

University of Louisiana System

**Title: STUDENT DUE PROCESS
(NON-ACADEMIC)**

Effective Date: August 1, 2022

Cancellation: None

Chapter: Miscellaneous

Policy and Procedures Memorandum

The purpose of this policy is to establish student due process procedures for University of Louisiana System institutions according to Act 464 of the 2022 Regular Session of the Louisiana Legislature, codified at R.S. 17:3394 (Student Due Process and Protection Act).

Due process protection is afforded to all students and student organizations attending University of Louisiana System member institutions. This policy requires that universities governed by the University of Louisiana System set forth all of its policies, rules, and regulations governing students and student organizations' conduct in properly promulgated publications. All University of Louisiana System member institutions shall implement policies, procedures, and practices for due process in compliance with Act 464 and this Policy.

I. Disciplinary Proceedings

Any student enrolled at an institution under the jurisdiction of University of Louisiana System and accused of a violation of the disciplinary or conduct rules that carries a potential penalty of suspension of ten or more days, deferred suspension, or expulsion has the right to be represented, at the student's expense, by an attorney or non-attorney advocate who may fully participate during any disciplinary proceeding or other procedure adopted and used by the affected institution to address an alleged violation of the institution's non-academic rules or policies. This right applies to both the student who has been accused of the violation and to the student who is the alleged victim, if applicable. Prior to scheduling a disciplinary proceeding, the institution is required to inform the students in writing of their rights provided by this section.

Any student organization officially recognized by an institution under the jurisdiction of the management board has the right to be represented, at the

organization's expense, by an attorney or a non-attorney advocate who may fully participate during any disciplinary proceeding or during any other procedure adopted and used by the institution to address an alleged violation of the institution's non-academic rules or policies. This right applies to both the student organization that has been accused of the alleged violation and the alleged victim, if applicable.

A student or student organization subject to a charge or disciplinary proceeding by the institution is entitled, upon receiving notice of the charge, to notice of any and all violations of the institution's non-academic rules or policies and the disciplinary proceedings or charges that will occur as a result. This notice shall include but need not be limited to each and every section of the institution's rules or policies that the student or student organization is alleged to have violated and any evidence the institution used and collected in making the charge.

When a violation is punishable by suspension of ten or more days or expulsion, or when a violation by a student organization is punishable by suspension or removal of the organization from the institution, the disciplinary procedures contained in the code of student conduct shall include but need not be limited to the following:

1. Afford the accused student or organization the express presumption of innocence and set forth that he or the organization may not be deemed guilty of the violation until he/she or the organization formally acknowledges responsibility or conclusion of a hearing where the institution has established every element of the alleged violation.
2. Require the institution to maintain an administrative file of disciplinary proceedings. The file shall include all documents and evidence in the institution's possession or control relevant to the alleged violation and the institution's investigation including but not limited to exculpatory evidence, documents submitted by any participant, and the institution's choice of a video recording, audio recording, or transcript of any disciplinary hearing ultimately held in the matter. The file shall not include privileged document or internal memorandums that the institution does not intend to introduce as evidence at any hearing on the matter.
3. Provide both the accused student or organization and the alleged victim reasonable continuing access to the administrative file and the ability to make copies of all evidence or documents in the file beginning at least seven business days prior to any disciplinary hearing, or sooner if otherwise specified under federal law, except that individual portions of the administrative file shall be redacted if disclosure of the evidence is required by law.
4. Ensure that all disciplinary proceedings are carried out free from conflicts of interest by ensuring that there is no commingling of administrative or adjudicative roles. For purposes of this paragraph, an institution shall be

considered to commingle such roles if any individual carries out more than one of the following roles with respect to any disciplinary proceeding:

- a. Victim counselor and victim advocate
- b. Investigator
- c. Institutional prosecutor
- d. Adjudicator
- e. Appellate adjudicator

II. Appeals

Any student or student organization that is found to be in violation of the institution's non-academic rules or policies shall be afforded an opportunity to appeal the institution's initial decision to an appellate entity that is an institutional administrator or body that did not make the initial decision. Such an appeal shall be filed within ten days after receiving final notice of the institution's decision. The right to appeal the result of the institution's disciplinary proceeding also applies to the student who is the alleged victim, if applicable. The institution may designate the appellate entity as the final institutional authority on the matter; however, nothing in this Section shall preclude a court from granting a prevailing plaintiff equitable relief.

In the appeals process, the student or student organization has the right to be represented, at the student's or the organization's expense, by the student's or the organization's attorney or non-attorney advocate.

Issues that may be raised on appeal include new evidence, contradictory evidence, and evidence that the student or student organization was not afforded due process. The institutional body considering the appeal may consider police reports, transcripts, and the outcome of any civil or criminal proceeding directly related to the appeal.

Upon consideration of the evidence, the institutional body considering the appeal may grant the appeal, deny the appeal, order a new hearing, or reduce or modify the punishment. If the appeal results in the reversal of the decision or a lessening of the sanction, the institution shall reimburse the student for any tuition and fees paid for the period of suspension, including a deferred suspension, or expulsion which had not been previously refunded, if applicable.

UL System member institutions are not required to use formal rules of evidence in disciplinary proceedings. However, they shall make good faith efforts to include relevant evidence and exclude evidence which is neither relevant nor probative.

Institutions are obligated to provide equivalent rights to a student who is the alleged victim in the disciplinary proceeding, including equivalent opportunities to have others present during an institutional disciplinary proceeding, to an unrestricted

choice of attorney or non-attorney advocate in any meeting or institutional disciplinary proceeding, if applicable.

III. Interim Measures

UL System member institutions shall have the ability to take reasonable interim measures necessary to ensure the physical safety of members of its campus communities during a timely investigation and adjudication of a student disciplinary issue including but not limited to the ability to make adjustments in student housing arrangements, impose conditions of mutual no-contact between the accused student and the alleged victim, temporarily suspend a student, or ban a student from campus. Such reasonable interim measures shall require the following:

1. Within seventy-two hours of the alleged violation being deemed an immediate threat, written notice of the interim measure that explains the institution's reasons for enacting the measures.
2. Within seven business days of the written notice as outlined in the above paragraph, unless otherwise waived by the accused student, an interim measure hearing to determine whether there is substantial evidence that the student poses a risk to the physical safety of a member of the campus community and that the interim measure is appropriate to mitigate that risk. At the hearing, both the accused student and the alleged victim shall have the right to be represented, at the student's expense, by an attorney or a non-attorney advocate who may fully participate during the hearing. An accused student's waiver of the right to an interim measure hearing shall not constitute an admission of guilt or a waiver of any additional rights provided for in this section.

Review Process:

Legal Counsel
System President
Chief Student Affairs Officers

Distribution:

University Presidents
Vice Presidents for Academic Affairs
Vice Presidents for Student Affairs