STUDENT DISCIPLINARY HEARING AND APPEALS PROCEDURES

A. Purpose

The purpose of this policy is to provide procedures to be followed where student disciplinary action may be taken.

B. Authority

The dean of students shall have primary authority and responsibility for the administration of student discipline at The University of Texas-Pan American.

C. Investigation

It shall be the duty of the dean, or his or her designee, to investigate allegations that a student has engaged in conduct that violates The University of Texas System Board of Regents' *Rules and Regulations*, the rules and regulations of the University or the U.T. System, specific instructions issued by an administrative official of the University or the U.T. System in the course of his or her authorized duties, or any provisions of federal, state, and/or local laws. After completing a preliminary investigation, if the dean, or his or her designee, determines that such allegations are supported by the evidence, he or she may proceed with the disciplinary process, notwithstanding any action taken by other authorities.

D. Summons

A student may be summoned by written request of the dean, or his or her designee, for a meeting to discuss the allegations. The written request shall specify a place for the meeting and a time at least three (3) weekdays after the date of the written request. The written request may be mailed to the address appearing in the records of the registrar or may be hand delivered to the student. If a student fails to appear without good cause as determined by the dean, or his or her designee, the dean, or his or her designee, may bar or cancel the student's enrollment or otherwise alter the status of the student until the student complies with the summons, or the dean, or his or her designee, may proceed to implement the disciplinary process. The refusal of a student to accept delivery of the notice or the failure to maintain a current address with the registrar shall not be good cause for the failure to respond to a summons.

E. Interim Disciplinary Action

Pending a hearing or other disposition of the allegations against a student, the dean, or his or her designee, may take such immediate interim disciplinary action as is appropriate to the circumstances, including: (a) suspension and bar from the campus when it reasonably appears to the dean or his or her designee from the circumstances that the continuing presence of the student poses a potential danger to persons or property or a potential threat

for disrupting any activity authorized by the University; or (b) the withholding of grades, degree, or official transcript when such action is in the best interest of the University.

When interim disciplinary action has been taken by the dean, or his or her designee, under this subsection, a hearing of the charges against the student will be held under the procedures specified in Subsection G within ten (10) days after the interim disciplinary action was taken unless the student agrees in writing to a hearing at a later time or unless the student waives a hearing and accepts the decision of the dean, or his or her designee, in accordance with Subsection F. When the dean, or his or her designee, determines that the administrative process or hearing process and any ensuing appeal will not be completed before the end of a semester or summer session, appropriate action may be taken to withhold the student's grades or degree pending final disposition of the disciplinary action.

F. Administrative Disposition of Charges

In any case where the accused student does not dispute the facts upon which the charges are based and executes a written waiver of the hearing procedures specified in Subsection G, the dean, or his or her designee, shall assess one or more of the penalties specified in Subsection H that is appropriate to the charges and inform the student of such action in writing. The minimum penalty that may be assessed when a student admits illegal use, possession, and/or sale of a drug or narcotic on campus is the penalty prescribed in Section 5.5.2 of the *Handbook of Operating Procedures*, Subsection C.5. The decision of the dean, or his or her designee, on penalty only may be appealed to the President.

G. Hearing Process

1. In those cases in which the accused student disputes the facts upon which the charges are based, such charges shall be heard and determined by a fair and impartial Hearing Officer. The Hearing Officer shall be selected by the President or his or her designee from a pool of Hearing Officers appointed by the President of the University.

2. Except in those cases where immediate interim disciplinary action has been taken, the accused student shall be given at least ten (10) days written notice of the date, time, and place for such hearing and the name of the Hearing Officer. The notice shall include a statement of the charge(s) and a summary statement of the evidence supporting such charge(s). The notice shall be delivered in person to the student or mailed to the student at the address appearing in the registrar's records. A notice sent by mail will be considered to have been received on the third day after the date of mailing, excluding any intervening Sunday. The date for a hearing may be postponed by the Hearing Officer for good cause or by agreement of the student and dean, or his or her designee. A request for postponement must be in writing, must state the reason for the postponement, and must be delivered to the Hearing Officer through the Office of the

Dean, at least three (3) days prior to the date for the hearing. If the student fails to appear for the hearing, the hearing may be held in his or her absence.

3. The accused student may challenge the impartiality of the Hearing Officer. The challenge must be in writing, state the reasons for the challenge, and be submitted to the Hearing Officer through the Office of the dean at least three (3) days prior to the hearing. The Hearing Officer shall be the sole judge of whether he or she can serve with fairness and objectivity. In the event the Hearing Officer disqualifies himself or herself, a substitute will be appointed by the President.

4. Upon a hearing of the charges, the dean, or his or her designee, has the burden of going forward with the evidence and has the burden of proving the charges by the greater weight of the credible evidence.

5. To avoid issues concerning invasion of the accused student's right of privacy and the unauthorized disclosure of information from student records protected by the federal *Family Educational Rights and Privacy Act* of 1974, the hearing should be closed to everyone except the dean (or his or her designee), the accused student, the advisor (if any) of the dean and the advisor (if any) of the accused student, the Hearing Officer, witnesses while giving testimony, and the person making the record of the hearing. Because witnesses should testify from personal knowledge and without regard to what other witnesses may say, no potential witnesses, other than the dean (or his or her designee) and the accused student may be present in the hearing room until called to give testimony.

6. The Hearing Officer is responsible for conducting the hearing in an orderly manner and controlling the conduct of the witnesses and participants in the hearing. The Hearing Officer shall rule on all procedural matters and on objections regarding exhibits and testimony of witnesses, may question witnesses, and is entitled to have the advice and assistance of legal counsel from the Office of General Counsel of the U.T. System. The Hearing Officer shall render and send to the dean, or his or her designee, and the accused student a written decision that contains findings of fact and a conclusion as to the guilt or innocence of the accused student. Upon a conclusion of guilt, the Hearing Officer shall assess a penalty or penalties specified in Subsection H. Guilt of the illegal use, possession, or sale of a drug or narcotic on campus requires the assessment of a minimum penalty provided in Section 5.5.2 of the *Handbook of Operating Procedures*, Subsection C.5.

7. The dean, or his or her designee, and the accused student shall be assured the following rights:

STUDENT DISCIPLINARY HEARING AND APPEALS PROCEDURES

a. Each party shall provide the other party a list of witnesses, a brief summary of the testimony to be given by each, and a copy of documents to be introduced at the hearing at least five (5) days prior to the hearing.

b. Each party shall have the right to appear, present testimony of witnesses and documentary evidence, cross-examine witnesses and be assisted by an advisor of choice. The advisor may be an attorney. If the accused student's advisor is an attorney, the advisor of the dean, or his or her designee, may be an attorney from the Office of General Counsel of the U.T. System. An advisor may confer with and advise the dean, or his or her designee, or accused student but shall not be permitted to question witnesses, introduce evidence, make objections, give testimony as a witness, or present argument to the Hearing Officer.

c. The dean, or his or her designee, may recommend a penalty to be assessed by the Hearing Officer. The recommendation may be based upon past practice of the institution for violations of a similar nature, the past disciplinary record of the student, or other factors deemed relevant by the dean, or his or her designee. The accused student shall be entitled to respond to the recommendation of the dean, or his or her designee.

d. The hearing will be recorded. If either party desires to appeal the decision of the Hearing Officer, the official record will consist of the recording of the hearing, the documents received in evidence, and the decision of the Hearing Officer. If, at the request of the President, the University transcribes the recording of the hearing, the accused student and the dean, or his or her designee, will be furnished a copy of such transcript.

8. The hearing shall proceed generally as follows:

   a. The dean, or his or her designee, reads the statement of charges and introduces the notice letter as evidence;

   b. The dean presents evidence in support of the charges;

   c. The accused student presents his or her defense;

   d. The dean and the accused student present rebuttal evidence;

   e. The dean, or his or her designee, makes a closing argument, summarizing the evidence and recommending a penalty (to be imposed in the event the Hearing Officer finds the accused student guilty of the charges);

f. The accused student makes a closing argument, summarizing the evidence and responding to the recommendations regarding penalty;

g. The dean, or his or her designee, makes a final argument;

h. The Hearing Officer adjourns the hearing, deliberates, makes findings of fact, and decides the issue of guilt or innocence and assesses an appropriate penalty or penalties in the event of a finding of guilt;

i. The Hearing Officer informs the dean or his or her designee and the accused student in writing of the decision and the penalty, if any.

H. Disciplinary Penalties

One or more of the following penalties, as appropriate for the circumstances, may be assessed by the dean, or his or her designee, pursuant to Subsection F or by the Hearing Officer after a hearing in accordance with the procedures specified in Subsection G:

1. Oral or written reprimand may be issued in cases of minor infractions. This penalty may be assessed only by the dean, or his or her designee, pursuant to Subsection F.

2. Disciplinary probation. A specified period of time during which the student is required to comply with specified terms and conditions that include not engaging in further conduct that violates the Regents' *Rules and Regulations* or the University rules and regulations. The penalty or penalties that will be imposed for failure to comply with the terms and conditions will be stated. The length of the period of probation and the terms and conditions will depend upon the nature of the conduct for which the probation may be imposed. Disciplinary probation may be imposed in conjunction with other penalties for scholastic dishonesty, but may not be the sole penalty for scholastic dishonesty.

3. Withholding of grades, official transcript, and/or degree. This penalty may be imposed for academic dishonesty, as appropriate to the circumstances.

4. Bar against readmission. The bar will be imposed for a specified period of time or until certain conditions are met and will be removed at the expiration of that period or when such conditions are met.

5. Restitution or reimbursement for damage to or misappropriation of University or U.T. System property. A student is required to reimburse the University for actual loss that results from damage to or unauthorized taking or use of property owned or leased by the University or U.T. System when the conduct of the student has caused or contributed to cause such loss. The notice imposing the penalty will advise the student of the amount

of the loss and that failure to make restitution by a specified date will result in suspension from the University until such time as restitution shall have been made. Restitution also may apply to the property of others.

6. Suspension of rights and privileges. This means that a student shall not be eligible to participate in official events or activities of the University, including athletic events, shall not join a registered student organization or participate in any meeting or activities of a registered student organization of which he or she may already be a member, and shall not be appointed or elected to or continue to function in any office or position within student government or official student publications. Students also may be barred from entering specified buildings and/or restricted from using particular facilities. This penalty may be imposed in part or in full as appropriate to the circumstances.

7. Failing grade for an examination or assignment or for a course and/or cancellation of all or any portion of prior course credit. All or any portion of these penalties may be imposed when a student is found guilty of scholastic dishonesty.

8. Denial of degree. A student found guilty of scholastic dishonesty may be denied a degree.

9. Suspension from the University for a specified period of time. During the period of suspension, the former student is prohibited from entering the University campus or the campus of any U.T. System component institution without prior written approval from the dean of Students of the component institution at which the student wishes to be present; from being initiated into an honorary or service organization; and from receiving credit at the University for scholastic work done at another institution during the period of the suspension. Any special conditions outlined in the suspension notice must be met before readmission can be granted.

10. Expulsion (permanent separation from the institution). Expulsion requires the permanent imposition of the same prohibitions as for suspension. The penalty may also include denial of a degree when appropriate.

11. Revocation of degree and withdrawal of diploma. This action may be imposed when a former student engaged in scholastic dishonesty with regard to any of the academic work required for the degree of that individual or the degree of another individual.

12. Other penalty as deemed appropriate under the circumstances.

I. <u>Appeal Procedures</u>

STUDENT DISCIPLINARY HEARING AND APPEALS PROCEDURES

A student may appeal a disciplinary penalty assessed by the dean, or his or her designee, pursuant to Subsection F. Either the dean, or his or her designee, or the student may appeal the decision of the Hearing Officer after a hearing under Subsection G. An appeal shall be in accordance with the following procedures:

1. Written notice of appeal must be delivered to the President of the University within fourteen (14) days after the appealing party has been notified of the penalty assessed by the dean, or his or designee, or the decision of the Hearing Officer. If the notice of penalty assessed by the dean, or his or her designee, or the decision of the Hearing Officer is sent by mail, the date the notice or decision is mailed initiates the fourteen (14) day period for giving notice of appeal to the President. An appeal of the penalty assessed pursuant to Subsection F will be reviewed solely on the basis of the written argument of the student and the dean, or his or her designee.

   The appeal of the decision of the Hearing Officer will be reviewed solely on the basis of the record from the hearing. The record from the hearing shall consist of the recording of the hearing, the documents admitted in evidence, and the written decision of the Hearing Officer. The dean or his or her designee shall be responsible for filing the record from the hearing with the President. In order for the appeal to be considered, all the necessary documentation to be filed by the appealing party, including written argument, must be filed with the President within fourteen (14) days after notice of appeal is given. Both parties may, at the discretion of the President, present oral argument in an appeal of the decision of the Hearing Officer. The President may request that the recording of the hearing be transcribed. A copy of the transcription shall be provided to the dean and the student.

2. The President may approve, reject, or modify the decision in question, or may require that the hearing be reopened for the presentation of additional evidence and reconsideration of the decision. If the President upholds the finding of guilt in a case involving the illegal use, possession, and/or sale of a drug or narcotic on campus, the penalty may not be reduced below the minimum penalty prescribed by Section 5.5.2 of the *Handbook of Operating Procedures*, Subsection C.5.

3. The President shall communicate his or her decision to the accused student and the dean in writing within thirty (30) days after the appeal and related documents have been received. **THE DECISION OF THE PRESIDENT IS THE FINAL APPELLATE REVIEW.**

4. Notice of appeal timely given by a student appellant suspends the imposition of penalty until the appeal is finally decided, but interim action appropriate to the circumstances may be taken pending final disposition of the appeal. Such action may include bar from

University buildings, facilities, and property, the withholding of grades, degrees, or official transcripts.

J. Disciplinary Records

1. The hearing record, notice of appeal, all documentation, including written arguments, that contain information that makes the student identifiable shall not be subject to disclosure except upon request of the student or in accordance with applicable state or federal laws or court order or subpoena.

2. The University shall maintain a permanent written disciplinary record for every student assessed a penalty of suspension, expulsion, denial or revocation of degree and/or withdrawal of diploma. A record of scholastic dishonesty shall be maintained for at least five (5) years unless the record is permanent in conjunction with the above stated penalties. The disciplinary record of other penalties shall be maintained for such period as determined by the dean.

   A disciplinary record shall reflect the name of the student involved, the nature of the charge, the disposition of the charge, the penalty assessed, and such other information as may be deemed pertinent. This disciplinary record shall be maintained separately from the student's academic record, shall be treated as confidential, and shall not be accessible to or used by anyone other than the dean, except upon written authorization of the student or in accordance with applicable state or federal laws or court order or subpoena.

K. Notification of the Registrar

1. The dean of students shall notify the registrar when one of the following penalties is assessed in a disciplinary case:

   a. Withholding of grades, official transcript, or degree;

   b. Bar against readmission;

   c. Drop from enrollment;

   d. Failing grade;

   e. Denial of degree;

   f. Suspension from the University;

g. Expulsion from the University;

h. Revocation of degree and withdrawal of diploma.

2. The registrar shall make such entries upon or corrections to the academic record as required to comply with the assessed penalty, but shall make no permanent notation upon the academic record to indicate that any disciplinary action has been taken.

L. <u>Review</u>

This policy shall be reviewed every five years by the dean of students or as needed.