

# STOCKTON UNIVERSITY



## PROCEDURE

### Employee\* Campus Hearing Board

Procedure Administrator: Executive Vice President and Chief of Staff

Authority: N.J.S.A. 18A:64-6

Effective Date: December 1, 1976; March 20, 1980; September 18, 2009; July 1, 2019

Index Cross-References: Policy I-57: Campus Hearing Board; Policy I-55 Campus Code of Conduct

Procedure File Number: 1033

Approved By: Harvey Kesselman, President

### PURPOSE

To prescribe the membership, organization, authority and operation of the Employee Campus Hearing Board and the Executive Hearing Panel, which is a component of the Employee Campus Hearing Board, charged with conducting administrative hearings for employees of Stockton University.

### PROCEDURE

The Employee Campus Hearing Board consists of twenty-six (26) employees as listed below and is established to provide a pool from which a smaller Executive Hearing Panel is chosen to adjudicate employees accused of violating the Campus Code of Conduct.

The Executive Hearing Panel consists of seven (7) employees as listed below and is established to adjudicate employees accused of violating the Campus Code of Conduct. This University procedure is separate from, and does not change, any employee contractual right negotiated by the Governor's Office of Employee Relations.

### DEFINITIONS

**Employee:** For the purpose of this procedure, a person who is employed for wages or salary by the University, exclusive of the sworn officers of the University Police Department who have alternate internal procedures.

**Complainant:** The student or employee who files a complaint alleging that an employee has violated the Stockton University Code of Conduct. This complaint is filed with the Manager in Charge of Human Resources c/o the Employee Campus Hearing Board.

**Respondent:** The employee who has been named in a Code of Conduct complaint as an alleged violator.

**Aggrieved Party:** A student or employee who has been involved in an incident where they have been subjected to a Code of Conduct violation. That person may serve as a Complainant, or

another student, employee, or the University may file a complaint on the person's behalf. All visitors, guests, licensees and invitees while on or in University-owned or University-controlled facilities who are subjected to or witness conduct that violates the disciplinary code may notify an employee or student who then may act as a complainant.

## **SELECTION OF EMPLOYEE CAMPUS HEARING BOARD**

The Manager in charge of Human Resources (MHR), or designee, serves as the non-voting Chair of the Executive Hearing Panel.

The President, or designee, will appoint Employee Campus Hearing Board members based on the nominations as per below.

Employee Campus Hearing Board members will serve a two-year term, from October 1 to September 30 each year. Prior to serving as a voting panelist, members must be instructed in Executive Hearing Panel procedures by the Office of Human Resources and must participate in one panel as an observer. Twenty-six (26) members representing all divisions of the University shall be appointed as follows:

Faculty (Group 1): In consultation with the Deans, the President of the Faculty Senate, and the SFT, the Provost will nominate eight (8) faculty members, who have agreed to serve if appointed.

Staff (Groups 2, 3, and 4): In consultation with the Executive Vice President and Chief of Staff and the respective Union President, the Provost, Vice President of Student Affairs, Vice President of Facilities and Operations and Vice President of Administration and Finance will nominate fourteen (14) members proportionally representing the classified and unclassified staff, who have agreed to serve if appointed, in the following manner:

SFT (Group 2): four (4) SFT staff and one (1) confidential staff;

CWA (Group 3): five (5) CWA staff;

IFPTE (Group 4): four (4) IFPTE staff.

University Administrators (Group 5): In consultation with the Executive Vice President and Chief of Staff and the President's Cabinet, will nominate four (4) members, who have agreed to serve if appointed.

Special Appointment: Under special circumstances, an unbiased external party may be appointed by the President to serve as a member of an Executive Hearing Panel, subject to the Conduct of Hearings section of this procedure.

The University reserves the right to extend a panel member's appointment beyond the expiration date pending a disciplinary action that extends beyond the end of the panel member's term.

No two persons on an Executive Hearing Panel can be in a direct supervisory relationship. There cannot be a direct supervisory relationship between the Complainant or Aggrieved Party or Respondent and any member of the Executive Hearing Panel that is hearing the complaint.

Any member of the Employee Campus Hearing Board chosen for an Executive Hearing Panel must report promptly any actual or potential conflicts of interest. For example, when an individual's familial, intimate, or financial relationship to the Complainant or Respondent affects, or appears to affect, the member's ability to make a fair and unbiased recommendation concerning the case under review, the individual must immediately recuse from participation in the Executive Hearing Panel. The MHR, or designee, will appoint another member from the appropriate employee group of the Employee Campus Hearing Board pool.

## **EMPLOYEE CAMPUS HEARING BOARD MEMBER RESPONSIBILITIES**

Members are responsible for the following:

- Understanding the Campus Code of Conduct and sanctions for violation;
- Adhering to the format and procedures for the conduct of hearings;
- Maintaining the confidentiality of all complaints, hearings, and action(s) taken.

## **SCHEDULE OF OPERATION**

The Employee Campus Hearing Board will operate each year from September 1 through June 30.

## **EXECUTIVE HEARING PANEL**

Executive Hearing Panel will consist of seven (7) of the twenty-six (26) proportionately represented members of the Employee Campus Hearing Board selected by the MHR from those that have been previously appointed, and broadly represent the University community. The seven (7) members will include one (1) representative of each of the five (5) employee groups listed above and two (2) members from the employee group of the Respondent. The MHR or designee is the permanent Chair of the Executive Hearing Panel and shall provide guidance as to contractual regulations and Civil Service regulations, in addition to administrative support, including notice to all parties. A spokesperson will be selected by the voting members of the panel. The Executive Hearing Panel will review the case in a manner that provides opportunities for the Complainant and Respondent to present information in substance and form necessary to adjudicate the charge.

## **EMPLOYEE VIOLATION OF THE CAMPUS CODE OF CONDUCT**

Any complaint filed against an employee of the University must be filed with the Office of Human Resources and include:

- Complainant's name and address;
- Respondent's name and address;
- The specific University Code of Conduct regulation allegedly violated and description of alleged violation;
- Date and place of alleged violation;
- Name and address of proposed witnesses.

[Complaint forms](#) are accessible at the Office of Human Resources website and must be filed and submitted electronically.

## **ABUSE OF PROCESS AND FALSE ALLEGATIONS OR INFORMATION**

Anonymous filings are not permitted. An employee who falsely alleges code of conduct violation or knowingly provides false information related to the conduct process may be subject to disciplinary actions, up to and including termination. Allegations and/or information provided in good faith however, will not be considered a false claim. Likewise, an employee who otherwise abuses the process is also subject to disciplinary actions.

## **WHAT HAPPENS AFTER A COMPLAINT IS FILED**

When a complaint alleging a violation of the Campus Code of Conduct has been filed against an employee, seven (7) members of the Employee Campus Hearing Board will be convened as an Executive Hearing Panel to review the complaint and determine by majority vote if the Employee Campus Hearing Board is the appropriate venue to resolve the complaint.

If the Executive Hearing Panel determines that the Employee Campus Hearing Board is the appropriate venue to resolve the complaint, the Executive Hearing Panel accepts the complaint for resolution, and forwards the complaint to the MHR or designee to determine if an internal mediated resolution is appropriate. If mediation is not appropriate, a pre-hearing interview will be scheduled prior to the Executive Hearing Panel hearing the case.

If Executive Hearing Panel determines that the Employee Campus Hearing Board is not the appropriate venue for resolution, the Executive Hearing Panel will notify the Complainant, and the complaint will then be sent to the appropriate University office responsible for such matters.

## **PREHEARING INTERVIEW**

Once the Executive Hearing Panel accepts the complaint, the Respondent employee will be notified that the employee has been named in a complaint that may result in disciplinary action. A prehearing interview with the MHR or designee will be scheduled. For a Union employee, a Union representative may also attend at the request of the employee. Following a prehearing interview, the MHR or designee may refer the matter to the Office of Institutional Diversity and Equity, if appropriate. During the prehearing interview, the Respondent will have the opportunity to sign an acknowledgement of responsibility with the following options:

- Do not acknowledge responsibility except at a hearing to be scheduled;
- Deny responsibility for the stated code violation, or;
- Accept responsibility for the code violation and submit an explanation of the circumstances.

If the Respondent accepts responsibility for the stated violation, an Executive Hearing Panel is convened with the sole purpose of recommending an appropriate sanction. The MHR or designee then recommends an appropriate sanction to the Executive Vice President and Chief of Staff. The Respondent may appeal the sanction to the President. The written appeal must be filed within seven (7) business days of notice to the Respondent.

If the Respondent denies responsibility and therefore contests the validity of the charges, or chooses not to acknowledge responsibility, the case will then be referred by the MHR or designee to be heard by an Executive Hearing Panel. The Office of Human Resources will

provide administrative support for the Executive Hearing Panel.

**A written summary of the Executive Hearing Panel's decision will be forwarded by the spokesperson of the panel to the MHR or designee within seven (7) business days of the last date of the hearing. The summary must be distributed to the Respondent and the Complainant with recommendations for dismissal of the case or findings to support imposition of specified sanctions (please see Sanctions Defined section below). The written summary will not include information prohibited from disclosure by law or otherwise classified as confidential personnel material. The Complainant and Respondent shall be granted the opportunity to file exceptions to the findings and sanctions (Respondent only for sanctions) within seven (7) business days of receipt of the Executive Hearing Panel determination. Exceptions shall be made in writing and directed to the MHR or designee as Chair of the Executive Hearing Panel. The MHR or designee shall review the sanctions imposed to maintain conformity with Union contracts, Civil Service regulations and University policy and procedure. In consultation with the Executive Vice President and Chief of Staff, the MHR or designee will then recommend approval, dismissal, or modification of these sanctions to the President of the University for final decision.**

## **CONDUCT OF HEARINGS**

1. All charges will be presented to the Parties through the Chair or designee, in writing at least ten (10) business days prior to the scheduled hearing. This notice will include:
  - Name of the Complainant(s);
  - Name of Respondent(s);
  - The Code of Conduct regulation allegedly violated and a description of that violation, including dates;
  - Date, time, and place of the hearing;
  - Names of proposed witnesses;
  - A copy of any relevant evidence that the Complainant or Respondent intend to introduce during the hearing.

All relevancy determinations shall be made by the Chair or designee.

2. No recommendation for the imposition of sanctions may be based solely upon the failure of the Respondent to answer the charges or to appear at the hearing. If a Respondent does not appear at the hearing but submits written evidence, the evidence will be read into the record by the Chair of the Executive Hearing Panel, or designee, and considered.
3. No voting member of an Executive Hearing Panel will participate in any case in which the member is the Respondent, a Complainant, a witness, has a direct personal interest or has an actual or apparent conflict of interest. If an Executive Hearing Panel member's eligibility to participate in a hearing is reasonably challenged by a party to the case, a decision in this regard will be made by the Chair or designee, who also will make a replacement from the pool of eligible members.

4. Participants are prohibited from picture-taking and video-recording/streaming during the hearing. Audio recorders, other than those used by the University, are also prohibited. Reasonable accommodations will be made under the University Policy I-67 covering Disability, Accessibility, and Reasonable Accommodations.
5. An employee Hearing convened under this procedure is considered a personnel matter and is not open to the public.
6. The Complainant and the Respondent have the right to present witnesses subject to the right of cross-examination by the other party.
7. The Executive Hearing Panel may ask questions to any party to the proceedings or to any witness called by the parties.
8. No party will be compelled to testify against their will.
9. The Executive Hearing Panel will receive and consider oral and documentary evidence. The Chair may exclude irrelevant or unduly repetitious evidence. Verbal testimony must have direct relevance to the case as opposed to character witness statements. Witnesses who knowingly furnish false information during a hearing will be charged with a violation of the Campus Code of Conduct.
10. Each Complainant, Respondent, or aggrieved party has the right to be assisted at the hearing by up to two (2) advisors of their choosing, e.g., Union representative/observer, attorney. The role of the advisor is to assist and advise; the advisor cannot offer testimony, question witnesses, make statements, or speak before the panel in place of the Respondent, Complainant, or aggrieved party. An advisor may not interfere with the proceedings of the Hearing. An advisor who interferes with the proceedings will be required to leave the hearing.
11. The standard of proof shall be a preponderance of evidence unless otherwise required.
12. After hearing testimony and reviewing evidence, the Executive Hearing Panel will render a decision within seven (7) business days from the last day of hearing. In reaching its decision, the Executive Hearing Panel will consider only documents, materials and testimony presented in the Hearing.
13. The findings of the Executive Hearing Panel will be forwarded to the MHR or designee by the Executive Hearing Panel spokesperson. The MHR or designee will provide a notification letter to all parties regarding the findings and also notify parties of their right to file written exceptions to the decision of the Executive Hearing Panel within seven (7) business days.
14. Written exceptions to the decision must be submitted to Executive Hearing Panel in accordance with the notification letter.

15. The recommendation of the Executive Hearing Panel, and the exceptions, if any, will be reviewed by the MHR or designee, who will provide a recommendation to the Executive Vice President and Chief of Staff for one of the following actions:

- Adopt the decision of the Executive Hearing Panel;
- Accept the findings of the Executive Hearing Panel and modify the recommended sanction; or
- Dismiss the case based on the record.

16. The MHR or designee maintains all summaries of proceedings, notes, audio, or written records pertaining to the conduct of the hearings.

## **CONCURRENT RELATED CIVIL OR CRIMINAL PROCEEDINGS**

Concurrent civil or criminal proceedings will not automatically stay disciplinary action. The University reserves the right to stay these proceedings subject to applicable policies, procedures and/or collective bargaining agreements.

## **SANCTIONS DEFINED**

In general, sanctions are progressive and increase with the severity of the offense and if the offense is repeated. Where appropriate, restitution may be considered in the case of damage or theft of property. In all cases, consideration of sanctions should center on what a reasonable minimum response to the infraction would be, given the facts of the hearing, and should seek to educate and modify the behavior of the Respondent.

### **Progressive Disciplinary Action**

- **Counseled Remedy:** Discussion with the employee by MHR or designee of the behavioral infraction and consequences of potential disciplinary action if unacceptable conduct is repeated.
- **Warning:** Written or otherwise appropriate accessible notice to the Respondent that their conduct was questionable, and repetition of the conduct will be treated more severely. Employees will acknowledge said notice.
- **Official Reprimand:** Notice to the Respondent for violation of the Code of Conduct, including the possibility of more severe disciplinary sanctions in the event of future violations. Copied to the Office of Human Resources for inclusion in the personnel file.
- **Suspension:** Exclusion for a specific period from the University payroll, including exclusion from all University activities and events. The basis for this action will be set forth in the letter of suspension, including all appeal rights under the Union contract and Civil Service regulations, if applicable.
- **Employee Development Plan:** Plan developed with the employee and MHR that may include training, counselling, professional development, and/or service to the University community related to conduct issues.

- Demotion: Reduction of range or rank consistent with Union contract provisions and Civil Service regulations.
- Removal: Termination of employment in accordance with Union contract provisions and Civil Service regulations.

## **APPEAL PROCESS**

Within seven (7) business days of the notification of the sanction, the respondent may appeal the sanction to the President or designee.

Upon review of the record, the President or designee will:

- Sustain the original judgment; or
- Adjust the charges and/or modify the sanction; or
- Direct a rehearing, or
- Dismiss the case.

**\*All employees are included in this procedure with the exception of sworn police officers. Any changes to this procedure must be done in consultation with all the employee unions.**

Review History:

AFT, CWA, IFPTE Leadership	04/23/2019
EVP and Chief of Staff	04/24/2019
General Counsel	06/05/2019
Cabinet	06/13/2019
President	06/17/2019