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# A COMPREHENSIVE ACADEMIC HONOR POLICY FOR STUDENTS: ENSURING DUE PROCESS, PROMOTING ACADEMIC INTEGRITY, AND INVOLVING FACULTY

JENNIFER N. BUCHANAN\*

JOSEPH C. BECKHAM\*\*

## I. INTRODUCTION

In recent years, there has been increased discussion of academic integrity on college campuses.<sup>1</sup> Extensive research conducted by Donald McCabe and others has contributed to a shared understanding that student cheating is a pervasive problem and must be actively combated by institutions of higher education.<sup>2</sup> In

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\* Jennifer N. Buchanan is the Associate Dean of the Faculties at Florida State University. She earned her Ph.D. in Communication Theory and Research at Florida State University, her M.A. in Student Personnel Work at the Ohio State University, and her B.A. in Psychology at the University of North Carolina at Chapel Hill. She has served as Associate Dean in the College of Communication, Associate Dean of Students, and Assistant Dean of Students, as well as taught in the Department of Communication at Florida State University. She is a member and past chapter president of Phi Kappa Phi and a member of Omicron Delta Kappa. She played a major role in the development of Florida State University's Academic Honor Policy and was active for many years in the Association for Student Judicial Affairs, coordinating the annual conference, giving presentations, and receiving the ASJA President's Award in 2000.

\*\* Joseph C. Beckham is the Allan Tucker Professor of Educational Leadership and Policy at Florida State University. He received his J.D. from the University of Florida's Holland Law Center (1969) and was administrative counsel to Connecticut Lt. Governor Peter Cashman until 1976, when he began a research fellowship with the National Education Finance Project at the University of Florida. After completing his Ph.D. in educational leadership (1977), he joined the faculty of the Graduate School of Education and worked as a research associate with the Higher Education Finance Research Institute at the University of Pennsylvania. Since coming to Florida State University in 1980, Dr. Beckham has served as chair of the Department of Educational Leadership and Director of the Institute for Studies in Higher Education. He was elected president of the National Organization on Legal Problems of Education in 1991 and was awarded the McGhehey Award for contributions to the fields of law and education by the Education Law Association in 1996. His vitae lists over 100 publications, including books, monographs, refereed journal articles, book chapters, and invited articles dealing with education policy, law, finance, and administration.

1. See Robin Wilson, *Colleges Urged to Better Define Academic Integrity and to Stress its Importance*, CHRON. HIGHER EDUC., Oct. 15, 1999, at A18; Sally Cole & Donald L. McCabe, *Issues in Academic Integrity*, NEW DIRECTIONS FOR STUDENT SERVICES, Spring 1996, at 67-73.

2. Donald L. McCabe, *It Takes a Village: Academic Dishonesty & Educational Opportunity*, 91 LIBERAL EDUC. 26 (2005) [hereinafter McCabe, *It Takes a Village*]; Donald L.

fact, McCabe's study comparing Bowers' seminal work in 1963 to data collected in 1993 revealed reported increases in the following behaviors: copying from another student's test increased from 26% to 52%, helping another student cheat increased from 23% to 37%, using crib notes increased from 16% to 27%, and unauthorized collaboration on assignments increased from 11% to 49%.<sup>3</sup> Several measures related to plagiarism remained relatively stable from 1963 to 1993, with 54% of McCabe's student respondents reporting having copied information without a reference and 29% reporting having falsified a bibliography.<sup>4</sup> McCabe reports that his recent web surveys continue to confirm that approximately 51% of student respondents have engaged in serious academic misconduct involving written work.<sup>5</sup>

In this environment, colleges and universities must be prepared to deal with the range of academic, student-related, and legal issues associated with academic dishonesty, including the assumption that some of its cases might eventually be challenged in the courts. Thus, an institution's best interests are served when its policies on academic dishonesty are as current and as comprehensive as possible. Recently, McCabe has stated, "I'm even more convinced that any campus that has not reviewed its integrity policies for some time is derelict in its responsibilities to students and likely has some degree of discontent among its faculty."<sup>6</sup>

Unlike nonacademic student conduct problems, which have long been managed exclusively by student affairs at most colleges and universities, conduct involving academic dishonesty is, by its very nature, integral to the learning process and thus should be a central concern of faculty. This unique mix of conduct and academic issues poses an interesting challenge and presents the opportunity to shape a policy requiring an optimum level of involvement for each major constituent group within the institution as well as providing both procedural and substantive due process for its students.

## II. TRADITIONAL PRACTICE

Some colleges and universities embed their academic integrity rules in their general student conduct system, addressing academic violations through existing conduct procedures.<sup>7</sup> This practice ensures that college and university judicial officers, who have experience with the legal issues inherent in student disciplinary

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McCabe & Linda K. Trevino, *Academic Dishonesty: Honor Codes and Other Contextual Influences*, 64 J. HIGHER EDUC. 522 (1993) [hereinafter McCabe & Trevino, *Academic Dishonesty*]; Donald L. McCabe & Gary Pavela, *The Effect of Institutional Policies and Procedures on Academic Integrity*, in ACADEMIC INTEGRITY MATTERS (Dana Burnett, Lynn Rudolph & Karen Clifford eds., 1998) [hereinafter McCabe & Pavela, *Academic Integrity*].

3. *Id.*

4. Donald L. McCabe & Linda K. Trevino, *What We Know About Cheating in College: Longitudinal Trends and Recent Developments*, CHANGE, Jan./Feb. 1996, at 31.

5. McCabe, *It Takes a Village*, *supra* note 2, at 28.

6. *Id.* at 31.

7. See, e.g., OFFICE OF STUDENT JUDICIAL SERVS., WRIGHT STATE UNIV., CODE OF STUDENT CONDUCT, available at <http://www.wright.edu/students/judicial/policies.html> (last visited Nov. 4, 2006).

processes, manage the implementation of the policy and the adjudication of cases. Other colleges and universities emphasize student involvement and give students the responsibility of implementing the code and adjudicating cases, sometimes without a great deal of oversight from administrators.<sup>8</sup> In fact, the advice prevalent in the current academic integrity literature for improving an institution's response to dishonesty is to "create a culture of academic integrity"<sup>9</sup> among students and to implement true honor codes<sup>10</sup> where possible, or modified honor codes that are designed to foster student involvement in the process but lack some of the attributes of true honor codes.<sup>11</sup>

Although some research has shown that students at schools with true honor codes report less frequent cheating than those without honor codes,<sup>12</sup> and the University of Maryland modified honor code model has shown promise in larger schools where a true honor code is not feasible to implement,<sup>13</sup> neither movement has paid much attention to the issue of faculty involvement in the process. As the heated discussions regarding lack of faculty involvement with the honor code that have occurred at the University of Virginia (UVA) illustrate, honor code systems can run the risk of alienating faculty, which may result in low rates of reporting violations.<sup>14</sup> Despite some evidence that many students at UVA are not willing to report one another for cheating,<sup>15</sup> serious concerns about the effects of the "single sanction" of expulsion for every student found guilty,<sup>16</sup> and concerns about racial

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8. See, e.g., Univ. of Virginia Honor Committee Website, <http://www.virginia.edu/honor> (last visited Nov. 5, 2006).

9. See, e.g., Jon C. Dalton, *Creating a Campus Climate for Academic Integrity*, in *ACADEMIC INTEGRITY MATTERS* 1–12 (Dana Burnett, Lynn Rudolph & Karen Clifford eds., 1998).

10. Donald McCabe, *New Research on Academic Integrity: The Success of "Modified" Honor Codes*, SYNFAX WKLY. REP., May 15, 2000, at 975 (defining "true" honor codes as having at least two of the following features: un-proctored exams, an honor pledge, hearings with all or a majority of student members, and a requirement to report the violations of others).

11. See McCabe & Trevino, *Academic Dishonesty*, *supra* note 2; McCabe & Pavela, *Academic Integrity*, *supra* note 2. Pavela developed a modified honor code at the University of Maryland–College Park that has been imitated widely by other colleges and universities. See also Univ. of Maryland Student Honor Council, <http://www.studenthonorcouncil.umd.edu> (last visited Nov. 5, 2006); Kansas State Univ. Honor System, <http://www.k-state.edu/honor/honorsystem/index.htm> (last visited Nov. 5, 2006).

12. McCabe & Trevino, *Academic Dishonesty*, *supra* note 2, at 530.

13. Donald L. McCabe & Gary Pavela, *Some Good News About Academic Integrity*, CHANGE, Sept./Oct. 2000, at 32.

14. See, e.g., Gregory Pavela, *The Honor of Mediocrity?*, CAVALIER DAILY, Sept. 15, 2005, at <http://www.cavalierdaily.com/CVArticle.asp?ID=24157&pid=1328>; Lauren T. Pappa & Sarah R. Gatsos, *Committee, Faculty Reach Out For Change*, CAVALIER DAILY, Apr. 9, 2004, available at <http://www.cavalierdaily.com/CVArticle.asp?ID=19701&pid=1149>; Elizabeth Managan, *Student-run System Fails to Honor Faculty Input*, CAVALIER DAILY, Nov. 28, 2000, at OPINION, available at <http://www.cavalierdaily.com/CVArticle.asp?ID=6689&pid=659>.

15. Daniel Colbert, *Looking at Honor's Numbers*, CAVALIER DAILY, May 2, 2006, at OPINION, available at [http://www.cavalierdaily.com/CVArticle\\_print.asp?ID=26607&pid1425](http://www.cavalierdaily.com/CVArticle_print.asp?ID=26607&pid1425).

16. Patrick Harvey, *A Dying Sanction*, CAVALIER DAILY, 2004/2005 available at <http://www.cavalierdaily.com/features/TheFuture/index.aspx?page=f>.

bias,<sup>17</sup> the ongoing discussion at UVA does not appear to include serious consideration of expanding the faculty's formal role in the honor code system. Currently, that role is limited to providing information and reporting violations to the Honor Committee, an action that faculty have not always had the right to take.<sup>18</sup>

In 1993, McCabe confirmed the results of prior research revealing that faculty members tend to underutilize official resolution processes and prefer to deal with students on an informal basis.<sup>19</sup> Patrick Drinan, former president of the Center for Academic Integrity, placed this issue in a legal context: "Many faculty resist accountability to broader institutional policies and procedures even when they know that not enforcing them may place the faculty member in some jeopardy, legal and otherwise."<sup>20</sup> A *Chronicle of Higher Education* article in 1999 highlighted faculty members' increasing frustration with college and university judicial panels and the lack of support for faculty in the adjudication processes at their institutions.<sup>21</sup> More recently, McCabe stated that some institutions have gone overboard in their efforts to provide procedural due process and have created policies and procedures that faculty find legalistic and difficult to employ.<sup>22</sup>

Yet, just as faculty are central to the academic enterprise, they are also central to the culture of academic integrity on a campus, and policies that inhibit faculty involvement can weaken that culture. Research has shown that if institutional representatives, especially faculty, communicate clear expectations regarding integrity, levels of cheating can be reduced.<sup>23</sup> This is especially true in the ambiguous area of unauthorized collaboration, which is a form of academic dishonesty that rose dramatically from 1963 to 1993.<sup>24</sup> This issue develops even greater salience as the level of group work in college and university courses increases.<sup>25</sup> Clifford's research found that "respect for professor" was a factor that

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17. Eric Hoover, *Honor for Honor's Sake?*, CHRON. HIGHER EDUC., May 3, 2002, at 5.

18. See, e.g., Dan Heuchert, *Restoring Honor*, UNIV. OF VIRGINIA MAG., Fall 2006, at 3, available at <http://www.uvamagazine.org/site/c.esJNK1PIJrH/b.1601199/apps/s/content.asp?ct=2346093>; Josh Hess, *Appraising Honor*, CAVALIER DAILY, May 2, 2006, at OPINION, available at <http://www.cavalierdaily.com/CVArticle.asp?ID=26484&pid=1421>; Steven Parsley, *Reviving the Community of Trust*, CAVALIER DAILY, May 2, 2006, available at <http://www.cavalierdaily.com/CVarticle.asp?ID=26509&pid=1422>.

19. Donald L. McCabe, *Faculty Responses to Academic Dishonesty: The Influence of Student Honor Codes*, 34 RES. IN HIGHER EDUC. 647, 658 (1993).

20. Patrick Drinan, *Loyalty, Learning, and Academic Integrity*, 85 LIBERAL EDUC. 28, 31 (1999).

21. Alison Schneider, *Why Professors Don't Do More to Stop Students Who Cheat*, CHRON. HIGHER EDUC., Jan. 2, 1999, at A8.

22. McCabe, *It Takes a Village*, *supra* note 2, at 28.

23. *Id.* at 29. See also Wanda Kaplan & Phyllis Mable, *Students' Perceptions of Academic Integrity: Curtailing Violations*, in ACADEMIC INTEGRITY MATTERS (Dana Burnett, Lynn Rudolph & Karen Clifford eds., 1998).

24. McCabe & Pavela, *Academic Integrity*, *supra* note 2. See also McCabe & Trevino, *Academic Dishonesty*, *supra* note 2, at 31 (reporting that students' admissions of "collaborating on assignments requiring individual work" rose from 11% in 1963 to 49% in 1993).

25. Donald L. McCabe & Sally Cole, *Student Collaboration: Not Always What the Instructor Wants*, 48 AM. ASS'N FOR HIGHER EDUC. BULL. 3-6 (1995).

can influence students not to cheat, a finding that supports faculty involvement in the adjudication process.<sup>26</sup> Moreover, McCabe reports that 96% of faculty at non-code institutions believe that they ought to have some level of involvement in the process used to resolve academic integrity cases.<sup>27</sup>

Thus, institutions should heed McCabe and his colleagues' calls to encourage faculty engagement with the academic integrity process<sup>28</sup> in the framework of a policy providing due process in a manner that avoids cumbersome, overly legalistic procedures.

### III. DUE PROCESS STANDARDS

The interests of a properly admitted student in completing his or her education, as well as avoiding unfair or mistaken exclusion from the institution and the accompanying stigma that may be associated with suspension or expulsion are among the interests that the Due Process Clause of the Fourteenth Amendment is intended to protect.<sup>29</sup> In the disciplinary due process context, the Fourteenth Amendment requires that public higher education institutions provide students with notice and a hearing that includes an opportunity for the student to be heard.<sup>30</sup> However, the degree of due process extended to the student depends upon the nature of the interest affected and the circumstances of the specific case.<sup>31</sup>

One test applied to determine the extent of required due process, delineated by the Supreme Court in *Mathews v. Eldridge*,<sup>32</sup> requires the application of a balance between three factors:

First, the private interest that will be affected by the official action;

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26. Karen O. Clifford, *Academic Integrity and Campus Climate at Small Colleges*, in ACADEMIC INTEGRITY MATTERS, 109 (Dana Burnett, Lynn Rudolph & Karen Clifford eds., 1998).

27. McCabe, *supra* note 19, at 655.

28. Donald L. McCabe, Kenneth D. Butterfield & Linda K. Trevino, *Faculty and Academic Integrity: The Influence of Current Honor Codes and Past Honor Code Experiences*, 44 RES. IN HIGHER EDUC. 367, 383 (2003).

29. See, e.g., *Goss v. Lopez*, 419 U.S. 565, 574–75 (1975) (holding that students subject to long-term suspension or expulsion from a public school are entitled to essential elements of due process in order to protect liberty and property); *Dixon v. Ala. State Bd. of Educ.*, 294 F.2d 150 (5th Cir. 1961) (ruling that students at a publicly supported state college were entitled to fundamental due process when an expulsion or long-term suspension was implicated).

30. Writing for the majority in *Goss*, Justice White emphasized, “[a]t the very minimum, therefore, students facing suspension and the consequent interference with a protected property interest must be given *some* kind of notice and afforded *some* kind of hearing.” *Goss*, 419 U.S. at 579.

31. In the private university setting, contractual and associational rights rather than constitutional safeguards may protect students from expulsion or suspension. See, e.g., *Schaer v. Brandeis Univ.*, 716 N.E.2d 1055 (Mass. App. Ct. 1999), *rev'd in part*, 739 N.E.2d 1107 (Mass. 2000) (holding that a private college must comply with the procedures they establish in the student conduct code to ensure fundamental fairness to students); *Tedeschi v. Wagner Coll.*, 404 N.E.2d 1302, 1306 (N.Y. 1980) (holding that because the private college's guidelines required a hearing, the student was entitled to a hearing before the board and the president before she could be suspended).

32. 424 U.S. 319 (1976).

second, the risk of an erroneous deprivation of such interest through the procedures used and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.<sup>33</sup>

Notice and hearing, to be fair in the disciplinary due process sense, requires that the student be adequately informed of the charges, afforded the opportunity to respond to the charges, to explain his or her conduct, and to defend against the allegations of misconduct.<sup>34</sup> Beyond these elements, public colleges and universities retain reasonable flexibility in the application of student due process standards. Judges have recognized that institutions need not require the cross-examination of witnesses and a full adversarial proceeding if basic fairness is preserved.<sup>35</sup> As a consequence, heightened procedural protections such as a right to counsel may be restricted in student disciplinary proceedings.<sup>36</sup> Provided there is substantial compliance with standards of notice and hearing, institutions may even "cure" defects in the process when procedural errors occur and can be rectified before a penalty is imposed.<sup>37</sup>

In the context of academic suspensions or expulsions, public colleges and universities enjoy an even greater degree of flexibility in the provision of due

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33. *Id.* at 335.

34. *See* *Butler v. Rector and Bd. of Visitors of the Coll. of William and Mary*, 121 F. App'x 515 (4th Cir. 2005) (expelling a student from a counseling program following instances of unprofessional and deceptive conduct in an internship). In holding that the institution provided the requisite constitutional procedural due process, the federal appeals court weighed the student's interest in remaining in graduate school against the institution's interest in controlling the integrity of its graduate programs, invoking the second *Mathews* factor: "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards." *Id.* at 520 (quoting *Eldridge*, 424 U.S. at 335).

35. *See, e.g.,* *Boykins v. Fairfield Bd. of Educ.*, 492 F.2d 697, 701 (5th Cir. 1974); *Dixon v. Alabama State Bd. of Educ.*, 294 F.2d 150, 159 (5th Cir. 1961). *See also* *Blanton v. State Univ. of New York*, 489 F.2d 377, 385 (2d Cir. 1973); *Jaksa v. Regents of the Univ. of Michigan*, 597 F. Supp. 1245, 1252-53 (E.D. Mich. 1984), *aff'd*, 787 F.2d 590 (6th Cir. 1986). *But see* *Winnick v. Manning*, 460 F.2d 545, 549-50 (2d Cir. 1972) (finding the cross-examination of witnesses might be essential to a fair hearing if credibility is at issue in a university's suspension of a student).

36. *See, e.g.,* *Osteen v. Henley*, 13 F.3d 221, 225 (7th Cir. 1993) (holding that a student may have a right to consult with counsel, but that right does not extend to active participation by counsel in a hearing); *Gorman v. Univ. of Rhode Island*, 837 F.2d 7, 13-14 (1st Cir. 1988) (rejecting a right to representation by counsel at disciplinary hearings, unless the student is also facing criminal charges stemming from the incident in question); *Henson v. Honor Comm. of the Univ. of Virginia*, 719 F.2d 69 (4th Cir. 1983) (holding that a student's claim that he was denied the right to have experienced legal counsel conduct his defense and cross-examine witnesses in an honor court hearing was not a violation of due process).

37. *See, e.g.,* *Tigrett v. Rector and Visitors of the Univ. of Virginia*, 290 F.3d 620 (4th Cir. 2002) (holding that the institution cured deficiencies in due process by ultimately providing students with a full evidentiary hearing in disciplinary proceedings although they were not entitled to appear in an appeal to the university's president).

process. In *Board of Curators of the University of Missouri v. Horowitz*,<sup>38</sup> the Court characterized academic dismissal as one involving “expert evaluation”<sup>39</sup> and “historic judgment of educators”<sup>40</sup> and “bearing little resemblance to . . . judicial and administrative fact-finding proceedings.”<sup>41</sup> The Court concluded that great deference must be given to a public institution’s academic decisions and held that procedural due process does not require any form of hearing before a decision-making body, either before or after the termination decision is made.<sup>42</sup> In a purely academic dismissal, it is sufficient that the student was informed of the nature of the faculty’s dissatisfaction and that the ultimate decision to dismiss involved a careful and deliberate decision of professional educators.<sup>43</sup> The *Horowitz* Court reasoned that the relevant factors involving due process in such cases include the “evaluative nature of the inquiry and the significant and historically supported interest of the school in preserving its present framework for academic evaluations,” and concluded that, given the role of faculty in evaluating the student’s performance, “a hearing is not required by the Due Process Clause of the Fourteenth Amendment.”<sup>44</sup>

The Supreme Court reiterated its judicial deference to academic decision-making in *University of Michigan v. Ewing*,<sup>45</sup> which involved a medical student’s dismissal due to poor academic performance and a low score on medical board exams. In holding for the university, the Supreme Court emphasized that truly academic decision-making is uniquely the province of the faculty’s professional judgment. Cautioning that judges should show great respect for this judgment, a unanimous Court held that the student’s dismissal should not be overridden “unless it is such a substantial departure from accepted academic norms as to demonstrate that the person or committee responsible did not actually exercise professional

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38. 435 U.S. 78 (1978).

39. *Id.* at 90.

40. *Id.*

41. *Id.* at 89.

42. *Id.* at 91 (“Judicial interposition in the operation of the public school system of the Nation raises problems requiring care and restraint.”) (quoting *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968)).

43. *Id.* at 85 (indicating that hearings in academic due process cases are not required, and providing the student with an opportunity to appear and explain behavior has been acknowledged as an act of good faith reflecting the institution’s effort to ensure fundamental fairness). See *Ku v. State of Tennessee*, 322 F.3d 431 (6th Cir. 2003), in which a medical school student placed on leave of absence due to unsatisfactory performance did not have an opportunity to appear before the faculty committee making the initial recommendation, but was allowed to appeal the decision to a faculty review panel and the panel heard his response to the recommendation. The federal appeals court held the medical school’s decision to place a student on leave and to require remediation of identified deficiencies before readmission to the program did not violate the student’s academic due process rights. The court reasoned that when the student is fully informed of faculty dissatisfaction with progress and the decision to dismiss is careful and deliberate, the Fourteenth Amendment due process requirement is met. See also *Shaboon v. Duncan*, 252 F.3d 722 (5th Cir. 2001) (stating that a medical student subject to dismissal was provided with opportunities to explain her side of events, which included having an attorney present).

44. *Bd. of Curators of Univ. of Missouri*, 435 U.S. at 86.

45. 474 U.S. 214 (1985).

judgment.”<sup>46</sup>

Cases involving the violation of academic codes of conduct are not the same as suspension or dismissal based upon a student’s failure to make satisfactory academic progress<sup>47</sup> or complete academic program requirements.<sup>48</sup> In these latter instances, the determination of academic qualification remains a judgment that academics must make using appropriate professional expertise.<sup>49</sup> For example, in *Brown v. Li*,<sup>50</sup> a faculty committee’s decision not to confer a student’s degree until the student complied with academic requirements related to changes in the acknowledgments section of his thesis did not require a formal hearing.<sup>51</sup> However, cases involving academic misconduct, including cheating on tests and plagiarism, implicate factual disputes, and are more likely to be judicially characterized as involving disciplinary policies.<sup>52</sup>

Although courts have not been uniform in adopting a presumption that cheating constitutes a disciplinary matter,<sup>53</sup> academic misconduct implicates the full range

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46. *Id.* at 225.

47. *See, e.g.*, *Wilkenfield v. Powell*, 577 F. Supp. 579 (W.D. Tex. 1983) (holding that a graduate student’s dismissal for failure to attain academic standards would not be reversed absent evidence the decision was motivated by bad faith or ill will unrelated to academic performance, or was based on arbitrary and capricious factors not reasonably considered to be academic criteria).

48. *See Mauriello v. Univ. of Med. & Dentistry*, 781 F.2d 46 (3d Cir. 1986) (concluding student dismissed for flawed research was the result of academic failings and not for arbitrary reasons and did not violate student’s due process rights); *Paoli v. Univ. of Delaware*, 695 F. Supp. 171 (D. Del. 1988) (finding university did not treat a student differently by refusing a course it had always refused to students who failed the prerequisite); *Amelunxen v. Univ. of Puerto Rico*, 637 F. Supp. 426 (D.P.R. 1986) (failing to find student was arbitrarily dismissed or that university departed from academic norms in failing student’s oral defense of thesis); *Ross v. Pennsylvania State Univ.*, 445 F. Supp. 147 (M.D. Pa. 1978) (affording student a hearing to explain his poor performance but reserving the decision to terminate with the university).

49. One authority has suggested that it is time to recognize not only that the academic-disciplinary due process distinction has proven unworkable, but also that a unified theory should control the resolution of both academic and disciplinary cases. Fernand N. Dutille, *Disciplinary Versus Academic Sanctions in Higher Education: A Doomed Dichotomy?*, 29 J.C. & U.L. 619 (2003).

50. 308 F.3d 939 (9th Cir. 2002), *cert. denied*, 538 U.S. 908 (2003).

51. *Id.*

52. *See, e.g.*, *Wheeler v. Miller*, 168 F.3d 241 (5th Cir. 1999) (dismissing doctoral student for undisputed failure to comply with course requirements could not be found to be a disciplinary action); *Nash v. Auburn Univ.*, 812 F.2d 655 (11th Cir. 1987) (requiring a notice and hearing procedure in a case of academic misconduct); *Cobb v. Rector and Visitors of the Univ. of Virginia*, 84 F. Supp. 2d 740 (W.D. Va. 2000) (affirming the due process requirement of notice and opportunity to be heard in a student discipline hearing). *See also* *Univ. of Texas Med. Sch. v. Than*, 901 S.W.2d 926 (Tex. 1995) (regarding the university’s argument that a student’s dismissal for cheating constituted an academic decision as specious and taking the position that disciplinary due process standards applied).

53. *See Corso v. Creighton Univ.*, 731 F.2d 529 (8th Cir. 1984) (reviewing a private university’s contractual obligation to a student and determining that cheating on an examination could be characterized as an academic offense rather than disciplinary); *Jaksa v. Regents of the Univ. of Michigan*, 597 F. Supp. 1245, 1248 n.2 (E.D. Mich. 1984) (regarding cheating as “an offense which cannot neatly be characterized as either ‘academic’ or ‘disciplinary,’” but



of due process protections available to students in public colleges and universities because the stigma associated with dishonesty and the potential loss of academic standing implicate liberty and property interests under the Fourteenth Amendment.<sup>54</sup> However, faculty have a unique role to play in cases of academic misconduct because the professorate's special expertise is often required or implicated. For example, academic judgments could substantially influence a determination of plagiarism, since faculty expertise would be instrumental in determining, consistent with the standards of that area of inquiry, that a submission both closely resembles books, articles, or other writings and reflects insufficient attribution to those sources. The same would be true for instances of fabricating the results of research, since faculty researchers are uniquely qualified to evaluate the methodology applicable to data collection and analysis.<sup>55</sup> Even in the context of alleged cheating on an examination, faculty expertise could be influential in assessing the testimony of observers or the weight to be attributed to a statistical analysis of the probability students would have similar correct and incorrect answers.<sup>56</sup>

The application of due process and the role of faculty participation in cases of academic misconduct were addressed in *Crook v. Baker*,<sup>57</sup> in which the Sixth Circuit determined that the University of Michigan had satisfied due process requirements in revoking an academic degree. Degree revocation was based on a faculty panel's conclusion that a graduate had procured a degree by fraud based on a determination that the student had fabricated data for his master's thesis. The university appointed an ad hoc hearing panel of professors who scheduled a hearing and notified the former student of the allegations and the potential disciplinary penalties. The former student appeared with his legal counsel and was

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ultimately concluding the offense disciplinary, reasoning that cheating implicates a factual dispute that seldom requires the exercise of a subjective, professional judgment); *Napolitano v. Trs. of Princeton Univ.*, 453 A.2d 263 (N.J. Super. Ct. App. Div. 1982) (characterizing plagiarism as an academic offense, on grounds that it involved academic standards and not the violation of rules of conduct).

54. See *Than v. Univ. of Texas Med. Sch. at Houston*, 188 F.3d 633, 635 n.2 (5th Cir. 1999) (alleging violation of federal due process rights resulting from disciplinary hearing); *Crook v. Baker*, 813 F.2d 88, 97 (6th Cir. 1987) (alleging university's rescinding of degree for fraud occurred without due process); *Nash v. Auburn Univ.*, 812 F.2d 655, 660-61 (11th Cir. 1987) (bringing action for injunctive relief and damages for constitutional rights violations resulting from suspension). Cf. *Hall v. Med. Coll. of Ohio at Toledo*, 742 F.2d 299, 308-09 (6th Cir. 1984) (addressing the rescission of a previously awarded master's degree on a charge of academic dishonesty).

55. See *Pugel v. Bd. of Trs. of the Univ. of Illinois*, 378 F.3d 659 (7th Cir. 2004), in which the university employed both an inquiry team and an investigation panel to evaluate charges of fabricated data and improper research presentation by a graduate student.

56. See *Than*, 188 F.3d at 634-35 (holding that the accused student was not deprived of due process when he received notice of charges and evidence and a hearing before a faculty member from a different medical school who was both knowledgeable and impartial). But see *Nash*, 812 F.2d at 667-68 (holding that a student panel properly assured due process to students in instances of cheating on examinations when it heard testimony from faculty and the accused students were permitted to appeal to a review panel of faculty under the administrative process provided by the institution).

57. 813 F.2d 88 (6th Cir. 1987).

allowed to review and respond to the evidence of fraud. However, the panel precluded the student's counsel from directly examining or cross-examining witnesses at the disciplinary hearing.<sup>58</sup> The panel found that the former student was guilty of fraud but made no specific recommendation for revocation of degree. That decision was approved and administrative authorities recommended that the student's degree be revoked. The Sixth Circuit first determined that the university was authorized to rescind a degree,<sup>59</sup> then went on to assess the degree of procedural due process required in degree revocation cases. Emphasizing that the hearing process was informal, but the range of protections afforded to the former student was extensive, the appeals court stated:

With respect to Crook's opportunity to be heard, it is without dispute that, in addition to the abundant notice we have just described, he had counsel from the beginning who dealt with the University, he had the opportunity to and did file a response to the charges that was supplemented after the hearing, he had the opportunity to present witnesses and to have an expert with him at the hearing, he and his counsel both made opening statements at the hearing and his counsel was free to advise him, and he made statements and asked questions of the other witnesses. Moreover, Crook filed exceptions to the Committee's findings and his attorney argued his case before the Regents.<sup>60</sup>

The Sixth Circuit also reversed the lower court's determination that the former student's right to substantive due process was denied.<sup>61</sup> The appeals court reviewed an extensive transcript of the eight-hour proceedings, together with materials submitted to an ad hoc faculty panel by the parties prior to its hearing and concluded that the panel report finding the thesis data to be fabricated was neither arbitrary nor capricious.<sup>62</sup> The court went on to emphasize that the decision to revoke the degree was supported by a rational basis test, and the finding of fraud by the faculty hearing panel was accompanied by clear and convincing evidence.<sup>63</sup>

Appropriate due process procedures in academic misconduct cases often involve due process more extensive than those suggested solely by notice and hearing. In such cases, faculty involvement is warranted to insure the integrity of the process and contribute the necessary expertise that will guide adjudication. In *Pugel v. Board of Trustees of the University of Illinois*,<sup>64</sup> charges against the

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58. *See id.* at 98 (discussing how the role of counsel was limited to that of an advisor who was prohibited from taking an active role in the former student's defense).

59. *Id.* at 91. *See also* *Waliga v. Bd. of Trs. of Kent State Univ.*, 488 N.E.2d 850 (Ohio 1986) (holding that a public institution's authority to revoke a degree may be express in state statute law or implied based on a reasonable relationship to the express duties of the institution's governing board).

60. *Crook*, 813 F.2d at 97-98.

61. *Id.* at 90.

62. *Id.* at 94-97.

63. *Id.* at 100.

64. 378 F.3d 659 (7th Cir. 2004).

student arose from allegations that she had fabricated data and presented that data at a professional conference and in a manuscript submitted to a prominent research journal. The federal appeals court assumed that dismissal on charges of academic dishonesty would entitle a student to “extensive” notice and hearing procedures,<sup>65</sup> but the court noted with approval that two separate faculty panels had been engaged: one to review the allegations of misconduct and determine if sufficient evidence existed to warrant a full investigation and the other to continue the investigation and hold hearings on the charges that stemmed from the investigation.<sup>66</sup> The student had notice of the investigation with each instance of the university’s convening of a faculty panel<sup>67</sup> and had the opportunity to present witnesses and evidence on her behalf.<sup>68</sup> Before the sanction of dismissal was implemented, the student was extended an administrative appeal that included a third review by a faculty panel convened to consider the severity of the sanction.<sup>69</sup> Noting that the former student’s own complaint detailed the extensive due process provided by the faculty review panels, the appeals court ruled the former student failed to state a claim for a violation of due process.<sup>70</sup>

A prominent role for faculty in deliberations and hearings involving academic misconduct will contribute to conscientious fact-finding and reliance on expert judgment, two factors that heighten judicial deference and help insulate the college or university from judicial intervention. Furthermore, the participation of faculty in hearings involving allegations of academic misconduct underscores the institution’s commitment to the integrity of its educational mission. Judges, mindful of the *Ewing* Court’s admonition that courts are not the appropriate forum to “evaluate the substance of the multitude of academic decisions that are made daily by faculty members of public educational institutions,”<sup>71</sup> are more likely to abstain from reviewing academic misconduct cases when faculty contribute to a careful and deliberate process. Finally, the student may perceive the role of faculty as incorporating academic expertise and mature judgment, contributing to a sense of fair treatment and reducing the risk of an erroneous deprivation of rights.

#### IV. BEST-PRACTICE: A FACULTY-FRIENDLY ACADEMIC HONOR POLICY

A committee of faculty, students, attorneys, and administrators at Florida State University (FSU) crafted the Academic Honor Policy<sup>72</sup> in a way that fulfills these due process requirements established by the courts and that gives faculty members

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65. *Id.* at 664.

66. *Id.* at 664–66.

67. *Id.* at 665.

68. *Id.* at 666.

69. *Id.* at 661.

70. *Id.* at 666–67.

71. *Univ. of Michigan v. Ewing*, 474 U.S. 214, 226 (1985).

72. *See infra* Part VI. *See also* Center for Academic Integrity, The Academic Integrity Assessment Guide, <http://www.academicintegrity.org/assessGuide.asp> (last visited Nov. 5, 2006). The FSU committee utilized the Center for Academic Integrity’s Assessment Guide and consultation throughout the process and participated in Donald McCabe’s survey process before revising the policy.

a central role at each phase of the process. Development of the modified honor code took several years and was informed by discussions at the 2001 president's retreat, which featured a talk by Dr. Daisy Waryold, the former director of the Center for Academic Integrity (CAI).<sup>73</sup> The Honor System Committee followed up by utilizing the CAI's Assessment Guide and participating in the academic integrity survey conducted by Donald McCabe. The results of the survey became available in July of 2003<sup>74</sup> and were used to help structure the new policy. For example, after plagiarism and cheating, many of the charges appear in the order of frequency that students reported engaging in those behaviors. The drafting process began in earnest in the Fall of 2003 and involved reviewing the literature on academic integrity as well as existing codes,<sup>75</sup> conducting student focus groups, obtaining feedback from faculty and administrators, and reviewing drafts by the Honor System Committee.

The final version of the policy represents a negotiation, based on the final draft, between the FSU Faculty Senate and the FSU Student Senate. Although at least one innovation was lost in that process,<sup>76</sup> the new policy appears to have been quickly and easily adopted by both students and faculty.<sup>77</sup> Overall, it appears that the committee accomplished its goal of instituting a new policy that would be perceived by faculty members as valuing their judgment and by students as protecting their rights.

As outlined in Part III, the first basic element of due process in student disciplinary decisions is notice. The FSU policy is written in everyday language, making its meaning accessible to students and faculty alike. It contains a clear, comprehensive set of potential violations that include examples illustrating the types of behavior that can result in charges.<sup>78</sup> One noteworthy violation states that

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73. Center for Academic Integrity, <http://www.academicintegrity.org> (last visited Nov. 13, 2006).

74. FLORIDA STATE UNIVERSITY ACADEMIC INTEGRITY SURVEY—SPRING 2003 (2003), <http://dof.fsu.edu/forms/integritysurvey.pdf>.

75. Several members of the code revision committee were familiar with Edward Stoner's model code as a standard for incorporating student due process rights into appropriate disciplinary procedures. See Edward N. Stoner & John Wesley Lowery, *Navigating Past the "Spirit of Insubordination: A Twenty-First Century Model Student Conduct Code with a Model Hearing Script*, 31 J.C. & U.L. 1 (2004); Edward N. Stoner & Kathy Cerminara, *Harnessing the "Spirit of Insubordination: A Model Student Conduct Code*, 17 J.C. & U.L. 89 (1990). These fundamental principles were incorporated in the context of a separate code that applies exclusively to academic misconduct.

76. See McCabe & Pavela, *Academic Integrity*, *supra* note 2, at 103. The committee proposed incorporating the "XF" sanction first implemented by the University of Maryland but the proposal was dropped based on strong negative student reaction.

77. There is evidence of increased activity since the policy was implemented in the fall of 2006. See Florida State Univ. Academic Honor Policy, <http://fsu.edu/~dof/honorpolicy.htm>, for a report on the number of cases resolved. In addition, the Dean of Students said staff members responsible for assisting students report having to spend less time explaining procedural issues, and thus, are able to spend more time discussing substantive ethical issues with students.

78. The authors are indebted to the University of North Carolina at Charlotte for permission to adapt some of the charges contained in their code, Policy Statement #105, Office of the General Counsel, <http://www.legal.uncc.edu/policies/ps-105.html> (last visited Nov. 5, 2006).

submitting one's own work more than once for academic credit without instructor permission is a violation of the policy.<sup>79</sup> In relation to this charge, the policy requires that instructors make clear their parameters for students' incorporating prior work into current assignments. The issue of unauthorized collaboration, which has been highlighted by McCabe as the fastest-growing type of academic dishonesty,<sup>80</sup> is also addressed directly in the "unauthorized group work" violation,<sup>81</sup> and again, instructors are directed to clarify their specific expectations regarding collaboration in each course.<sup>82</sup> The fact that this policy clearly outlines each of these charges, especially within these ambiguous areas, enhances the level of notice provided to students, even before they face potential allegations of academic dishonesty.

The second basic element of due process that has been established is some sort of a hearing. Again, the FSU policy has some unique elements that involve faculty in meaningful ways, that bolster the amount of substantive due process afforded to students, and that capitalize on the well-established faculty preference for resolving allegations of academic dishonesty directly with students.<sup>83</sup> The FSU policy provides for a face-to-face meeting between instructor and student to discuss the matter. After this informal "hearing," the student and the faculty member may agree on a resolution, which is then documented as a student record.<sup>84</sup> This gives the faculty member discretion over academic sanctions, yet only with students who do not have records of previous violations, because the policy requires instructors to check the student's prior record before initiating this Step 1 process. If a student admits to a first violation in Step 1 but does not agree with the instructor's sanction, an efficient paper-only review by an academic administrator is triggered.

When the facts are disputed, the student has a prior record, or the alleged violation is egregious, a full hearing is provided to the student. Instead of adversarial proceedings in which students "prosecute" and "defend" the student who is charged with an offense, these hearings focus on the facts as presented by the instructor and the student within the specific context of the academic course.<sup>85</sup> In addition, the hearing panel is composed of two students and two faculty members, one of whom is appointed from the department in which the case arose. This ensures that at least one decision-maker has specialized knowledge about the relevant academic department, including its literature, its assignments, and its instructional objectives. Throughout the hearing and during deliberations, this specific knowledge helps the hearing panel grasp the facts of the case more completely, enhancing the element of substantive due process. Finally, having a colleague participate as a decision-maker can help the faculty member who

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79. See FLORIDA STATE UNIVERSITY ACADEMIC HONOR POLICY 2, <http://fsu.edu/~dof/forms/honorpolicy.pdf> (last visited Nov. 6, 2006).

80. Cole & McCabe, *supra* note 1, at 4.

81. See FLORIDA STATE UNIVERSITY ACADEMIC HONOR POLICY, *supra* note 79, at 2.

82. See *id.* at 1.

83. McCabe, *supra* note 19, at 648.

84. See FLORIDA STATE UNIVERSITY ACADEMIC HONOR POLICY, *supra* note 79, at 2.

85. See *id.* at 5.

brought forward the charges maintain confidence in the policy when the student is found “not responsible” for those charges. Both student and faculty appointees are screened to prevent the perception of bias; if a student challenges the objectivity of any panel member, that person is removed or replaced. Note that all standard procedures ensuring student due process through clear and complete notice and a fair hearing as outlined in Stoner and Lowery’s model code<sup>86</sup> are also adhered to, especially at the Step 2 hearing level, because the student has not admitted to the violation.

Other notable aspects of the FSU Academic Honor Policy include its explicit listing of students’ due process rights and their delineation from additional courtesies typically extended to students, which can help to discourage appeals that are not based on substantial violations of due process rights. It separates the functions of student affairs and academic affairs administrators in a clear and consistent manner, allowing student affairs staff to interact with students in a helpful manner without the conflicts created by involvement in the decision-making process. The Dean of the Faculties Office assists faculty members with the process, providing guidance that helps to protect them from personal liability and encourages their participation. The policy also contains a wide range of educational sanctions at both levels of the resolution process. Finally, the user-friendly format of the policy, including a website containing all forms and other resources,<sup>87</sup> reinforces the structural elements that encourage faculty participation in the process.

## V. CONCLUSION

Although the common wisdom to this point has been that increased student participation is the key to enhancing adherence to an academic integrity policy,<sup>88</sup> level of faculty support for the university’s efforts is overlooked at a cost. Thus, it is recommended that institutions consider building a structure, such as the FSU Academic Honor Policy, that involves both students and faculty in a manner that emphasizes the centrality of academic judgment and that protects students’ due process rights.<sup>89</sup>

## VI. APPENDIX: FLORIDA STATE UNIVERSITY ACADEMIC HONOR POLICY

### Introduction

The statement on *Values and Moral Standards at FSU* says: “The moral norm which guides conduct and informs policy at Florida State

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86. See Stoner & Lowery, *supra* note 75, at 2.

87. See FLORIDA STATE UNIVERSITY ACADEMIC HONOR POLICY, *supra* note 79, at 2.

88. See Gary Pavela, *Applying the Power of Association on Campus: A Model Code of Academic Integrity*, 24 J.C. & U.L. 97, 103 (1997).

89. The authors recommend that institutional representatives utilize the resources of the Center for Academic Integrity at <http://www.academicintegrity.org/index.asp> in the code revision process.

University is responsible freedom. Freedom is an important experience that the University, one of the freest of institutions, provides for all of its citizens—faculty, students, administrators, and staff. Freedom is responsibly exercised when it is directed by ethical standards.” (*Values and [M]oral [S]tandards at FSU* retrieved from the current General Bulletin located at <http://registrar.fsu.edu/>)

The statement also addresses academic integrity: “The University aspires to excellence in its core activities of teaching, research, creative expression, and public service and is committed to the integrity of the academic process. The [Academic Honor Policy] is a specific manifestation of this commitment. Truthfulness in one’s claims and representations and honesty in one’s activities are essential in life and vocation, and the realization of truthfulness and honesty is an intrinsic part of the educational process.” (*Values and [M]oral [S]tandards at FSU* retrieved from the current General Bulletin located at <http://registrar.fsu.edu/>)

Guided by these principles, this Academic Honor Policy outlines the University’s expectations for students’ academic work, the procedures for resolving alleged violations of those expectations, and the rights and responsibilities of students and faculty throughout the process.

#### FSU Academic Honor Pledge

I affirm my commitment to the concept of responsible freedom. I will be honest and truthful and will strive for personal and institutional integrity at Florida State University. I will abide by the Academic Honor Policy at all times.

#### Academic Honor Violations

Note: Instructors are responsible for reinforcing the importance of the Academic Honor Policy in their courses and for clarifying their expectations regarding collaboration and multiple submission of academic work. Examples have been provided for the purpose of illustration and are not intended to be all-inclusive.

1. **PLAGIARISM.** Intentionally presenting the work of another as one’s own (i.e., without proper acknowledgement of the source).

Typical Examples Include: Using another’s work from print, web, or other sources without acknowledging the source; quoting from a source without citation; using facts, figures, graphs, charts or information without acknowledgement of the source.

2. CHEATING. Improper application of any information or material that is used in evaluating academic work.

Typical Examples Include: Copying from another student's paper or receiving unauthorized assistance during a quiz, test or examination; using books, notes or other devices (e.g., calculators, cell phones, or computers) when these are not authorized; procuring without authorization a copy of or information about an examination before the scheduled exercise; unauthorized collaboration on exams.

3. UNAUTHORIZED GROUP WORK. Unauthorized collaborating with others.

Typical Examples Include: Working with another person or persons on any activity that is intended to be individual work, where such collaboration has not been specifically authorized by the instructor.

4. FABRICATION, FALSIFICATION, AND MISREPRESENTATION. Intentional and unauthorized altering or inventing of any information or citation that is used in assessing academic work.

Typical Examples Include: Inventing or counterfeiting data or information; falsely citing the source of information; altering the record of or reporting false information about practicum or clinical experiences; altering grade reports or other academic records; submitting a false excuse for absence or tardiness in a scheduled academic exercise; lying to an instructor to increase a grade.

5. MULTIPLE SUBMISSION. Submitting the same academic work (including oral presentations) for credit more than once without instructor permission. It is each instructor's responsibility to make expectations regarding incorporation of existing academic work into new assignments clear to the student in writing by the time assignments are given.

Typical Examples Include: Submitting the same paper for credit in two courses without instructor permission; making minor revisions in a credited paper or report (including oral presentations) and submitting it again as if it were new work.

6. ABUSE OF ACADEMIC MATERIALS. Intentionally damaging, destroying, stealing, or making inaccessible library or other academic resource material.

Typical Examples Include: Stealing or destroying library or reference materials needed for common academic purposes; hiding resource materials so others may not use them; destroying computer programs or files needed in academic



work; stealing, altering, or intentionally damaging another student's notes or laboratory experiments. (*This refers only to abuse as related to an academic issue.*)

7. **COMPLICITY IN ACADEMIC DISHONESTY.** Intentionally helping another to commit an act of academic dishonesty.

Typical Examples Include: Knowingly allowing another to copy from one's paper during an examination or test; distributing test questions or substantive information about the material to be tested before a scheduled exercise; deliberately furnishing false information.

8. **ATTEMPTING** to commit any offense as outlined above.

### Student Rights

Students have the following important due process rights, which may have an impact on the appellate process:

1. to be informed of all alleged violation(s), receive the complaint in writing (except in a Step 1 agreement, described in the Procedures Section, where the signed agreement serves as notice) and be given access to all relevant materials pertaining to the case.
2. to receive an impartial hearing in a timely manner where they will be given a full opportunity to present information pertaining to the case.

Students are also accorded the following prerogatives:

1. when possible, to discuss the allegations with the instructor.
2. privacy, confidentiality, and personal security.
3. to be assisted by an advisor who may accompany the student throughout the process but may not speak on the student's behalf.
4. to choose not to answer any question that might be incriminating.
5. to contest the sanctions of a first-level agreement and to appeal both the decision and sanctions of an Academic Honor Hearing.

The student has the right to continue in the course in question during the entire process. Once a student has received notice that he/she is being charged with an alleged violation of the Academic Honor Policy, the student is not permitted to withdraw or drop the course unless the final outcome of the process dictates that no academic penalty will be imposed. Should no final determination be made before the end of the term, the grade of "Incomplete" will be assigned until a decision is made.

Students should contact the Dean of Students Department for further information regarding their rights.

#### Procedures for Resolving Cases

Step 1. Throughout the Step 1 process, the instructor has the responsibility to address academic honor allegations in a timely manner, and the student has the responsibility to respond to those allegations in a timely manner. For assistance with the Academic Honor Policy, students should consult the Dean of Students Department and instructors should consult the Office of the Dean of the Faculties.

If a student observes a violation of the Academic Honor Policy, he or she should report the incident to the instructor of the course. When an instructor believes that a student has violated the Academic Honor Policy in one of the instructor's classes, the instructor must first contact the Office of the Dean of the Faculties to report the alleged violation to determine whether to proceed with a Step 1 agreement. The instructor must also inform the department chair or dean. (Teaching assistants must seek guidance from their supervising faculty member.) However, faculty members or others who do not have administrative authority for enforcing the Academic Integrity Policy should not be informed of the allegation, unless they have established a legitimate need to know. If pursuing a Step 1 agreement is determined to be possible, the instructor shall discuss the evidence of academic dishonesty with the student and explore the possibility of a Step 1 agreement. Four possible outcomes of this discussion may occur:

1. If the charge appears unsubstantiated, the instructor will drop the charge, and all documents created in investigating the allegation will be destroyed. The instructor should make this decision using the "preponderance of the evidence" standard and should inform the Office of the Dean of the Faculties.
2. The student may accept responsibility for the violation and accept the academic sanction proposed by the instructor. In this case, any agreement involving an academic penalty must be put in writing and signed by both parties on the "Academic Honor Policy Step 1 Agreement" form, which must then be sent to the Dean of Students Department. This agreement becomes a confidential student record of academic dishonesty and will be removed from the student's file five years from the date of the final decision in the case.
3. The student may accept the responsibility for the violation, but contest the proposed academic sanction. In this circumstance, the student must submit the "Academic Honor Policy Referral to Contest Sanction" form along with supporting documentation to the Office of the Dean of the Faculties. The Dean of the

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Faculties (or designee) will review the submitted documentation to determine whether the instructor has imposed a sanction that is disproportionate to the offense. The Dean of the Faculties may affirm or modify the sanction as appropriate. The decision that results from this review is final.

4. The student may deny responsibility. In this circumstance, the instructor submits the “Academic Honor Policy Hearing Referral” form along with supporting documentation to the Dean of the Faculties Office for an Academic Honor Policy Hearing. The student is issued a letter detailing the charges within ten class days of the receipt of the referral, and the schedule for the hearing will be set as soon as possible and within 90 days from the date of the letter. These timelines may be modified in unusual circumstances. Unless all parties agree, the hearing will not be held any sooner than 7 class days from the student’s receipt of the charge letter. The process then proceeds to Step 2.

If the student is found to have a prior record of academic dishonesty or the serious nature of the allegations merits a formal hearing, the instructor must refer the matter to Step 2 for an Academic Honor Policy Hearing by submitting the “Academic Honor Policy Hearing Referral” form to the Office of the Dean of the Faculties.

Step 2. Academic Honor Policy Hearing. A panel consisting of five members shall hear the case. The panel shall include: one faculty member appointed by the dean from the unit in which the course is taught; one faculty member appointed by the Dean of the Faculties who is not from that unit; and two students appointed through procedures established by the Dean of Students Department. The panel shall be chaired by the Dean of the Faculties (or designee), who is a non-voting member of the committee.

The hearing will be conducted in a non-adversarial manner with a clear focus on finding the facts within the academic context of the course. The student is presumed innocent going into the proceeding. After hearing all available and relevant information, the panel determines whether or not to find the student responsible for the alleged violation using the “preponderance of the evidence” standard. If the student is found responsible for the violation, the panel is informed about any prior record of academic honor policy violations and determines an academic sanction (and disciplinary sanction, if appropriate). In some cases, a Step 1 sanction may have been appropriately proposed prior to the convening of an Academic Honor Hearing. If the student is found responsible in these cases, the panel typically will impose a sanction no more severe than that which was proposed by the faculty member. The panel is required to provide a clear written justification for imposing a sanction more severe than the sanction proposed in Step 1.

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The chair of the Academic Honor Policy hearing panel will report the decision to the student, the instructor, and the Dean of Students Department. The Dean of Students Department will report the decision to the University Registrar, if appropriate. If the student is found “responsible,” this outcome will be recorded with the Dean of Students Department and becomes a confidential student record of an Academic Honor Policy violation. Records in which suspension or a less severe sanction (including all academic sanctions) is imposed will be removed five years from the date of the final decision in the case. Records involving dismissal and expulsion will be retained permanently, except in cases where a dismissed student is readmitted. Those records will be removed five years from the date of the student’s readmission.

### Sanctions

Step 1. This Step 1 procedure is implemented with first-offense allegations that do not involve egregious violations. The decision regarding whether an allegation is egregious is made by the Dean of the Faculties (or designee) and the instructor. The criteria used by the instructor to determine the proposed academic penalty should include the seriousness and the frequency of the alleged violation. The following sanctions are available in the Step 1 procedure.

1. additional academic work
2. a reduced grade (including “0” or “F”) for the assignment
3. a reduced grade (including “F”) for the course

Step 2. An Academic Honor Policy Hearing is held for all second offenses, for all first offenses that involve egregious violations of the Academic Honor Policy, for all offenses that involve simultaneous violations of the Student Conduct Code, and in all cases where the student denies responsibility for the alleged violation. The decision regarding whether an allegation is egregious is made by the Dean of the Faculties (or designee) and the instructor. In some cases, a Step 1 sanction may have been appropriately proposed prior to the convening of an Academic Honor Policy Hearing. If the student is found responsible in these cases, the panel typically will impose a sanction no more severe than that which was proposed by the faculty member. The panel is required to provide a clear written justification for imposing a sanction more severe than the sanction proposed in Step 1. Students will not be penalized solely for exercising their right to request a Step 2 hearing. The following sanctions are available in Step 2 (see the Procedures section) and may be imposed singly or in combination:

1. additional academic work
2. a reduced grade (including “0” or “F”) for the assignment
3. a reduced grade (including “F”) for the course

4. Reprimand (written or verbal)
5. Educational Activities—attendance at educational programs, interviews with appropriate officials, planning and implementing educational programs, or other educational activities. Fees may be charged to cover the cost of educational activities.
6. Restitution
7. Conduct Probation—a period of time during which any further violation of the Academic Honor Policy may result in more serious sanctions being imposed. Some of the restrictions that may be placed on the student during the probationary period include, but are not limited to: participation in student activities or representation of the University on athletic teams or in other leadership positions.
8. Disciplinary Probation—a period of time during which any further violation of the Academic Honor Policy puts the student’s status with the University in jeopardy. If the student is found “responsible” for another violation during the period of Disciplinary Probation, serious consideration will be given to imposing a sanction of Suspension, Dismissal, or Expulsion. The restrictions that may be placed on the student during this time period are the same as those under Conduct Probation.
9. Suspension—Separation from the University for a specified period, not to exceed two years.
10. Dismissal—Separation from the University for an indefinite period of time. Readmission is possible but not guaranteed and will only be considered after two years from the effective date of the dismissal, based on meeting all admission criteria and obtaining clearance from the Dean of Students or designee.
11. Expulsion—Separation from the University without the possibility of readmission.
12. Withholding of diplomas, transcripts, or other records for a specified period of time.
13. Revocation of degree, in cases where an egregious offense is discovered after graduation.

### Appeals

Decisions of the Academic Honor Policy Hearing Panel may be appealed to the Academic Honor Policy Appeal Committee, a standing four-member committee composed of two faculty appointed by the President and two students appointed by the Vice President for Student Affairs. The chair will be appointed annually by the President, and members will serve two-year renewable terms. In case of a tie vote

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regarding a case, the committee will submit a written report to the Provost, who will then make the final determination.

On appeal, the burden of proof shifts to the student to prove that an error has occurred. The only recognized grounds for appeal are:

1. Due process errors involving violations of a student's rights that substantially affected the outcome of the initial hearing.
2. Demonstrated prejudice against the charged student by any panel member. Such prejudice must be evidenced by a conflict of interest, bias, pressure, or influence that precluded a fair and impartial hearing.
3. New information that was not available at the time of the original hearing.
4. A sanction that is extraordinarily disproportionate to the offense committed.
5. The preponderance of the evidence presented at the hearing does not support a finding of responsible. Appeals based on this consideration will be limited to a review of the record of the initial hearing.

The procedures followed during the appeals process are:

1. The student should file a written letter of appeal to the Office of the Dean of the Faculties within 10 class days after being notified of the Academic Honor Policy Hearing Panel decision. This letter should outline the grounds for the appeal (see 1-5 above) and should provide supporting facts and relevant documentation.
2. The Academic Honor Policy Appeal Committee will review this letter of appeal and will hear the student and any witnesses called by the student, except in appeals based on consideration #5 above. The committee may also gather any additional information it deems necessary to make a determination in the case.
3. The Appeals Committee may affirm, modify, or reverse the initial panel decision, or it may order a new hearing to be held. This decision becomes final agency action when it is approved by the Provost. In cases where the student is found responsible, the decision becomes a confidential student record of academic dishonesty.
4. Appellate decisions are communicated in writing to the student, the instructor, the Office of the Dean of the Faculties, and the Dean of Students Department within 30 class days of the appellate hearing.

#### Academic Honor Policy Committee

An Academic Honor Policy Committee shall be appointed by the University President. The Committee will include: three faculty members, selected from a list of six names provided by the Faculty Senate Steering Committee and three students, selected from a list of six names provided by the Student Senate. The Dean of the Faculties or designee and the Dean of Students or designee shall serve *ex officio*. Faculty members will serve three-year staggered terms, and students will serve one-year terms. The committee will meet at least once a semester. It will monitor the operation and effectiveness of the Academic Honor Policy, work with the Faculty Senate and the Student Senate to educate all members of the community regarding academic integrity, and make recommendations for changes to the policy.

#### Amendment Procedures

Amendments to the Academic Honor Policy may be initiated by the Academic Honor Policy Committee, the Faculty Senate, the Student Senate, and/or the Vice President for Academic Affairs. Amendments to the policy must be approved by both the Faculty Senate and the Student Senate.

