

PART XVII. STATE SYSTEM OF HIGHER EDUCATION

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CHAPTER 505. STUDENT PERSONNEL

STUDENT DISCIPLINARY DUE PROCESS REQUIREMENTS

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Authority

The provisions of this Chapter 505 issued under section 2005-A of the Public School Code of 1949 (24 P. S. § 20-2005-A), unless otherwise noted.

Source

The provisions of this Chapter 505 adopted December 6, 1985, effective December 7, 1985, 15 Pa.B. 4346, unless otherwise noted.

Notes of Decisions

Due Process

The predetermination procedures afforded a tenured school teacher, who, after being warned, continued to use punishment, did not violate due process. *Kramer v. Newman*, 840 F. Supp. 325 (E. D. Pa. 1993); affirmed 16 F.3d 404 (3rd. Cir. (Pa.) 1993).

STUDENT DISCIPLINARY DUE PROCESS REQUIREMENTS

§ 505.1. Rules and procedures.

Each university president, with trustee approval, shall create rules of student conduct and judicial procedure, consistent with this chapter which shall provide substantive rules that define with reasonable specificity disciplinary offenses, penalties or sanctions and procedural guidelines to adjudicate rules violations.

Authority

The provisions of this § 505.1 amended under section 2006-A of the Public School Code of 1949 (24 P. S. § 20-2006-A).

Source

The provisions of this § 505.1 adopted December 6, 1985, effective December 7, 1985, 15 Pa.B. 4346; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3483. Immediately preceding text appears at serial page (103807).

§ 505.2. Publication.

The university's rules shall be published and disseminated to students in student handbooks and other institutional publications.

Authority

The provisions of this § 505.2 amended under section 2006-A of the Public School Code of 1949 (24 P. S. § 20-2006-A).

Source

The provisions of this § 505.2 adopted December 6, 1985, effective December 7, 1985, 15 Pa.B. 4346; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3483. Immediately preceding text appears at serial page (103808).

§ 505.3. Procedural guarantees.

The university's rules of procedure for student disciplinary hearings shall provide students with the following procedural guarantees:

- (1) Reasonably specific advanced written notice of charges containing a description of the alleged acts of misconduct, including time, date and place of occurrence and the rules of conduct allegedly violated by the student.
- (2) Advanced written notice of the date, time and place of the hearing, unless the right is waived in writing by the student.
- (3) An opportunity for submission of written, physical and testimonial evidence and for reasonable questioning of witnesses by both parties.
- (4) A reasonably sufficient interval between the date of service of charges and the date of the hearing to allow the student to prepare a defense.
- (5) An impartial hearing body which may consist of a committee, board or individual appointed by the university president.
- (6) Maintenance of a written summary or audiotape record of the hearing at university expense, though students may be required to pay the costs of copies of requested records.
- (7) A decision based upon evidence sufficient to make a reasonable person believe that a fact sought to be proved is more likely true than not.
- (8) A written decision in which the facts and reasons are set forth with reasonable specificity which shall be issued within 30 working days after the close of proceedings.

(9) Identification by the student of an adviser, who may be an attorney, to be present at hearings. The adviser may only consult and interact privately with the student, unless the university grants the adviser permission to represent a student in a particular case.

Authority

The provisions of this § 505.3 amended under section 2006-A of the Public School Code of 1949 (24 P. S. § 20-2006-A).

Source

The provisions of this § 505.3 adopted December 6, 1985, effective December 7, 1985, 15 Pa.B. 4346; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3483. Immediately preceding text appears at serial pages (103808) to (103809).

§ 505.4. Conduct of hearings.

(a) The conduct of hearings shall be committed to the hearing body which may make all rules reasonable and necessary for the orderly and efficient disposition of cases.

(b) Hearings shall be conducted to ensure that an accused student has a fair and reasonable opportunity to answer, explain and defend against charges.

(c) The university shall have the burden of proof in all cases.

Authority

The provisions of this § 505.4 amended under section 2006-A of the Public School Code of 1949 (24 P. S. § 20-2006-A).

Source

The provisions of this § 505.4 adopted December 6, 1985, effective December 7, 1985, 15 Pa.B. 4346; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3483. Immediately preceding text appears at serial page (103809).

§ 505.5. Informal hearings.

Cases not involving the sanctions of expulsion or suspension may be heard informally, as specified by university procedures, with notice and the opportunity to be heard afforded students.

Authority

The provisions of this § 505.5 amended under section 2006-A of the Public School Code of 1949 (24 P. S. § 20-2006-A).

Source

The provisions of this § 505.5 adopted December 6, 1985, effective December 7, 1985, 15 Pa.B. 4346; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3483. Immediately preceding text appears at serial page (103809).

§ 505.6. Use of evidence.

The university is not bound by formal rules of evidence; however, evidence shall be inherently reliable.

(1) Hearsay evidence may not be used to establish a fact necessary to establish guilt or innocence in a case.

(2) A student's previous disciplinary record may not be used to prove the student's guilt in a current case but may be used to establish reputation or habit if relevant. The hearing body may consider a student's previous disciplinary record, if the student is found guilty of violating the rules of conduct, to determine the appropriate disciplinary penalty or sanction.

Authority

The provisions of this § 505.6 amended under section 2006-A of the Public School Code of 1949 (24 P. S. § 20-2006-A).

Source

The provisions of this § 505.6 adopted December 6, 1985, effective December 7, 1985, 15 Pa.B. 4346; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3483. Immediately preceding text appears at serial pages (103809) to (103810).

§ 505.7. Waivers.

A student, through a written statement, may waive the right to a hearing.

Authority

The provisions of this § 505.7 amended under section 2006-A of the Public School Code of 1949 (24 P. S. § 20-2006-A).

Source

The provisions of this § 505.7 adopted December 6, 1985, effective December 7, 1985, 15 Pa.B. 4346; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3483. Immediately preceding text appears at serial page (103810).

§ 505.8. Appeals.

The allowance of appeals shall be discretionary with the president of the university or a designee.

Authority

The provisions of this § 505.8 amended under section 2006-A of the Public School Code of 1949 (24 P. S. § 20-2006-A).

Source

The provisions of this § 505.8 adopted December 6, 1985, effective December 7, 1985, 15 Pa.B. 4346; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3483. Immediately preceding text appears at serial page (103810).

§ 505.9. Interim suspensions.

The president or a designee may suspend a student from the university, including the student's privilege to enter a university facility or property pending the final disposition of the student's case if it is determined the student's continued presence constitutes an immediate threat of harm to the student, other students, university personnel or university property. If a student is suspended under these conditions, a hearing shall be convened within 10 working days, unless extenuating circumstances warrant an extension, in which case a hearing shall be provided at the earliest possible date.

Authority

The provisions of this § 505.9 amended under section 2006-A of the Public School Code of 1949 (24 P. S. § 20-2006-A).

Source

The provisions of this § 505.9 adopted December 6, 1985, effective December 7, 1985, 15 Pa.B. 4346; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3483. Immediately preceding text appears at serial page (103810).

§ 505.10. Maintenance of status.

Unless an interim suspension is imposed, as provided in this chapter, a student shall continue matriculation until the student's case is fully adjudicated through university procedures.

Authority

The provisions of this § 505.10 amended under section 2006-A of the Public School Code of 1949 (24 P. S. § 20-2006-A).

Source

The provisions of this § 505.10 adopted December 6, 1985, effective December 7, 1985, 15 Pa.B. 4346; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3483. Immediately preceding text appears at serial page (103810).

§ 505.11. Retention of hearing records.

The university shall retain records of cases involving expulsions or suspensions for a minimum of 2 years from the date of final adjudication. The university may retain hearing records for a longer period of time in accordance with its policy.

Authority

The provisions of this § 505.11 amended under section 2006-A of the Public School Code of 1949 (24 P. S. § 20-2006-A).

Source

The provisions of this § 505.11 adopted December 6, 1985, effective December 7, 1985, 15 Pa.B. 4346; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3483. Immediately preceding text appears at serial page (103810).

§ 505.12. Enforcement.

A university may withhold transcripts, grades, diplomas or other official records pending the disposition of cases if the action is reasonably necessary to preserve the university's ability to enforce its disciplinary rules.

Source

The provisions of this § 505.12 adopted December 6, 1985, effective December 7, 1985, 15 Pa.B. 4346.

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