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| Title:  | Student Judicial Policy               |
| Effective Date:   | Reviewed December 9, 2019             |
| Approved By:  | President's Council                   |
| Responsible Party:  | Dean of Student Affairs               |
| History:  | Student Code of Conduct 2010; 9/10/16 |
| Related Documents: Student Rights and Responsibilities Policy |                                       |

## **I. Purpose:**

The primary purpose of the Student Judicial Policy is to review alleged violations of the “Student Responsibilities” set forth in the Student Rights and Responsibilities Policy. This policy and its procedural framework function to ensure that a student’s right of due process is maintained. Consistent with these purposes, efforts are also made to foster the personal and social development of students whose conduct has been judged inconsistent with ethical, civil, and professional standards.

## **II. Definitions:**

**Allegation:** An allegation made by an Initiator in accordance with this policy that a Respondent has violated Student Responsibilities.

**Initiator:** The person alleging a violation of Student Responsibilities.

**Parties:** The Initiator and Respondent.

**Respondent:** The student against whom an alleged violation of Student Responsibilities has been made.

**Student Responsibilities:** A student’s responsibilities as set forth in the University’s Student Right and Responsibilities Policy.

**Supervising Dean:** The Dean of the Respondent’s college.

### **III. Policy:**

It is the policy of Salus University to hold its students to standards of ethical and professional responsibility expected of graduate and professional students as defined in the Student Rights and Responsibilities Policy. Students against whom an Allegation has been made are entitled to the due process established in this policy.

### **IV. Procedures**

#### **A. General Provisions**

1. Violations of Student Responsibilities may result in disciplinary action, up to and including expulsion.
2. Attempts to violate the Student Responsibilities shall be considered to the same extent as completed violations.
3. Students may be accountable to both the University and civil authorities for violations of Student Responsibilities. Disciplinary action at the University normally will proceed during the pendency of criminal proceedings and will not be subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced.
4. The University reserves the right to take necessary and appropriate action to protect the safety, integrity and well-being of the campus community.
5. Student organizations subject to an Allegation shall be accorded the same due process as an individual student under this Policy.

#### **B. Judicial Council Composition**

1. The Judicial Council is composed of five faculty members and two students of Salus University. Members of the Judicial Council are selected in accordance with procedures developed by the Faculty Organization of Salus University and the Salus University Student Council. The Judicial Council may develop bylaws which are not inconsistent with any provision of the Salus University Student Rights and Responsibilities and/or the Salus University Student Judicial Policy. Bylaws must be approved by the Dean of Student Affairs and the Vice President of Academic Affairs (Provost). Five members of the Judicial Council, including at least one student, shall constitute a quorum sufficient for conducting business.
2. Student members of the Judicial Council against whom an Allegation has been made shall be automatically suspended from their position on the Judicial Council pending resolution of such Allegation. Students found guilty of any such Allegation shall be permanently disqualified from any further participation on the Judicial Council.

#### **C. Initiation of Violation Review**

1. Any person may make an Allegation against a student or a student organization to the Dean of Student Affairs. Initiators making such allegations are required to provide

information pertinent to the case in writing and will normally be expected to participate in the review process.

#### D. Review Process

1. The Dean of Student Affairs shall refer all Allegations to the Judicial Council for initial review for the purpose of submitting a recommendation to the Dean of the Respondent's college. The focus of inquiry in the initial review shall be the guilt or innocence of the Respondent.
2. The Parties shall be given notice of the Judicial Council hearing, including the date, the detailed Allegation and the names of the members of the Judicial Council, at least five (5) business days in advance of the hearing. The Respondent shall be accorded reasonable access to the Allegation file, which will be retained in the Office of Student Affairs. Any party may challenge a Judicial Council member on the grounds of personal bias. In the event of such a challenge for cause, the Judicial Council member so charged may be disqualified from a case upon majority vote of the remaining members of the Judicial Council, conducted by secret ballot. In addition to the foregoing, a Respondent may by peremptory challenge have any one (1) member of the Judicial Council replaced for that case.
3. A Party may be accompanied by a representative, who may be an attorney. A Party who wishes to be represented by an attorney must so inform the Dean of Student Affairs in writing at least two (2) business days prior to the scheduled date of the proceeding.
4. The Presiding Chair of the Judicial Council may call witnesses upon the request of Initiator or Respondent or on the Judicial Council's own accord. At the direction of the Judicial Council, the Dean of Student Affairs shall cause such witnesses to be called by written notice, personally delivered or sent by overnight mail. University students, faculty and staff are expected to comply with such notices. Witnesses shall be asked to affirm that their testimony is truthful and may be subject to charges of perjury, pursuant applicable University policy. Prospective witnesses, other than the Parties, may be excluded from the hearing during the testimony of other witnesses.
5. Respondents who fail to appear after proper notice will be deemed to have pleaded guilty to the Allegation pending against them, unless significant mitigating factors can be demonstrated.
6. Hearings will be closed to the public, except for immediate members of the Respondent's family and for the Respondent's representative. An open hearing may be held, at the discretion of the Presiding Chair of the Judicial Council, if requested by the Respondent.
7. The Presiding Chair of the Judicial Council shall exercise control over the hearing. Any person, including a Party, who disrupts a hearing or who fails to adhere to the rulings of the Presiding Chair, may be excluded from the hearing.
8. The Dean of Student Affairs may attend Judicial Council hearings, may respond to questions of procedure and otherwise assist, as requested, in clarifying the record.

assembled before the Judicial Council, but shall not, unless specifically requested by the Judicial Council for the foregoing purposes, participate in the Judicial Council deliberations or decision.

9. Formal rules of evidence shall not be applicable, nor shall deviations from the prescribed procedures of this policy necessarily invalidate a decision or proceeding, unless significant prejudice to a Party or the University has resulted, as determined upon appeal. The Presiding Chair of the Judicial Council shall give effect to the rules of confidentiality and privilege, but shall otherwise admit all matters into the record which reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant information may be excluded.
10. The burden of proof shall be upon the Initiator, who must establish the guilt of the Respondent by a preponderance of the information contained in the record.
11. A Party shall be accorded an opportunity to question those witnesses who testify at the request of the other Party or the University at the hearing.
12. Affidavits shall not be admitted into the record unless signed by the affiant and witnessed by a University official or agreed to by stipulation of the Parties. Although admissible into the record, the affidavit of an individual who is not available for questioning by the parties need not be given any weight by the Judicial Council in its deliberations.
13. Judicial Council members may take judicial notice of matters which would be within the general experience of University students.
14. All parties, witnesses, the public and the Dean of Student Affairs shall be excluded during Judicial Council deliberations. No member of the Judicial Council shall participate in deliberations unless that member has been present for, or reviewed the transcript of the hearing(s).
15. At the conclusion of its deliberations, the Judicial Council shall reach a recommendation of acquittal or guilt with respect to the Allegation. The Judicial Council shall then recall the Parties for the purpose of notifying the Parties of such recommendation and to thereafter make recommendations regarding sanctions to be imposed. At such time, a Party may submit relevant information or make statements concerning the appropriate sanction to be imposed.
16. Recommendations of the Judicial Council shall be by majority vote of its members present and voting. A tie vote will result in a recommendation of acquittal.
17. Recommendations of the Judicial Council shall be made to the applicable Supervising Dean in writing summarizing the record in sufficient detail to permit review by the Dean and/or appellate body.
18. Upon receipt of the recommendation of the Judicial Council, the Supervising Dean shall render a final decision and impose sanctions. The Supervising Dean may also remand the matter to the Judicial Council for (a) procedural errors, if such errors were so substantial as to effectively deny a Party a fair or impartial hearing, (b) if new and significant evidence became available after the hearing or (c) if the record assembled is incomplete.

19. The final decision of the Supervising Dean shall be transmitted to the Parties, the Dean of Student Affairs, the Presiding Chair of the Judicial Council and necessary and appropriate University administrators.

#### E. Sanctions

1. One or more of the following sanctions may be imposed for violations of the Student Responsibilities:
  - (a) **EXPULSION:** Permanent separation of the student from the University, which shall be noted on the student's transcript. The student shall also be barred from the University premises.
  - (b) **SUSPENSION:** Separation of the student from the University for a specified period of time during which the student shall not participate in any University sponsored activity and may be barred from University premises.
  - (c) **DISCIPLINARY PROBATION:** A disciplinary period during which the student shall not represent the University in any extracurricular activity or run for or hold office in any student organization.
  - (d) **DISCIPLINARY REPRIMAND:** A disciplinary warning to the student indicating that further misconduct may result in more severe disciplinary action.
  - (e) **RESTITUTION:** A requirement that the student make payment to the University or to other persons or entities for damages incurred as a result of a violation of the Student Responsibilities.
  - (f) **OTHER SANCTIONS:** Other sanctions, restrictions or conditions may be imposed in lieu of, or in addition to those specified, in sections (a) through (e). For example, a student may be directed to donate time to a public service program, which may include work, counseling, community service, job training, education or other appropriate service-based or self-improvement activity.
2. When imposing sanctions, the Judicial Council, the Supervising Dean or the Vice President of Academic Affairs (Provost) may consider such factors as the present demeanor and past disciplinary record of the Respondent, as well as, the nature of the violation and the severity of any damage, injury, or harm resulting from it.
3. Unless otherwise determined by the party imposing sanctions (after consultation with the Respondent's program of study), sanctions shall be effective following the conclusion of the appeal process.

#### F. Appeals

1. A decision of a Supervising Dean may be appealed by a Party to the Provost.
2. Requests for appeals must be submitted in writing to the Provost, with a copy to the other Party, within ten (10) business days from the date of the letter notifying the Respondent of the decision of the Supervising Dean and must be accompanied by a

written statement setting forth the alleged errors in the procedure or decision of the Judicial Council. Failure to submit a timely appeal together with the required written statement will render the decision of the Supervising Dean final and conclusive, unless significant mitigating factors can be demonstrated.

3. The non-appealing Party shall have seven (7) business days from receipt of the appealing Party's request for appeal to file a written reply with the Provost.
4. Appeals shall be decided upon the evidence of record of the Judicial Council proceeding before the Supervising Dean together with the written statements submitted by the Parties. De novo hearings shall not be conducted by the Provost.
5. The Provost may:
  - a. Affirm the finding and the sanction imposed by the Supervising Dean.
  - b. Affirm the finding and alter the sanction imposed by the Supervising Dean if found to be disproportionate to the violation.
  - c. Remand the matter to the Judicial Council for (a) procedural errors, if such errors were so substantial as to effectively deny a Party a fair or impartial hearing, (b) if new and significant evidence became available after the hearing or (c) if the record assembled is incomplete.
  - d. Dismiss the matter if the findings and/or conclusions of the Judicial Council and/or Supervising Dean were found to be arbitrary and capricious, made in bad faith or discriminatory.
  - e. The imposition of sanctions normally will be deferred during the pendency of appellate proceedings, at discretion of the Provost.
  - f. The decision of the Provost shall be final and non-appealable. Notice of the decision of the Provost on any appeal shall be given to the Parties, the Supervising Dean, the Presiding Chair of the Judicial Council, Dean of Student Affairs and any other necessary and appropriate University administrators.

#### G. Interim Suspension

1. The Dean of Student Affairs may determine to suspend a Respondent for an interim period while an Allegation is pending if there is information that the continued presence of the Respondent on the University premises or at a University sponsored activity poses a substantial threat to the Respondent or to others or to the continuance of University operations or the University sponsored activity.
2. An interim suspension shall be immediately effective without prior notice; provided, however, that the Respondent shall be notified of such interim suspension and given an opportunity to appear personally before the Dean of Student Affairs within five (5) business days from receipt of such notice to request that the Dean of Student Affairs reconsider the interim suspension. A Respondent who receives an interim suspension shall be heard only with respect to:
  - a. The reliability of the information concerning the Respondent's conduct; and;

- b. Whether the information reasonably indicates that the continued presence of the student on the University premises or at a University sponsored activity poses a substantial threat to the Respondent or to others or to the continuance of University operations or the University sponsored activity.
3. There shall be no appeal from the decision of the Dean of Student Affairs to suspend a Respondent for an interim period while an allegation is pending.

#### H. Records

Records of all proceedings under this policy will be retained in the Office of Student Affairs on a confidential basis, consistent with the Family Educational Rights and Privacy Act of 1974 and other applicable law.

#### I. Student Organizations

1. Student organizations may be charged with violations of the Student Rights and Responsibilities Policy.
2. A student organization and its officers may be held collectively or individually responsible when violations of the Student Responsibilities by those associated with the organization have received the tacit or overt consent or encouragement of the organization or of the organization's leaders.
3. The leaders of student organization may be directed by the Dean of Student Affairs to take appropriate action designed to prevent or end violations of the Student Responsibilities by the organization or by any persons associated with the organization who can reasonably be said to be acting in the organization's behalf. Failure to make reasonable efforts to comply with the Dean's directive shall be considered a violation of a student's responsibility to operate within the expectations of the Student Responsibilities both by the leaders of the organization and the organization itself.
4. Sanctions for organizational misconduct may include revocation or denial of recognition or registration, as well as, the sanctions provided for in this policy.