. Mr. Baker's testimony that you would not have been admitted to The University if you had submitted the required transcripts further confirms my belief that you had reason to withhold this information at the time of your application. However, there is reasonable doubt in my mind that your intention was to deceive the University. But motive, while helpful in determining facts, is not the basis for a fraudulent enrollment case. I was impressed by the fact that you voluntarily informed the Registrar of your prior academic work and supplied the required transcripts in 1928. That is important because it suggests that you recognized and attempted to correct your error. Your action does not, however, relieve you of responsibility for falsifying your application for admission.

After carefully weighing all the testimony presented at the hearing, the evidence is irrefutable that you did falsify your application in 1925. You testified under oath that you thought it unnecessary to declare prior course work that you did not wish to transfer, yet you testified that you thought you might get into trouble for not providing the information. As University Hearing Officer, I have ruled on other similar cases of fraudulent enrollment over the past several years. In those instances, when students have falsified their applications and would not have been eligible for admission if all information had been supplied to the Office of Admissions at the time of application, students have been permanently expelled. Admission policies must be consistently applied to all students admitted to this university.

In recognition of your voluntary submission to the Registrar of transcripts and your service to the University while a student, I hold that the semester hours that you have earned be allowed to stand. However, my decision is that you are guilty of fraudulent enrollment and that you be permanently expelled, effective at the conclusion of the Fall 1928 semester from this university.

You have the right to appeal my decision to the President of the University. If you choose to do so, you must make your intention known no later than fourteen days from the date of this decision, to wit, no later than 5 p.m. on _____.

(Attachment 8 continued)

Sincerely,

Hearing Officer

xc: Dean of Students
(Student's Attorney)
(U. T. System Attorney)

*Sample President's Decision
(overrules or modifies decision)*

Mr./Ms. _____

Dear Mr./Ms. _____:

I reviewed your letter dated _____ giving notice of appeal of the decision of (hearing officer) dated _____ suspending you for one academic year U. T. _____. After review of your notice of appeal, written argument and the transcript of the hearing, I believe the hearing officer erred in failing to consider _____

_____ on the issue of penalty. Therefore, I am upholding the decision of (hearing officer) on the issue of guilt of the offense charged but overruling the decision with reference to penalty. Acknowledging _____ (detail error), I impose a penalty of suspension from U. T. _____ for 6 months.

Sincerely,

President

xc: Dean
(U. T. System Attorney)
(Student's Attorney)

*Sample President's Letter
(upholds decision)*

Mr./Ms. _____

Dear Mr./Ms. _____:

I received your letter dated _____ indicating your appeal of the decision dated _____ related to your disciplinary case. I have reviewed the facts of this case and concur with the decision of the [hearing officer] [Dean]. Therefore, you are hereby permanently expelled from The University of Texas _____ beginning with the _____ semester, but will be allowed to retain all course credit earned for classes completed at this institution.

Sincerely,

President

xc: Dean
(U. T. System Attorney)
(Student's Attorney)

*Excerpt from Regents' Rules and Regulations
Part One, Chapter VI, Section 3*

Sec. 3. Student Conduct and Discipline.

3.1 The component institutions shall adopt rules and regulations concerning student conduct and discipline. Such rules shall be in compliance with the Regents' Rules and Regulations and shall become effective upon review and approval by the appropriate Executive Vice Chancellor. Each student is responsible for notice of and compliance with the provisions of the Regents' Rules and Regulations and the rules of the component institution.

3.2 All students are expected and required to obey the law, to comply with System and institutional rules and with directives issued by an administrative official in the course of his or her authorized duties, and to observe standards of conduct appropriate for an academic institution.

3.21 Any student who engages in conduct that is prohibited by System or institutional rules or by federal, state, or local law is subject to discipline whether such conduct takes place on or off campus or whether civil or criminal penalties are also imposed for such conduct.

3.22 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.

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

3.24 Any student who engages in conduct that

- endangers the health or safety of any person on the campus of a component institution or any property, building, or facility owned or controlled by the System is subject to discipline.
- 3.25 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 owned or controlled by the System 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.
- 3.26 Any student who engages in speech, either orally or in writing, that is directed to inciting or producing imminent lawless action and is likely to incite or produce such action is subject to discipline.
- 3.27 Any student who appropriates university resources for private gain is subject to discipline.
- 3.28 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 (Sections 4.51 to 4.58. Texas Education Code.) 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. Initiations or activities of organizations may include no feature which is dangerous, harmful, or degrading to the student, and a violation of this prohibition renders both the organization and participating individuals subject to discipline.
- 3.29 A student who alters any official record of the component institution or who submits false information or omits requested information that is required for or related to an application for

Attachment 11
Regents' Rules Excerpt (continued)

- admission, the award of a degree, or any official record of the institution is subject to discipline.
- 3.2(10) Any student who defaces, mutilates, destroys or takes unauthorized possession of any property of a component institution or the System is subject to discipline.
- 3.2(11) A student is subject to discipline for prohibited conduct that occurs while participating in off-campus activities sponsored by a component institution including field trips, internships, rotations or clinical assignments.
- 3.2(12) A student who receives a period of suspension as a disciplinary penalty is subject to further disciplinary action for prohibited conduct that takes place on campus during the period of suspension.
- 3.3 A former student who has been suspended or expelled for disciplinary reasons is prohibited from being on the campus of any component institution during the period of such suspension or expulsion without prior written approval of the chief student affairs officer of the institution at which the suspended or expelled student wishes to be present.
- 3.4 The Dean of Students shall have primary authority and responsibility for the administration of student discipline at each institution. It shall be the Dean's duty to investigate allegations that a student has engaged in conduct that is prohibited by the Regents' Rules and Regulations, the rules and regulations of the institution, specific instructions issued by an administrative official of the institution in the course of his or her authorized duties, or any provisions of federal, state, and/or local laws. In such cases, the Dean may proceed with disciplinary action, notwithstanding any action taken by other authorities.
- 3.41 The Dean of Students may take immediate interim disciplinary action, including suspension pending a hearing, against a student for violation of a rule or regulation of the System or of the institution when the continuing presence of the student poses a danger to persons or property or an ongoing threat of disrupting any authorized university activity.
- 3.42 The Dean may authorize interim withholding of a student's grades, degree or official transcript

- when such withholding would be in the best interest of the institution.
- 3.43 The Dean may summon the student for purposes of discussing the allegations by mailing to the address appearing in the registrar's records a written request for the student to appear at a certain place and time at least three weekdays after the date of the letter. If the Dean of Students determines that allegations of misconduct are not unfounded, the Dean shall notify the student of the allegations and proceed under Subdivision 3.44 or Subsection 3.5 as appropriate. If a student fails to appear without a valid reason, the Dean may implement hearing procedures in the absence of the student or may bar or cancel the student's enrollment until the student appears or responds to the summons.
- 3.44 In any case where the accused student does not dispute the facts upon which the charges are based and executes a written waiver of the hearing procedures specified in Subsection 3.5, the Dean of Students shall assess a penalty pursuant to Subsection 3.6 that is appropriate to the charges and inform the student of such action in writing. The minimum penalty that the Dean may assess when a student admits illegal use, possession, and/or sale of a drug or narcotic on campus is the penalty prescribed in Subdivision 3.23 of this Section.
- 3.45 The decision of the Dean of Students on penalty may be appealed as in the case of a decision rendered subsequent to a hearing in accordance with Subsection 3.5. The appeal is limited to the issue of penalty and no transcript will be required.
- 3.5 In those cases in which the accused student disputes the facts upon which the charges are based, such charges shall be heard and determined by a fair and impartial person, hereinafter called the Hearing Officer, selected in accordance with procedures adopted by the institution.
- 3.51 Except in those cases where immediate interim disciplinary action has been taken under authority of Subdivisions 3.41 and/or 3.42, the accused

Attachment 11
Regents' Rules Excerpt (continued)

student shall be given at least ten (10) days' notice of the date, time, and place for such hearing and the name of the Hearing Officer. The notice shall include a written statement of the charge(s) and a summary statement of the evidence supporting such charge(s). The notice shall be delivered in person or mailed to the student at the address appearing in the registrar's records. Hearings held following interim disciplinary action under Subdivisions 3.41 and/or 3.42 will be held under the same procedures set forth below, but will be held as soon as practicable within ten (10) days after the interim disciplinary action has been taken.

3.52 Upon a hearing of the charges, the institutional representative has the burden of going forward with the evidence and the burden of proving the charges by the greater weight of the credible evidence.

3.53 The hearing shall be conducted in accordance with procedures adopted by the institution and that assure both parties (institutional representative and the accused student) the following minimal rights:

- (1) Each party shall 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 three days prior to the hearing.
- (2) Each party shall have the right to appear and present evidence in person or through a designated representative or counsel of choice.
- (3) Each party, or his or her designated representative or counsel, shall have the right to cross-examine witnesses.
- (4) The hearing will be recorded. If either party desires to appeal the finding, the record will be transcribed and both parties will be furnished a copy of the transcript.

3.54 The accused student may challenge the impartiality of the Hearing Officer up to three

days prior to the hearing. The Hearing Officer shall be the sole judge of whether he or she can serve with fairness and objectivity. In the event the Hearing Officer disqualifies himself or herself, a substitute will be chosen in accordance with procedures adopted by the institution.

3.55 The Hearing Officer shall render and send to both parties a written decision which shall contain findings of facts and conclusions as to the guilt or innocence of the accused student and shall assess a penalty or penalties pursuant to Subsection 3.6. If the Hearing Officer finds the student guilty of the illegal use, possession, and/or sale of a drug or narcotic on campus, the Hearing Officer must assess a minimum penalty as provided in Subdivision 3.23 of this Section.

3.6 The following penalties may be assessed by the Dean of Students or the Hearing Officer in accordance with the procedures specified in Subdivisions 3.41, 3.42, 3.44 and 3.55:

- 3.61 Disciplinary probation.
- 3.62 Withholding of grades, official transcript and/or degree.
- 3.63 Bar against readmission.
- 3.64 Restitution or reimbursement for damage to or misappropriation of institutional or System property.
- 3.65 Suspension of rights and privileges, including participation in athletic or extracurricular activities.
- 3.66 Failing grade for an examination or assignment or for a course and/or cancellation of all or any portion of prior course credit.
- 3.67 Denial of degree.
- 3.68 Suspension from the institution for a specified period of time.
- 3.69 Expulsion (permanent separation from the institution).
- 3.6(10) Revocation of degree and withdrawal of diploma.
- 3.6(11) Other penalty as deemed appropriate under the circumstances.

- 3.7 Appeal Procedures.--A student may appeal a disciplinary action taken by the Dean or the Hearing Officer in accordance with the following procedures:
- 3.71 Within fourteen (14) days after the parties have been notified of the decision, either or both parties may give notice of appeal to the chief administrative officer of the institution. If the decision is sent by mail, the date the decision is mailed initiates the fourteen (14) day period. The decision will be reviewed on the basis of the transcript, if any, and evidence considered at the hearing. In order for the appeal to be considered, all the necessary documentation to be filed by the appealing party, including written argument, must be filed with the chief administrative officer within fourteen (14) days after notice of appeal is given and the transcript, if any, is available. Both parties may, at the discretion of the chief administrative officer, present oral argument.
- 3.72 The chief administrative officer 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 if the finding as to guilt is upheld in a case involving the illegal use, possession, and/or sale of a drug or narcotic on campus, the penalty may not be reduced below the minimum penalty prescribed by Subdivision 3.23 of this Section.
- 3.73 The action of the chief administrative officer shall be communicated in writing to the student and the Dean of Students within thirty (30) days after the appeal and related documents have been received. The decision of the chief administrative officer is the final appellate review.
- 3.8 Each component institution shall maintain a permanent written disciplinary record for every student assessed a penalty of suspension, expulsion, denial or revocation of degree and/or withdrawal of diploma. A record of scholastic violations shall be maintained for at least five years unless the record is permanent in conjunction with the above stated penalties. A disciplinary record shall reflect the nature of the charge, the

Attachment 11
Regents' Rules Excerpt (continued)

disposition of the charge, the penalty assessed and any other pertinent information. This disciplinary record shall be separate from the student's academic record, shall be treated as confidential, and shall not be revealed except upon written request of the student or in accordance with applicable state or federal laws.