

ITEMS FOR DISCUSSION AND ACTION\STUDENT AFFAIRS, MARKETING, AND ENROLLMENT

September 12, 2019

ACTION: **First and Final Round Approval of Revisions to Board Policy 3100; Conduct & Discipline; Students and Board Policy 3200; Due Process -- Students**

Revisions to Board Policy 3100 include a statement regarding the intent of the policy and the addition of Other Interim Measures for pending disciplinary action under Board Policy 3200. These measures include; no contact orders, temporary restrictions from specific areas of the campus, changes in class schedules and/or delivery method, changes in residence hall assignments and/or changes in campus employment. The section regarding disciplinary action has been deleted and moved to Board Policy 3200.

Board Policy 3200 is being revised to outline disciplinary sanctions, requests to delay due process procedures and withdrawal procedures that may be used to resolve conduct issues. Other revisions are also intended to preserve the Colleges' ability to resolve conduct informally based upon individual circumstances.

The System Office recommends approval of the Revisions to Board Policies 3100; Conduct & Discipline; Students & 3200 Due Process Students.

ATTACHMENTS:

- Revisions to Board Policy 3100 (PDF)
- Revisions to Board Policy 3200 (PDF)

STUDENT AFFAIRS, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 3100

Conduct & Discipline; Students

Page 1 of 45

BOARD POLICY

The Board and the Colleges are committed to creating and maintaining a productive educational community that fosters the personal, ethical and intellectual development of its students. Adherence to standards of conduct is essential to the educational process and to the safety and well-being of the College community.

The Board grants authority to the Presidents to designate appropriate officers, establish representative college committees, render initial decisions and provide appeal procedures in regard to allegations of academic dishonesty; grade appeals; failure to pay a financial obligation; or academic performance, achievement, probation and suspension. All disciplinary sanctions imposed for misconduct identified in this policy are to be governed by terms of this policy and the due process requirements set forth in Board Policy #3200. Acceptance of this policy by the student is implied as a condition of his or her enrollment.

PROCEDURE

Students are responsible to obey the laws of the state and nation, the regulations and policies of the Board and of the Colleges; and to refrain from any conduct injurious to themselves, to others, or to the reputation or interests of the College.

A student shall not ignore a summons from the President or other officer of administration of the College, or from a member of the faculty.

Student misconduct as identified under this policy or a violation of College regulations or policy, whether occurring on or off College property, may result in disciplinary action being taken against the student.

Students may be ordered to leave the College under a temporary suspension pending disciplinary action due process per Board Policy 3200 in the event the student's continued presence is believed to threaten the safety or health of another person or for other reasons at the discretion of the Vice President responsible for Student Affairs or designee. Such order shall be given in writing by the Vice President responsible for Student Affairs or designee.

Students suspended or expelled from one of the State Colleges may be admitted to another Nebraska State College only under the same conditions that they would be readmitted to the College from which they were suspended.

Misconduct

The following acts shall be considered to constitute misconduct for which an offending student or student organization may be subject to disciplinary sanctions.

1. Participation in a demonstration on College property which materially and substantially disrupts or obstructs the normal operations, activities or functions of the College, including unauthorized occupation of College premises;
2. Failure to evacuate College facilities or willfully ignoring any emergency or alarm signal or request to evacuate by appropriate emergency personnel;
3. Falsification or willful suppression of any information for or on an application for admission, or falsification or misuse of College identification and other documents;

STUDENT AFFAIRS, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 3100

Conduct & Discipline; Students

Page 2 of 45

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4. Misuse of computers or computing resources, including, but not limited to, violating the following federal regulations: the Copyright Act of 1976 and the Fair Use Guidelines, the Digital Millennium Copyright Act of 1998, and the Technology, Education and Copyright Harmonization Act of 2002;
 5. Unlawful or unauthorized possession, use, distribution, dispensing, delivery, sale or consumption, manufacture, or being in the presence of any alcoholic beverage, including empty bottles/cans or any alcohol container on any part of College property including outdoor areas and parking lots;
 6. Alcohol consumption that endangers the health, safety, or property of oneself or another, or requires medical treatment or College staff intervention;
 7. Unlawful or unauthorized possession, use, distribution, delivery, dispensing, manufacture or sale, or being in the presence of any drug; being in possession of paraphernalia for drug use, except as expressly permitted by law, or being unlawfully under the influence of any drug unless directed by a licensed physician;
 8. Inflicting unwanted physical contact on another person; conduct that intimidates, harasses, or threatens the safety, health, property, or life of others or oneself; participating or contributing to an incident of abuse or assault; causing, provoking or engaging in any fight, brawl or riotous behavior; or inflicting willful and repeated harm through the use of computers, cell phones, and other electronic devices;
 9. Any act occurring on College property or on the premises of a student housing unit which intentionally disturbs the peace and quiet of any person or group of persons;
 10. Sex harassment or sexual violence, as Board Policy #3020 defines those terms;
 11. Conduct which is unreasonably dangerous to the health or safety of other persons or oneself;
 12. Theft or attempted theft of any property or receipt of stolen property;
 13. Damaging or attempting to damage property of the College or of another individual;
 14. Using or possessing bombs, explosives, incendiary devices, or fireworks;
 15. Setting or attempting to set any fire on the campus or on the premises of any student housing unit, except in fireplaces or other facilities designated for fires;
 16. Failing to report a fire or any other extremely dangerous condition when known or recognized on College property or on the premises of any student housing unit;
 17. Possessing or selling firearms, ammunition, weapons, explosives, or dangerous chemicals on College property or on the premises of any student housing unit;
 18. Obstructing or failing to comply with the directions of a law enforcement officer, firefighter, or College official in the performance of his or her duty on College property, on the premises of any student housing unit or at any activity or event sponsored by the College or an organization;

STUDENT AFFAIRS, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 3100

Conduct & Discipline; Students

Page 3 of 45

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19. Hazing any person. Consent of the victim of the hazing will not constitute a defense to an allegation of misconduct for hazing. Hazing shall mean any activity by which a person intentionally or recklessly endangers the physical or mental health or safety of an individual for the purpose of initiation into, admission into, affiliation with, or continued membership with any organization;
 20. Committing any unlawful act of indecent exposure or public indecency;
 21. Participating in any gambling activity in violation of the laws of the State of Nebraska or of the United States;
 22. Unauthorized use of any College property, facilities, equipment or materials;
 23. Possessing, producing, manufacturing, or having manufactured without proper authorization, any key or unlocking device for use on any College facility or lock;
 24. Serious traffic violations on the campus, including, but not limited to, operating any vehicle while intoxicated, speeding, reckless endangerment, or reckless driving;
 25. Violation of any student housing unit policy, rule or regulation;
 26. Failure to redeem or make arrangements to redeem, within one week after receipt of written notice, an insufficient funds or no account check submitted to the College for cash or for payment of College goods or services;
 27. Abuse of College disciplinary proceedings which includes, but is not limited to, failure to obey a request to appear before a disciplinary officer or committee, falsification of testimony, disruption or interference with the orderly conduct of any hearing, attempting to discourage any person from using College disciplinary procedures or participating in such procedures, attempting to influence the impartiality of a member of a disciplinary committee prior to any proceeding, filing a malicious, false or frivolous complaint, verbal or physical harassment or intimidation of a member of a disciplinary committee prior to, during, or after a proceeding, failure to comply with any sanction imposed, influencing or attempting to influence another person to commit an abuse of disciplinary proceedings, and a violation of the privacy rights of any student or College employee in regard to a disciplinary proceeding;
 28. Any act by a student which occurs on the campus, while studying abroad, on the premises of any student housing unit or at any activity or event sponsored by the College or an organization which is in violation of any ordinance of the municipality in which the College resides, shall constitute misconduct;
 29. Falsely setting off or otherwise tampering with any emergency safety equipment, fire alarm, or other device established for the safety of individuals and/or college facilities;
 30. Harassing or discriminating against any student, faculty or staff member, as defined in Board Policy 3021, on the basis of race, color, national origin, sex, sexual orientation, gender identity, disability, religion or age; and
 31. Any other activity or conduct prohibited by the College in published policies.

STUDENT AFFAIRS, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 3100 Conduct & Discipline; Students

Page 4 of 45

Unreasonably Dangerous or Threatening Conduct Toward Self

Student behaviors and actions that are unreasonably dangerous to self or which threaten the student's own safety or health may constitute misconduct under this Policy and may be addressed by the College administration through the disciplinary process. When practicable and appropriate, efforts will be made to advise students regarding voluntary withdrawal options in lieu of initiating disciplinary due process as set forth in Board Policy #3200.

At the discretion of the Vice President responsible for ~~s~~Student ~~a~~Affairs/services (or designee), a student may be allowed to voluntarily withdraw when continued enrollment no longer appears to be in the best interests of the student and/or College in conjunction with mutually agreed upon conditions that will be required for the student to reapply for admission.

Temporary Suspension

Students may be ordered to leave the College under a temporary suspension pending disciplinary action due process per Board Policy 3200 in the event the student's continued presence is believed to threaten the safety or health of another person or for other reasons at the discretion of the Vice President responsible for Student Affairs ~~(or designee)~~.

Other Interim Measures

Pending disciplinary action under Board Policy 3200, students may be subject to the interim measures, including but not limited to no contact orders, temporary restrictions from specific areas of the campus, changes in class schedules and/or delivery; changes in residence hall assignments and/or changes in campus employment.

Disciplinary Sanctions

~~Disciplinary sanctions may include warnings, demands for restitution or reimbursement, fines, a period of probation, remedial behavioral requirements, remedial educational requirements, suspension, or expulsion.~~

~~In the event that a concurrent civil or criminal action for the same behavior which forms the basis of misconduct allegations under the provisions of this policy is in progress, the accused student may request in writing to the Vice President responsible for Student Affairs, or equivalent administrator, that the College delay the continuance of the due process procedures. By requesting to delay until the external civil or criminal proceeding has concluded, the student agrees that he or she shall not attend any College classes or College sponsored events or activities or shall not enter or use College property without specific written authorization from the Vice President.~~

STUDENT AFFAIRS, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 3100

Conduct & Discipline; Students

Page 45 of 45

Legal Reference: RRS 85-312 State colleges; morals of the pupils; faculty; religious test forbidden
RRS 85-601 Interference with operation; faculty, administrative staff, student; dismissal or expulsion
RRS 85-301 State college; official names; Board of Education; appointment; no compensation; travel expenses
RRS 53-186 Consumption of liquor on public property, public roads, streets, alleys; prohibition; exceptions

Policy Adopted: 1/28/77
Policy Revised: 4/3/81
Policy Revised: 6/5/93
Policy Revised: 3/11/94
Policy Revised: 8/29/97
Policy Revised: 3/28/08
Policy Revised: 3/25/11
Policy Revised: 1/18/12
Policy Revised: 4/25/14
Policy Revised: 6/10/16
Policy Revised: 6/19/18

Policy Revised:

STUDENT AFFAIRS, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 3200

Due Process -- Students

Page 1 of 4

BOARD POLICY

It is the policy of the Board to grant procedural due process to students accused of misconduct under the terms of Board Policy 3100. Regarding allegations of academic dishonesty; grade appeals; failure to pay a financial obligation; or, academic performance, achievement, probation and suspension each College will devise its own adjudication procedures. However, for allegations of misconduct identified in Board Policy 3100 that may result in disciplinary sanctions, the due process procedures outlined below shall be followed.

Nothing herein shall prohibit the College from resolving conduct issues informally if warranted by the individual circumstances including, but not limited to the responsiveness of the student, the severity of the offense, a student's prior misconduct, and the health and safety of the student and other members of the campus community. Informal resolution of conduct issues in which two (2) or more students are involved in a physical altercation with one another will not be permitted unless all students involved agree to informal resolution.

DISCIPLINARY SANCTIONS

Disciplinary sanctions may include warnings, demands for restitution or reimbursement, fines, a period of probation, remedial behavioral requirements, remedial educational requirements, suspension, or expulsion.

REQUESTS TO DELAY DUE PROCESS PROCEDURES

In the event that a concurrent civil or criminal action for the same behavior which forms the basis of misconduct allegations under the provisions of this policy is in progress, the accused student may request in writing to the Vice President responsible for Student Affairs, or equivalent administrator, that the College delay the continuance of the due process procedures. By requesting to delay until the external civil or criminal proceeding has concluded, the student agrees that he or she shall not attend any College classes or College-sponsored events or activities or shall not enter or use College property, including but not limited to living in residence halls, without specific written authorization from the Vice President responsible for Student Affairs. The Vice President responsible for Student Affairs, or equivalent administrator, may place reasonable limits on the length of the delay permitted.

WITHDRAWAL

At the discretion of the Vice President responsible for Student Affairs/services, a student may be allowed to voluntarily withdraw when continued enrollment no longer appears to be in the best interests of the student and/or College in conjunction with mutually agreed upon conditions that will be required for the student to reapply for admission. The Vice President responsible for Student Affairs/services will work with the Vice President for Academic Affairs to determine what, if any, academic penalties would apply. Any unresolved conduct issues will remain pending and must be resolved as a condition of readmission. Additional conditions may include, but not be limited to, the length of time a student must wait to reapply and/or the length of time a student has to reapply for admission.

PROCEDURE

1. The student shall be notified in writing by an appropriate College official that he/she is accused of misconduct. The student shall be made aware of grounds which would justify such action by way of the student handbook or other published College regulation.
2. The student shall be notified that he/she may elect one of three courses of action. The student shall be advised of a date (deadline) by which such an election must be communicated to the appropriate College official.

STUDENT AFFAIRS, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 3200

Due Process -- Students

Page 2 of 4

- a. The student may admit the alleged violation and request, in writing, that the appropriate College official take whatever action seems appropriate.
- b. The student may admit the alleged violation in writing and request a hearing before the appropriate hearing panel designated by the College. The hearing panel will determine the appropriate sanctions.
- c. The student may deny the alleged violation, in which case, the appropriate College official shall refer him/her to the appropriate hearing panel designated by the College. The hearing panel will determine responsibility and the appropriate sanctions.

NOTE: If the student fails to respond to the appropriate College official in a timely manner according to the date (deadline) and/or fails to elect one (1) of the three (3) courses of action, the appropriate College official may address the alleged misconduct without providing further due process.

3. Under option 2a noted above, the College may address the alleged misconduct without providing further due process. The student's decision can be binding, if freely and knowingly made, even though suspension, expulsion or the imposition of a stigmatizing sanction might result. Students should be advised in writing of all risks associated with any waiver of due process rights and provided a reasonable amount of time to consider their decision and to confer with a family member or advisor.
4. If the student selects either option 2b or 2c as noted above, a hearing shall be conducted in accordance with the following procedure within ten (10) class days, unless the student requests an extension in writing, which shall not be unreasonably denied. Requests for an extension should be directed to the Vice President responsible for Student Affairs or their designee. Students studying abroad shall be under the direction of the accompanying College official until his/her return to campus, at which time, if needed, the due process procedures will commence.
 - a. Prior to the hearing, the student shall be entitled to the following:
 - Written notification of the time and place of the hearing with reasonable time allowed for grievant to prepare a presentation and defense.
 - A written statement of the allegations (incident or behavior) with sufficient particularity so that the student may prepare his/her defense.
 - The grounds which would justify disciplinary action cited in the student handbook or Board Policy and the possible sanctions that may be imposed.
 - Written notification of the names of the witnesses who are directly responsible for having reported the allegations, or, if there are no such witnesses, written notification of how the allegations came to the hearing panel's attention, and
 - A copy of all documentary evidence to go before the hearing panel.
 - b. The student shall be entitled to appear in person before the hearing panel, and may call witnesses on his/her behalf. If the student does not appear before the hearing panel, the hearing shall be held in his/her absence.
 - Title IX Matters: If the hearing concerns a violation of Board Policy 3020, the College's Title IX Coordinator or designee shall present the evidence supporting his/her finding of responsibility.

STUDENT AFFAIRS, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 3200

Due Process -- Students

Page 3 of 4

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- c. The student shall be entitled to be accompanied by a person of his or her own choosing from the College community to assist in the proceedings or by counsel at the student's expense. An attorney or advisor, if present at the request of the student, may be present to counsel the student, but may not directly participate in the hearing by making oral presentations or arguments, examine or cross-examine a witness, or object to testimony of a witness or to introduction of other evidence.
 - d. The student shall be entitled to ask questions of the hearing panel or any witnesses.
 - e. The student shall be entitled to an expeditious hearing of the case.
 - f. Hearings are closed to the public.
 - g. An audio recording of the hearing will be made and kept by the College consistent with document retention schedules.
 - h. The student shall be entitled to an explanation in writing of the reasons for any decisions rendered against him/her and the discipline imposed, and shall be given access to the hearing panel's decision for his/her personal records.
5. The hearing panel designated by the College shall be composed of College administrators, faculty, staff, and/or students. Such selection shall be at the approval of the President or designated Vice President. Individuals serving on this panel need not be disqualified because they have superficial knowledge of the background of the case, or because they may know the participants. The basic test shall be whether or not the panelist can judge the case fairly, without bias or prejudice, and solely on the evidence presented.
6. The hearing panel shall be the decision-making body acting independent of the President.
7. Technical rules of evidence or procedure need not be employed in hearing proceedings. A student's misconduct shall be determined by a preponderance of the evidence (i.e., it is more likely than not that misconduct occurred). Hearing decisions need not be unanimous. A simple majority vote shall be sufficient. Hearsay evidence is not required to be excluded, but a finding of misconduct on hearsay evidence alone is not appropriate in hearings, including a serious disciplinary case such as suspension or expulsion.
8. Members of the hearing panel shall have the opportunity to examine the case file beforehand, and to question the accused and witnesses at the hearing.
9. The student shall be notified of his/her right to appeal the decisions of the hearing panel to the Vice President responsible for ~~S~~student ~~a~~Affairs/~~services~~. Appeals must be in writing and are due to the Vice President within five (5) class days after the student received the hearing panels' decision. If the Vice President was a member of the hearing panel, this step of the appeal process is not applicable and the student may appeal directly to the President. Appeals to the Vice President must be based on one (1) of the following grounds:
- a. Procedural due process was violated;
 - b. The sanction was excessive;
 - c. The evidence did not support the decision; or,
 - d. Substantive new information is available that was not available at the hearing.

STUDENT AFFAIRS, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 3200

Due Process -- Students

Page 4 of 4

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10. The student shall be notified of his/her right to appeal the decisions of the Vice President to the President, who has final authority. Should the student appeal, any action assessed by the hearing panel shall be suspended until acted upon by the President. Appeals to the President are due within five (5) class days after the student receives the Vice President's decision. Appeals to the President must be based on one (1) of the following grounds:
- a. Procedural due process was violated;
 - b. The sanction was excessive;
 - c. The evidence did not support the decision; or,
 - d. Substantive new information is available that was not available at the hearing.
11. Appeals of the President's decision may be submitted to the Chancellor but shall be limited to allegations that fair procedural process has not been provided in accordance with Board Policy 3200. Appeals to the Chancellor must be in writing and are due within five (5) class days after the student receives the President's decision. Should the student appeal, any action assessed by the hearing panel shall be suspended until acted upon by the Chancellor.

Legal reference: RRS 85-312 State colleges; morals of the pupils; faculty; religious test forbidden
RRS 85-602 Faculty, administrative staff, students; dismissal or expulsion; procedure
RRS 85-603 Faculty, administrative staff, student; dismissal or expulsion; order; contents; service

Policy Adopted: 1/28/77
Policy Revised: 6/5/93
Policy Revised: 3/11/94
Policy Revised: 4/11/03
Policy Revised: 6/2/06
Policy Revised: 3/28/08
Policy Revised: 3/25/11
Policy Revised: 4/20/12
Policy Revised: 6/19/18

Policy Revised: