

Student Affairs Committee

Minutes

2/21/22

2:00-3:00 p.m., Zoom

<https://nmhu.zoom.us/j/98157403871>

Committee members present:

- Edward Harrington – Chair
- Jeannette Baca
- Lewis Borck
- Emmanuel Nkwenti-Zamcho
- Anna Koch
- Joe Sabutis

Ex-officio members present:

- Dean of Students – Kim Blea
- Director of Financial Assistance – Emily Montoya
- Assistant Director of Recruitment and Admissions – Ricardo Martinez

Invited: Title IX Director - Ruth Mariampolski

1. Review and Approval of Agenda – motion from A. Koch to approve today’s agenda, seconded by L. Borck. Passed unanimously.
2. Review and Approval of Minutes from 12/6/21 – motion from A. Koch to approve SAC minutes, seconded by L. Borck. Passed unanimously.
3. Discussion with Ruth Mariampolski, Title IX Coordinator, to identify any possible conflicts between the 2021 Title IX processes and the Student Code of Conduct, and/or the Faculty Handbook, specifically Section V. See below addendum. Chair reviewed specific sections of Faculty Handbook with committee and R. Mariampolski. Discussed inviting ex-officio committee members to SAC meetings. Chair will invite Registrar to future SAC meetings. Discussion of validity of Faculty Handbook, Section V – Student Affairs Committee section 5, as SAC will now only hear appeals outside of Title IX. K. Blea suggested adding possible clarifying language to section 5 regarding disciplinary procedures: “as outlined under the Student Code of Conduct”. Discussion of how a student appeal hearing process is initiated by Dean of Students and brought to SAC as outlined in section 7, which may help clarify section 5. Discussion of how new Title IX policies were not reviewed by SAC prior to approval by Board of Regents. E. Nkwenti-Zamcho reminded committee that new Title IX laws provide more protections for respondents and thus are cause for concern.
4. Possible items for next meeting:
 - Potential future lawsuits due to Title IX policies and ramifications for SAC.

5. Adjourn – motion from J. Sabutis to adjourn, seconded by A. Koch.

Addendum, Re: Item 3.

Faculty Handbook r. 2017

Section V, F.

Student Affairs Committee

1. Membership

Twelve faculty members are elected by the Faculty Senate; no School or Department shall have more than two members and one of the twelve shall be a Faculty Senator. A chair shall be elected by a simple, majority vote of committee members. The Vice-President and Dean of Students, Director of Financial Assistance, Director of Admissions, and Director of Registration will be ex-officio members.

2. Meetings

The chair of the previous year will convene the first meeting of the academic year for election of a chair and secretary and establishment of meeting times.

3. Minutes

Minutes are maintained for all meetings and forwarded to the Secretary of the Faculty Senate.

4. Reports to

Faculty Senate. A brief synopsis of actions taken by the committee shall be read or submitted in written form at the following Faculty Senate meeting.

5. Duties and Responsibilities

a. Review and make recommendations, in consultation with appropriate administrative offices, relating to policies and procedures for student advisement, scholarships, financial aid, disciplinary procedures and process, and other areas of student needs and welfare.

b. Review and make recommendations in response to student appeals. The committee shall serve as a hearing board for non-academic student appeals of the following three types: counseling, discipline, financial aid and scholarships. Hearing procedures are specified below. Academic petitions will not be considered by the committee.

6. Hearing Procedures

For purposes of hearing student appeals, the chair (at the first committee meeting) shall appoint each faculty member to one of three teams. Each team consists of four faculty members, and a team chair is identified for each team. It shall be the responsibility of the team chair to insure that all team members are present at a scheduled hearing of an appeal and to direct the proceedings of that hearing. Each team hears student appeals on a rotation basis, thereby eliminating the possibility of bias of faculty members toward any given student, or any one faculty member hearing all cases brought to the committee.

The chair shall (at the beginning of each semester) request in writing from the President of the Student Senate a list of ten students to serve as peers on the teams. Two of these Student Senate designates will be appointed to each of the three teams to hear student appeals on

a rotation basis.

7. Student Appeals Hearing

Upon receipt of a written student appeal or a request from the Dean of Students, the chair shall designate a hearing team and notify the respective team chair of the forthcoming appeal hearing. The committee chair shall implement the procedure outlined in the Student Code of Conduct. Following the hearing, a written recommendation shall be forwarded to the appropriate parties and/or administrative offices.

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Student Code of Conduct

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- Procedural Guideline

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D. Imposition of Discipline. Within five working days of the disciplinary conference, or if no disciplinary conference was requested, within five working days of receipt of the Response to Charge, the Dean of Students shall provide Respondent with a written Notice of Disciplinary Action. If the disciplinary action taken is suspension or expulsion, Respondent has the right to a hearing prior to the discipline being imposed. However, the University and the Dean of Students reserves the right to take any intermediate action deemed necessary to protect the health, safety, and well-being of the Complainant and the University community.

Intermediate action may include, but is not limited to, emergency suspension, no contact orders, or other restrictions as deemed necessary. If discipline is not suspension or expulsion, and unless otherwise stated in the Notice of Disciplinary Action, the discipline takes effect immediately, is final and not appealable.

However, incidents involving allegations of the perpetration of a sex offense, as outlined by the Policy Statement on the Prevention and Response to Sex Offenses, require that the Complainant be notified of the results of the disciplinary conference held in response to their complaint. Complainant reserves the right to appeal disciplinary sanction regardless of the discipline imposed. The policy further allows the Complainant the opportunity to appeal the result of the disciplinary conference pursuant to the appeal process outlined in Section F. Hearing-Complainant Requested. If the Complainant appeals the results of the disciplinary conference, the Respondent's discipline will continue as ordered by the Dean of Students until after the appeal hearing is held.

E. Hearing-Respondent Requested.

1. If the Dean of Students imposes discipline of suspension or expulsion, the Respondent may request, within five working days of receipt of the Notice of Disciplinary Action, that a hearing be held before the disciplinary action is imposed. The request must be in writing and submitted to the Dean of Students. The appeal request shall be referred to a Hearing Committee consisting of members of the Student Affairs Committee of the Faculty Senate. This Committee may include student representation.

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2. Within five (5) working days of receipt of the request by the Respondent to the Dean of Students, the hearing shall take place within 30 calendar days of receipt of the request for

a hearing, unless the Dean of Students, in his or her sole discretion, extends the time for the hearing.

3. Respondent(s) and the Dean of Students shall be given a minimum of five working days written notice prior to the date of the hearing.

4. Two working days prior to the hearing, the Respondent and Dean of Students shall submit to the Hearing Committee Chairperson and to the other party, a list of witnesses, and copies of any documents to be submitted as evidence at the hearing. Statements of absent witnesses may be submitted in lieu of testimony at the hearing, so long as the other party is notified at least three working days prior to the hearing of the name of the witness, and that witness makes himself or herself available for an interview by the other party and additional statement, if requested.

5. If two or more students are charged in the same incident, and two or more request a hearing as a result of the discipline imposed, the Hearing Committee may hold a joint hearing in the matter.

6. The hearing will be closed. The Respondent and Dean of Students may attend the hearing. Witnesses will attend only for the purposes of their testimony and are not permitted to hear the testimony of other witnesses.

7. The hearing will be informal in nature; strict rules of evidence do not apply. However, the Hearing Chairperson will maintain order and the efficient management of the proceeding. Therefore, evidence that the Hearing Chairperson deems irrelevant or duplicative may be excluded.

8. The Dean of Students has the burden of proof at the hearing to demonstrate, by a preponderance of the evidence, that the violation of the student Code occurred and that the discipline imposed was reasonable.

9. The Respondent(s) and Dean of Students have the right to the following:

- Be present at the hearing; however, if either or both the Respondent and Dean of Students fail to appear at the hearing, the hearing will be held in either or both of their absences.
- Present evidence by their own testimony, by witness, or by official written statement from a witness, if that witness is unable to attend the hearing (as per the conditions stated above). It is the responsibility of both the Respondent and the Dean of Students to notify their witnesses of the date, time and place of the hearing. If witnesses fail to appear, the hearing will be held in their absence.
- Bring one adviser to the hearing. The adviser; however, may only participate in providing advice directly to the Respondent or Dean of Students. The adviser may not participate in the hearing, conduct examinations of witness, or present information or materials to the hearing committee. It is the responsibility of the Respondent and the Dean of Students to notify the adviser of the date, time and place of the hearing. If an adviser fails to appear, the hearing shall take place in his or her absence.
- Question all witnesses.

10. The following procedures shall be followed during administrative hearings:

- Welcome by the hearing committee chairperson.
- Recognition of the parties present.
- Reading of allegations.
- Opening statement by the Dean of Students.
- Opening statement by the Respondent.
- Testimony of the witnesses on behalf of the Dean of Students. Witness will be exhausted by both parties during the time they appear and will not be called back to the hearing, unless requested to do so by the Hearing Committee. While testifying, witnesses will be questioned by both parties, including cross-examination by the Respondent, and questioning by Hearing Committee members.
- Testimony of the Respondent's witnesses, including cross-examination by the Dean of Students and questioning by Hearing Committee members.
- Rebuttal evidence presented by the Dean of Students, if necessary, to address issues raised by Respondent's witnesses.
- Rebuttal evidence presented by Respondent, if any, to address issues raised by the Dean of Student's rebuttal evidence.
- Closing remarks from the Dean of Students.
- Closing remarks from Respondent.
- Closing statements by the Hearing Committee chairperson.
- Adjournment of the hearing.

A verbatim record (either by written transcript or recording) shall be made of all evidence introduced at the hearing. This verbatim record shall be maintained for a period of one year after hearing. This record shall be maintained for a longer period of time if the allegations leading to the hearing include criminal or civil charges or if the University was served with a Notice of Pending Litigation.

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11. The hearing committee shall hold deliberations following the hearing. Unless there is reasonable cause for delay, a written copy of the committee's recommendation, and the record, will be sent to the University President within five working days. The recommendation shall be copied to Respondent and the Dean of Students. The student may request a copy of the record, which will be provided at Respondent's expense. The University President shall receive the recommendation of the hearing committee and has the option to either accept it, modify it or reject it. The President shall notify the Respondent, Dean of Students and the Hearing Committee Chairperson of his decision in writing. If the discipline imposed by the President is a suspension or expulsion, the Registrar shall also be copied on the decision. The President's decision shall be final and is not appealable.

F. Hearing-Complainant Requested.

1. If the Dean of Students imposes any discipline in an incident involving sex offenses, as defined in the Policy Statement on the Prevention and Response to Sex Offenses, the Complainant may request, within five working days of receipt of the Notice of Disciplinary Action, that an appeal hearing be held before the disciplinary action is imposed. The request must be in writing and submitted to the Dean of Students. Upon receipt of request for appeal from Complainant, the Dean of Students shall give notice to the Respondent of the appeal request. The appeal request shall be referred to a Hearing Committee consisting of members of

the Student Affairs Committee of the Faculty Senate and may include student representation.

2. The Respondent must notify the Dean of Students and the Hearing Committee Chairperson, within five working days of receipt of the request for appeal hearing, as to whether or not they will present evidence on their behalf at the hearing. If the respondent chooses to present evidence, the procedures as outlined in Section E-Appeal Respondent Requested shall be followed. If the Respondent chooses not to present evidence, the procedures outlined below shall be followed.

3. Within five working days of receipt of the request for hearing to the Dean of Students, the hearing shall be scheduled. The hearing shall take place within 30 calendar days of receipt of the request for a hearing, unless the Dean of Students, in his or her sole discretion, extends the time for the hearing.

4. When a hearing is held, the Complainant, Respondent, and the Dean of Students shall be given a minimum of five working days written notice prior to the hearing date.

5. Two working days prior to the hearing, the Dean of Students shall submit to the hearing committee chairperson a list of witnesses, and copies of any documents to be submitted as evidence at the hearing. Statements of absent witnesses may be submitted in lieu of testimony at the hearing, so long as the other party is notified at least three working days prior to the hearing of the name of the witness, and said witness makes himself or herself available for an interview by the other party and an additional statement, if requested. Complainant may be called as a witness during this proceeding.

6. If two or more students are charged in the same incident and two or more request a hearing as a result of the discipline imposed, the Hearing Committee may hold a joint hearing in the matter.

7. The hearing will be closed. The Dean of Students will attend the hearing. Witnesses, including complainant, will attend only for the purposes of their testimony.

8. The hearing will be informal in nature; strict rules of evidence do not apply. However, the Hearing Chairperson will maintain order and the efficient management of the proceeding. Therefore, evidence that the Hearing Committee Chairperson deems irrelevant or duplicative may be excluded. However, the Hearing Committee Chairperson reserves the right to call additional witnesses if deemed necessary to the proceedings (see paragraph 4 for procedures for absent witnesses).

9. The Dean of Students has the burden of proof at the hearing to demonstrate by a preponderance of the evidence whether or not a violation of the student code occurred and that the discipline imposed was reasonable.

10. The Dean of Students has the responsibility to do the following:

- Be present at the hearing.
- Present evidence by their own testimony, by witness, or by official written statement from

a witness, if that witness is unable to attend the hearing, (based on the conditions stated above). It is the responsibility of the Dean of Students to notify their witnesses of the date, time and place of the hearing. If witnesses fail to appear, the hearing will be held in their absence. • Question all witnesses.

11. Additionally, the Dean of Students has the right to bring one adviser to the hearing. The adviser, however, may only participate in providing advice. The adviser may not participate in the hearing, examine witnesses, or the present information or materials to the hearing committee. It is the responsibility of the Dean of Students to notify the adviser of the date, time and place of the hearing. If an adviser fails to appear, the hearing shall take place in his or her absence.

12. The following procedures shall be followed in administrative hearings: • Welcome by the Hearing Committee Chairperson.

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- Recognition of the parties present.
- Reading of allegations.
- Opening statement by the Dean of Students.
- Reading of Complainant's appeal statement by Hearing Chairperson.
- Testimony of the Dean of Students' witnesses.
- Opportunity for witness questioning by Hearing Committee, following the testimony of each witness. • Closing remarks from the Dean of Students.
- Closing statements by the Hearing Committee Chairperson.
- Adjournment of the hearing.

A verbatim record (either by written transcript or tape recording) shall be made of all evidence introduced at the hearing. This verbatim record shall be maintained for a period of five years after the hearing. This record shall be maintained for a longer period of time if the allegations leading to the hearing include criminal or civil charges or if the University was served with a Notice of Pending Litigation.

13. The hearing committee shall hold deliberations following the hearing. Unless there is reasonable cause for delay, a written copy of the committee's recommendation, and the record, will be sent to the University President within five working days. The recommendation shall be copied to Respondent, Complainant, and the Dean of Students. The Respondent may request a copy of the record, which will be provided at Respondent's expense. The University President shall receive the recommendation of the hearing committee and has the option to either accept it, modify it or reject it. The President shall notify the Respondent, Complainant, Dean of Students and the Hearing Committee Chairperson of his decision in writing. If the discipline imposed by the President is a suspension or expulsion, the Registrar shall also be copied on the decision. The President's decision shall be final and is not appealable.