VI. Procedural Safeguards

In order to provide an orderly procedure for the handling of disciplinary cases using the principles of due process and basic fairness, the following safeguards will be afforded to all students:

1. Students have access to the “Notification of Complaints,” names of accusers and witnesses; and any written evidence, or other pertinent papers which may be used against them. Reports must be submitted within thirty (30) days of the alleged incident unless the deadline is waived by the student conduct and mediation board procedural advisor. The student conduct and mediation board procedural advisor may waive the time limit at his/her discretion in any situation including, but not limited to, incidents of alleged sexual assault or harassment, and instances in which criminal charges may be pursued. The decision of the student conduct and mediation board procedural advisor as to whether to waive the time limit shall be final. This information will be available in the student conduct and mediation programs office, the residence life office or resident director’s office, as appropriate.

2. Cases will be heard by the student conduct and mediation board except in cases of alleged sexual assault or during emergency situations, as determined by the student conduct and mediation board procedural advisor. When multiple parties are involved in the same incident, the student conduct and mediation office will determine whether the cases will be heard together or separately.

3. Students have the right to a pre-hearing conference with the student conduct professional staff member and/or the SGA rules committee representative for the purpose of reviewing hearing procedures and related aspects of the student conduct and mediation system. In addition, students may use this opportunity to waive their right to a hearing and accept disciplinary action from the professional staff member.

4. In those cases in which the student admits responsibility for a violation and requests a waiver of any hearing, a student conduct professional staff may impose a disciplinary sanction. The staff member may consult with the SGA rules committee chairperson or designee prior to taking action. If the student accepts the action taken by the staff member, he/she will confirm his/her agreement agreement by signing a “Resolution Form.” If the student does not accept the sanction offered, the case will be referred for a hearing.

5. Failure to contact the appropriate Student Life staff member to schedule a pre-hearing conference will automatically result in a finding of “responsible” of all alleged violations. A student retains the right to appeal such a decision by following the established appeal procedures.

6. Students who want a hearing will be sent written notification of the date, time and place of any hearing at least four (4) business days before the hearing to permit a reasonable amount of time to prepare themselves.

7. The student conduct and mediation programs office will consider all complaints to determine if the incident warrants disciplinary action. In cases where disciplinary action is warranted, students will be sent or given a written statement of the charges against them, the source of such charges, and the conduct regulation(s) upon which the charges are based.

8. A hearing body may consider several “Notification of Complaints” naming a particular student at the same time. The hearing body may recommend a sanction based on the total number of “responsible” findings from such complaints.

9. Students have the right to an advisor of their choice, who may be present at any hearing to counsel the student charged. The advisor may not address the board on behalf of the student.

10. All hearings will be closed to the public and all proceedings will be considered confidential. Attendance at hearings will consist only of the members of the hearing body, the student(s) charged and an advisor, the student conduct and mediation board procedural advisor(s), person(s) bringing charges and an advisor, and witnesses for both sides. An SGA rules committee representative may also be present.

11. Challenges to members of hearing bodies may be initiated by the student charged or by the person bringing charges. These requests must be brought to the attention of the student conduct and mediation programs office before the hearing body convenes. The student conduct and mediation board procedural advisor or designee will determine whether there are grounds for the challenge.
12. The student conduct and mediation programs office will consider a substantiated request for postponement of a hearing if the request is presented in writing to the hearing body at least two (2) business days in advance of the hearing date. Such requests may be made by the student charged or the person bringing charges. If the request is granted, the hearing will be held at the earliest possible date and time determined by the hearing body. If the request is denied, the hearing will be held at the originally scheduled date and time.

13. Accused students may elect not to appear at a hearing. The hearing, however, will be held in their absence provided appropriate notification has been made. Students may be asked to leave a hearing if their behavior is deemed inappropriate by the hearing body. Students retain the right to submit a signed statement which includes any information or facts they wish to have the hearing body consider in the review of their case.

14. Unless students choose not to appear at a hearing, all evidence against them will be presented in their presence.

15. Students have the right to enter a plea of: not responsible, responsible, or no response at any hearing.

16. Students will be permitted to call and cross examine witnesses and to speak or present evidence on their own behalf. Names of witnesses must be submitted to the student conduct and mediation programs office at least two (2) business days in advance of the scheduled hearing.

17. The burden of proof will rest with those bringing the charges against any student, and students will be presumed not responsible until proven responsible. The standard of proof used in student conduct cases will be preponderance of evidence or the “greater weight of the evidence” test.

18. It is the responsibility of the student conduct and mediation board to find the accused either responsible or not responsible for an alleged violation. If the finding is “responsible,” the board will recommend a sanction to the student conduct and mediation board procedural advisor or designee who will determine the appropriate sanction. Such a decision will be made within three (3) business days of the hearing.

19. All decisions will be based only on the evidence presented before the hearing body, but previous or current disciplinary action taken against students will be used in the determination of the sanction.

20. A tape recording of the hearing will be made, and students involved in the cases will have access for the purpose of the appeal.

21. Written notification of the sanction will be mailed to the parties involved within five (5) business days after the conclusion of the hearing.

22. Except where students have waived the right to a formal hearing, students have the right to appeal the decision of the hearing body within three (3) business days of the date of receipt of the written decision by them (in accordance with the procedures described in the section on appeal).

23. A student found “responsible” for an offense by a hearing board/panel shall remain on a disciplinary status and comply with any additional stipulations of the hearing body pending the outcome of an appeal.

24. Formal rules of evidence shall not be applicable to disciplinary hearings. Hearing bodies may admit as evidence any testimony, written document, or other material which they believe are relevant to fair determination of the charges.

25. Official records of disciplinary action will be maintained on file in the student conduct and mediation office (in accordance with the procedures described in the section on records) and will not be released to individuals outside the institution except by the written authorization of the student involved or under the conditions specified in the “Family Educational Rights and Privacy Act of 1974” and its amendments.

26. All students have the right to continue in their student status until the conclusion of a student conduct hearing. However, in cases where a student’s continued presence constitutes a danger to himself/herself, or others, to university property, or to the orderly functioning of the university, he/she may be temporarily suspended immediately by the associate vice president and dean of students or designee of the university with the option for the preliminary hearing with the associate vice president and dean of students or designee within 24 hours after the suspension (in accordance with the procedures described in the section on emergency procedures).
27. Once student conduct action has been initiated against a student, any attempt to intimidate and/or harass witnesses, and/or the person bringing the charges, will be considered as part of the evidence presented in the case.

28. If, during a hearing, a student admits responsibility for the violation of which he/she has not been charged, he/she can, following the hearing, be charged for said violation.

29. Tape recordings of the hearings are erased at the end of each semester unless they are being used in an appeal hearing.