

A Practical Guide to MSU's Student Disciplinary Process

This guide is intended to be instructive only. For a broader accounting of student rights and responsibilities, refer to the "Academic Freedom Report", found in [Spartan Life](#)

BASIC INFORMATION

- ✚ Any MSU student, faculty or staff member may file a complaint against a student or student group, alleging that a University regulation was violated.
- ✚ Residence hall students should first address their concerns with the Residence Life Director in their own building.
- ✚ The person filing the complaint is called the **complainant**.
- ✚ The student accused of violating University policy is called the **respondent**.
- ✚ All **respondents** will be afforded due process as outlined in [Academic Freedom for Students at Michigan State University](#).

DUE PROCESS STEPS

Step 1 - Administrative Officer Meeting

At this meeting, the respondent will review the allegations and his/her rights in the process. Ultimately, the respondent may choose from the following options:

- A. **Admit the alleged violation and request that the administrative officer take whatever actions seem appropriate.** In this case, the administrative officer and respondent discuss the violation, factors affecting the student's educational progress at MSU and select an educational response from the disciplinary actions on pages 7 - 8 of this guide.
- B. **Admit the alleged violation and request that a judiciary take whatever actions seem appropriate.** In this case, the respondent meets with a judiciary at a specified time. The respondent should come prepared to discuss his/her thoughts about the violation and the steps *s/he* is taking to self correct his/her behavior. If *s/he* has a prior record, its relationship, if any, to the current violation will also be discussed. The respondent may propose an action.
- C. **Deny the alleged violation and request that an administrator conduct a hearing.** In this case, the procedures outlined below will apply.
- D. **Deny the alleged violation and request that a judiciary conduct a hearing.** In this case, the procedures outlined below will apply

NOTE: *Failure to meet with the administrative officer or judiciary will result in a hold being placed on the respondent's registration and a possible class schedule cancellation.*

HEARINGS

- Hearings are only conducted for respondents who deny some or all of the allegations in the original complaint.
- The purpose of a hearing is to sort out discrepancies between what the respondent and complainant say occurred.
- What follows are some critical pieces related to the hearing process:

Notification of Hearing

At least 3 class days prior to the hearing, the respondent and complainant will be provided with a written notice containing the following:

- a) the name of judiciary or administrator conducting the hearing;
- b) the time and place of the hearing;
- c) the regulation(s) alleged to have been violated along with sufficient detail of the allegations to enable the respondent to prepare a case;
- d) the name of the complainant;
- e) the name of the complainant's counsel, if any;
- f) the name(s) of complainant's witness(es), if any.

Request for Postponement

Both the respondent and complainant may **request** a postponement of the hearing. Such a request should be in writing, verifiable and submitted immediately upon receiving the *Notification of Hearing*.

Response to Notification of Hearing

The respondent must provide the judiciary or administrator with the following, at least 24 hours prior to the hearing:

- a) the name of the respondent's counsel, if any;
- b) the name(s) of respondent's witness(es), if any;
- c) the respondent's intentions relative to appearing at the hearing;
- d) a preference for an open or closed hearing.

Attendance at Hearing

The respondent may choose not to appear at the hearing but the hearing, and the hearing may be held in the respondent's absence. Should the complainant fail to appear at the hearing, the judicial body may postpone or dismiss the case.

Preparing for a Hearing

Issues to consider in PRIOR to a hearing:

- a) **Witnesses** and **counsel** must be members of the MSU faculty, staff or student body. The judiciary or administrator reserves the right to limit the number of witnesses.
- b) Witnesses will be questioned and should know that the hearing could last 2-3 hours (or more).
- c) Witnesses are more credible when they appear in person, as opposed to unverifiable and unchallenged written statements.
- d) Respondents and complainants are responsible for notifying their own witnesses and/or counsel about the hearing.
- e) Counsel may only *assist* in the presentation of a case, which is typically done by helping with the opening or closing statement.
- f) Bring notes made prior to the hearing which cover all pertinent information. Focus on the incident at hand, and information directly applicable to the regulations in question. Organize notes chronologically for use as a presentation outline.

The Hearing Itself

- 1) After a brief introduction of all participants, the chairperson or administrator will briefly describe the procedures.
- 2) First, the complainant and respondent are each given up to 30 minutes to present their points of view, supporting evidence and witnesses.
- 3) Next, a time for questions and answers is provided. This process is typically the longest portion of the hearing.
- 4) The complainant and respondent will each be given up to 10 minutes for a closing statement.
 - 1)
 - 2) Take notes during each other's presentations. Put notes in question form.
 - 3) Note discrepancies in evidence, and present at the appropriate times.
 - 4) In summarizing, work from your notes - repeat the important details of the incident. Show how the behavior does or does not violate the regulation(s). Refute those point(s) made by the respondent or complainant with which you disagree. Clarify why you refute it and your own opinion about it.

The **complainant** may want to establish his/her motivation for filing the report.

The **complainant** and **respondent** may state his/her expectations for the outcome of the hearing.

Deliberations and Decisions

The judiciary or administrator will consider the regulation(s) cited: Why was the regulation made? What is the behavioral expectation it sets forth? What is its intent or "spirit?" Then the judiciary or administrator will review and weigh the evidence and decide whether an allegation has been supported by the evidence. Findings are based on a standard of evidence called "Preponderance of Evidence:"

"evidence which is more credible and convincing to the mind...that evidence which when fairly considered produces the stronger impression... and is more convincing as to its truth when weighed against the evidence in opposition thereto." The determination of weight in preponderance of evidence "does not necessarily mean the greater number of witnesses, but opportunity for knowledge, information possessed, and manner of testifying."

If none of the allegations are supported by the preponderance of evidence, the case is dismissed. If any allegation is supported, the judiciary or administrator will decide on an appropriate disciplinary action. Any prior record is then considered.

Academic Freedom for Students at Michigan State University is clear about giving administrators and judiciaries guidelines for disciplinary actions.

1.5.8 "Procedures and penalties for the violation of regulations shall be designed for guidance or correction of behavior only."

1.5.9 "Penalties shall be commensurate with the seriousness of the offense. Repeated violations may justify increasingly severe penalties."

Disciplinary Actions

Educational activities may be required as a "special condition" in combination with the disciplinary actions below.

The disciplinary sanctions available to administrative officers and judiciaries are as follows:

- 1) **No action.**
- 2) **Warning.** An official written statement expressing disapproval of acts committed.
- 3) **Warning Probation.** A probation indicating that further violations of regulations will result in more severe disciplinary action. This probation will be imposed for a specific period of time, and the student will be automatically removed from probation when the imposed period expires. This probation may be accompanied by a requirement that restitution be made for University property damages or losses resulting from acts committed, or other requirements or special conditions as deemed appropriate.
- 4) **Disciplinary Probation.** A period of time specified for observing and evaluating a student's conduct, with or without special conditions, including a written reprimand and indicating that (a) further violations while on probation may result in more severe disciplinary action including suspension or (b) further violation while on probation of regulations of similar or greater severity will result in suspension. This probation will be imposed for a specific period of time and the student shall automatically be removed from probation when the imposed period expires. Disciplinary Probation may include special conditions:
 - i. Restitution: By such date established by the appropriate judiciary or administrative officer, the
 - ii. student shall pay for University property damages or losses resulting from acts committed.
 - iii. Change of Residence: The student shall be required to move from his or her current on-campus residence to either an off- campus location or to another location within the University Housing system that is acceptable to the Office of Student Affairs.
 - iv. Other: Other actions deemed appropriate to a specific case.
- 5) **Suspension.** A suspension from the University may be by term, in which case the student is eligible to apply for readmission at the end of the stated period of time; or it may be a conditional suspension, in which case the student must demonstrate that s/he has fulfilled stated conditions prior to applying for readmission. Suspension is implemented, after approval, by the Vice President for Student Affairs and Services except in the case of academic dishonesty, violation of professional standards, or falsification of admission and academic records, in which suspension is implemented, after approval, by the Provost.

APPEALS

Both the respondent and the complainant are entitled to be informed of the findings of the judiciary or administrator. The respondent is also entitled to written notification of the action taken and of the right to appeal. (Procedural appeals may be filed by the complainant.)

Appeals should be addressed to the University Student Appeals Board through the Judicial Affairs Office and should include the reasons for the appeal being filed. (See Section 4.2.5 of the "Academic Freedom for Students at Michigan State University"). All decisions of the University Student Appeals Board are final unless appealed to the Vice President for Student Affairs and Services.

RECORDS

Disciplinary action taken against a student becomes part of that student's University Student Affairs record. Case records are maintained in the Judicial Affairs Office in accordance with the Guidelines Governing Privacy and Release of Student Records and the Student Personnel Records Policy and Practices. Records may be released within the University on a "need to know" basis. They may be released to persons and agencies external to the University with the student's permission or in compliance with the law. Records subpoenaed or ordered by a judge may be released without the student's permission. A record may also be released if it is in the University's legal interest to do so.

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