
Appendix



JUDICIAL SYSTEM OF DUKE UNIVERSITY – The University Judicial Board and Community Judicial Board

The Judicial System

The judicial system of the University shall consist of the University Judicial Board and a Judicial Board for each of the communities hereafter defined.

THE UNIVERSITY JUDICIAL BOARD

Jurisdiction

- a. The jurisdiction of the University Judicial Board shall be limited to cases arising out of the Pickets and Protests Regulations and cases involving more than one of the communities as determined by the Vice-President for Student Affairs in consultation with the Chancellor and the Chairman of the University Judicial Board.
- b. The University Judicial Board shall have jurisdiction over members of the student body, members of the faculty, and administrative personnel of the University not subject to the Personnel Policy Handbook.

Filing of Charges; Responsibilities of Vice-President for Student Affairs

- a. The Office of the Vice-President for Student Affairs shall have responsibility for receiving complaints, conducting investigations, and preferring charges concerning offenses within the jurisdiction of the board. The University Judicial Board shall hear no case without a finding of probable cause made by the Vice-President for Student Affairs, whose signature to the charge or charges shall constitute sufficient evidence of such finding.
- b. To assist the Vice-President for Student Affairs in the investigation of complaints, the gathering of evidence, and the preparation of charges, investigative and judicial aides may be appointed by the Vice-President and shall serve at his/her pleasure and under his/her direction. The number and specific duties of such aides shall be determined by the Vice-President for Student Affairs, who shall be fully responsible for all duties performed by them in their capacity as aides.
- c. The Vice-President for Student Affairs shall subpoena witnesses as directed by the University Judicial Board.
- d. The Vice-President for Student Affairs may delegate all or any portion of his/her duties as regards these judicial procedures to an aide or aides. The Vice-President for Student Affairs shall be responsible for the discharge of all duties thus delegated.

Membership

The University Judicial Board shall consist of a Chairman appointed by the Chancellor, five faculty members (two of whom shall be from the Law School) appointed by the Executive Committee of the Academic Council, and two student members from each of the communities (except in the case of the undergraduate community where there should be four members) elected by each community's Judicial Board. The Chairman of the Board shall select five-person panels consisting of a Chairman and an equal number of students and faculty. Cases referred to the board shall be assigned to the panels in rotation, provided that a member of a panel may, at his/her request, be excused from sitting on a case by the Chairman of the Board, who may appoint a substitute from among the other members of the board. Each panel shall be known as a "Hearing Committee of the University Judicial Board."

Terms of Members

Faculty members shall normally serve for two-year terms, but are eligible for reappointment. The terms should be staggered in order to provide continuity. Two of the initial appointees shall be appointed for one-year terms. Student members shall serve for one-year terms, although they may be eligible for re-election. The board has the right to remove any member of the board for cause by a vote of a two-thirds majority of all members. The vacancy shall be filled promptly according to the original procedure.

Conduct of the Hearing

- a. The hearing will be conducted in private unless the accused requests an open hearing. If any objection is raised to conducting an open hearing in any particular case, the Hearing Committee of the University Judicial Board will decide the issue by majority vote. If the decision is made not to hold an open hearing, the accused shall be informed in writing of the reasons for the decision.
- b. The University and the accused may be represented by an adviser of his/her choice.
- c. The board shall promulgate its own rules of procedure consistent with academic due process and all provisions of this document.
- d. The accused has the right to challenge on the grounds of prejudice any member of the Hearing Committee sitting on his/her case. If an accused makes such a challenge, the Hearing Committee shall deliberate in private to determine whether cause exists. By a majority vote of the members of the tribunal (excluding the member being challenged), a member shall be removed from the case and replaced by a member of the board designated by the Chairman of the Judicial Board. In addition, the accused may exercise a challenge directed at the entire panel, in which case the challenge shall be made to the Chairman of the University Judicial Board, who shall excuse the panel challenged and refer the accused's case to the next panel in rotation.

The Right of Appeal

- a. In cases heard by the University Judicial Board, there will be no appeal when the accused is acquitted.
- b. A student or administrator who is not a member of the faculty convicted by the University Judicial Board may appeal to the President, or in his/her absence, the Provost, in which case such appeal shall be solely on the record of the proceedings before the Hearing Committee. Argument or appeal shall be on written submission, but the President may, in addition, require oral argument.

- c. A member of the faculty convicted by the University Judicial Board may appeal to the Faculty Hearing Committee authorized under the provisions for Academic Freedom and Tenure of Duke University.

Status of the Accused

Charges must be prepared without delay following the alleged commission of the offense. Pending final verdict on charges against the accused (including appeal), his/her status shall not be changed, nor his/her right to be on campus to attend classes suspended, except that the Chancellor or Provost may impose an interim suspension upon any member of the University community who demonstrates, by his/her conduct, that his/her continued presence on the campus constitutes an immediate threat to the physical well-being or property of the members of the University community or the orderly functioning of the University. The imposition of interim suspension requires that the suspended individual shall immediately observe any restriction placed upon him/her by the terms of the suspension. The suspended individual shall be entitled to a hearing within three (3) days before the Hearing Committee on the formal charges. If he/she requires additional time to prepare his/her case before the Hearing Committee, he/she shall be entitled to an informal review of the decision imposing interim suspension by a three-person committee chosen from the members of the University Judicial Board by its Chairman. Interim suspension is an extraordinary remedy which will be invoked only in extreme cases where the interest of the University and members of its community require immediate action before the Hearing Committee can adjudicate formal charges against the suspended individual. If interim suspension is imposed and the accused is later found innocent, the University shall seek restitution as provided by the Hearing Committee with respect to the student's academic responsibilities incurred during the period of suspension.

Civil and Criminal Courts

Members of the University community may be subject to civil or criminal proceedings in a local court. The Chancellor may initiate legal action seeking injunctive or other civil relief, or file criminal charges, when it is necessary to protect the person or property of members of the University community, or the orderly functioning or property of the University. Such action may be in addition to the filing of formal charges before the University Judicial Board and/or interim suspension.

Sanctions

- a. A Hearing Committee of the University Judicial Board shall have the power to impose the following penalties upon students:
 1. Expulsion. Dismissal from the University with the recommendation that the person never be readmitted.
 2. Suspension. Dismissal from the University and from participation in all University activities for a specified period of time after which the subject may apply for readmission.
 3. Suspended Suspension. Penalty (2), suspended because of unusual mitigating circumstances. In a period of time specified, conviction before the University Judicial Board, or before one of the community Judicial Boards may result in suspension.
 4. Disciplinary Probation. Placing a student on a probationary status for a specified period of time, during which conviction of any regulation may result in more serious disciplinary action.
 5. Exclusion from participation in extracurricular activities. Without limiting the generality of that penalty, such restrictions might involve participation

in any collegiate athletics, or any public participation or performance in the name of the University. However, a Hearing Committee may not exclude a person from performance of the duties of an elective office, but may make such a recommendation to the appropriate organization. This penalty may be imposed by itself or in addition to any of the other enumerated penalties.

6. Censure. Written reprimand for violation of the specified regulation, including the possibility of more severe disciplinary sanction in the event of conviction for the violation of the same or one of equal seriousness within the period of time stated by the reprimand.
 7. Admonition. By an oral statement to the offender that he/she has violated the University rules or has been in contempt of the board.
 8. Restitution. Payment for all, or a portion of property damage caused during the commission of an offense. This penalty may be imposed by itself, or in addition to any of the other penalties.
 9. Fines. Payment of reasonable sums to be determined by a Hearing Committee. This penalty may be imposed by itself, or in addition to any of the other penalties.
 10. Exclusion from social activities where the nature of the violation so indicates including, but not limited to, curfews or other revocation of upperclass privileges.
- b. A Hearing Committee of the University Judicial Board shall have the power to impose the following penalties upon faculty members and administrative personnel not subject to the provisions of the Personnel Policy Handbook.
1. Dismissal. Dismissal or termination of appointment.
 2. Censure.
 3. Admonition.
 4. Restitution.
 5. Fines.

Other Powers

The Hearing Committee may recommend to the University that it seek restitution with respect to the accused's University responsibilities incurred during a period of suspension or during the period when a hearing has been conducted or shall make such other nonpunitive recommendations with respect to the accused as it shall deem appropriate.

Records

The board shall promptly arrange a policy of keeping its own records, subject to the University policy on confidentiality.

Excusal of Members of the University Community from University Obligations

Any member of the University community whose presence is required at a hearing shall be excused from the performance of any University responsibilities which would normally be performed at the time when his/her presence is required before the Hearing Committee.

Revocation of Probation or Suspended Suspension

In the event that a student has been placed on suspended suspension or disciplinary probation by the University Judicial Board and subsequently is convicted of a violation of a regulation by any other University tribunal, the suspension of his/her suspension or the revocation of his/her probation will not automatically occur. In such a case the

student shall be entitled to a hearing being limited to the issue of whether his/her probation should be revoked or whether he/she should be suspended as the result of the original conviction and the conduct which gave rise to the second conviction.

COMMUNITY JUDICIAL BOARDS

Community Judicial Boards

There shall be an undergraduate community consisting of the undergraduates in Trinity College of Arts and Sciences and the School of Engineering; a Divinity School community; a Law School community; a Medical School community; an Allied Health community consisting of all degree and certificate (i.e., paramedical, nondegree) students in the School of Allied Health; a School of the Environment community; and a Graduate School community. Except as hereafter provided for the undergraduate community, each community shall have such judicial system as its governing body may provide. (See p. 16 for the Undergraduate Judicial System.)