APPEAL OF STUDENT DISCIPLINARY ACTION

I. PURPOSE

This regulation provides procedures for students to appeal a disciplinary action or decision applied to them for alleged violation of college policy, rule, regulation, or standard of behavior other than academic in nature. Appeals of academic decision are described in College Regulation 663.

II. LEGAL REFERENCE

Not applicable

III. POLICY

A. Wharton County Junior College provides students with a procedure for the review of disciplinary actions that they contend have been made unfairly, arbitrarily, capriciously, illegally, or on the basis of bias or prejudice, or have been made in error (that is, the student claims innocence).

B. To preserve the right of appeal, each step in the appeal procedure must be followed within prescribed time limits unless such time limits are extended for good cause by the Vice President of Student Services.

C. Students may initiate a formal appeal only if the claim involves an allegation that the disciplinary action was a result of one or more of the following:

1. a practice or policy at variance with accepted college practice or policy;

2. illegal conduct or discrimination with respect to application of disciplinary measures;

3. allegations of guilt not supported by substantial evidence or an error in assigning guilt (that is, the student asserts he or she is not guilty of the act or acts in reaction to which the disciplinary action was applied);

4. inconsistent, capricious, or arbitrary application of policy, rules, regulations, or standards within the student population;

(POLICY APPROVAL: 4-19-95, Board of Trustees, amended 1-15-08, amended 6-24-14)

IV. PROCEDURES

A. Step One: Meeting with Respondent(s)

1. The student ("claimant" or "appellant") meets with the person or persons responsible for the disciplinary decision (the respondent or respondents) to discuss the issue in question. If the respondent is the Vice-President for Student Services this step may be skipped and the student begins the process with Step # 2.

2. This step may not be skipped unless the respondent is unable to meet with the student. In such a case, at the college’s option the student may start with Step Two.

3. Step One must be completed within seven calendar days of the decision date. This date is the date shown on any letter or other written communication advising the student of the disciplinary
decision in question.

4. **Possible Outcomes**
   
a. The student may find the decision to be correct and take no further action.

b. The respondent may find that an error has been made and take the appropriate corrective action.

c. The student may still disagree with the Step One decision and proceed to Step Two.

B. **Step Two:** Appeal to the Vice President of Student Services

1. The student meets with the Vice President of Student Services (VPSS) to discuss disciplinary actions. The student will need to present to the Vice President, the reasons that the disciplinary action was unfair, arbitrary, capricious, illegal, or made on the basis of bias or prejudice, or have been made in error in writing. If the respondent is the VPSS, the student will meet with the Vice President of Instruction (VP/I).

2. This step may not be skipped.

3. Step Two must be initiated within five calendar days of the completion of Step One, and must be completed within fifteen calendar days of the date of initiation.

4. **Possible Outcomes**
   
a. The student may accept the decision and take no further action.

b. The VPSS may sustain the decision and may inform the student that the appeal is not timely, is without merit, or does not meet the appeal criteria set forth within the appeal policy. The VPSS must provide written notification of his or her finding to all parties in the appeal. If the student disagrees with this decision, he or she may proceed to the next step.

c. If the VPSS determines that the student has a legitimate question or complaint and cannot sustain the decision, he or she meets with both the complainant and the respondent to seek a resolution. If resolution cannot be reached, the VPSS refers the matter to the College Hearing Board.

d. If the respondent is no longer employed by the College, the VPSS makes a decision based on available evidence. If the student disagrees with the action of the VPSS he or she proceeds to Step Three.

C. **Step Three:** Review by the College Hearing Board

1. Within ten calendar days of the decision under appeal (made in Step Two), the student submits to the President of the College a written request to have the case heard by the College Hearing Board. The written request contains a specific point by point outline, made by the student, detailing the reasons that the disciplinary action under appeal was unfair, arbitrary, capricious, illegal, or made on the basis of bias or prejudice, or have been made in error. The President of the College or designee convenes the College Hearing Board and provides board members with all written evidence submitted by the parties to the appeal.

2. The College Hearing Board meets and reviews the appeal and renders a decision within five calendar days of the date the board is first convened.
3. **Possible Outcomes**

   a. The College Hearing Board may sustain the original decision and deny the appeal.

   b. The College Hearing Board may grant the appeal and overturn or modify the original decision.

   c. The decision of the College Hearing Board is final subject to appeal to the President and Board of Trustees.

D. **Step Four: Appeal to President and the Board of Trustees**

   1. Within five calendar days of the completion of Step Three either party to the complaint may appeal the decision of the College Hearing Board by submitting a written statement to the President of the College requesting that the President review the case and forward the case to the Board of Trustees for review.

   2. The written appeal must contain a description of the College Hearing Board's decision, must explain why that decision is considered unjustified, and must state what action is being requested in place of that decision.

3. **Possible Outcomes**

   a. The President may inform the requesting party (in writing) that his or her challenge of the College Hearing Board's decision is without merit and that the President supports the recommendation of the College Hearing Board.

   b. The President may find that sufficient basis exists to question the recommendation of the College Hearing Board and return the case to the College Hearing Board and reconsider the case. In this event, the President describes in writing the basis upon which he or she judges that reconsideration is warranted. The College Hearing Board then proceeds as described in Step Three.

   c. The President may judge that the case warrants consideration by the Board of Trustees and places it on the agenda for the next scheduled Board meeting. He or she notifies the appellant(s) and respondent(s) of the date, time, and place of the Board meeting.

   d. The decision of the President to forward or not to forward the case to the Board of Trustees is final.

E. **Step Five: Review by the Board of Trustees**

   1. If the President of the College decides that sufficient justification exists for the Board of Trustees to review the case, he or she presents the case to the Board during its closed executive session at the next regularly scheduled Board meeting.

   2. The Board's consideration of the case is based on the written record of the case developed to this point. No new evidence that has not been part of the case prior to the Board hearing is submitted to, or reviewed by, the Board.

   3. Parties to the appeal may attend the executive session and make oral presentations to the Board regarding the case unless so requested by the Board, subject to time limitations established by the Board.
4. At the conclusion of executive session, when the Board reconvenes in public session, the chair announces the decision of the Board. That decision is final and not subject to appeal.

5. *Possible Outcomes*
   a. The Board of Trustees may support and affirm as is the recommendation of the College Hearing Board.
   b. The Board of Trustees may overturn, reverse, or otherwise modify the recommendation of the College Hearing Board.

F. Composition of the College Hearing Board

1. *Chair.* For appeals of disciplinary decisions, the VPSS or designee serves as chair of the College Hearing Board. The function of the VPSS is to assure procedural correctness, impartiality, and to pass judgment on the admissibility of information presented. The VPSS may not vote on any cases except to break a tie, nor may the VPSS be present during voting.

2. *Members.* For appeals of disciplinary decisions, the College Hearing Board consists of the following categories of eight members: four full-time faculty members, two students, and two staff members (one administrative staff member and one support staff member).

G. Selection of Board Membership

1. Each academic year, the *total* membership of the College Hearing Board is determined in the following manner:
   a. the Vice President of Instruction appoints eight faculty members,
   b. the Vice President of Student Services appoints six students (who have completed at least one semester of enrollment at WCJC) who are in good academic standing,
   c. the Vice President of Student Services and the Vice President of Instruction jointly appoint six staff members (three administrative, including at least one counselor, and three support).
   d. The Vice Presidents may remove any of his or her appointees at any time and replace the removed person.
   e. The College Hearing Board may remove any member for cause by a vote of two-thirds of the total membership.
   f. No employee of the college (faculty or staff member) may refuse to serve on the College Hearing Board. An employee, however, may petition to be excused by the President.

2. The eight members who serve to hear any particular case of appeal of disciplinary action are selected as follows:
   a. The VPSS gives a roster of full board membership to the person requesting the hearing, who then has 24 hours to strike from the list one faculty member, one student, and one staff member.
   b. The VPSS gives a roster of full board membership to the respondent in the hearing, who then has 24 hours to strike from the list one faculty member, one student, and one
c. After consultation with the Vice President of Student Services (unless the VPSS is the respondent), the VP/I then appoints the eight members of the board to hear the case from those who remain on the list after both the complainant and the respondent have stricken names.

H. Duties of the Chair

1. Sets the time, location, and any special conditions for the conduct of the hearing; and provides written notification to all participants of same.

2. Provides both claimant(s) and respondent(s) with information about procedures by supplying each with a copy of this regulation.

3. Rules on the admissibility of information presented and the relevance of documents and witnesses.

4. Assures that hearings are conducted in a timely, efficient, decorous, impartial manner and in procedural compliance with all specifications of this regulation.

5. Keeps a written record of all proceedings.

6. Notifies all relevant parties of the results of hearings in writing.

I. Pre-Hearing Procedures

1. Board members are responsible for reading all materials relevant to the case prior to the first meeting of the hearing.

2. All principals must file with the chair a written statement of their positions, copies of any reports or other materials they wish to be considered, the names of any witnesses they wish to be called, and the name of their chosen advisor, if any (see below).

3. Parties to the hearing are permitted legal counsel or an advisor at the hearing. Advisors' participation is limited to giving advice to principals; advisors may not address the board directly or otherwise participate in proceedings unless invited to do so by the chair and the members of the board.

J. Conduct of Hearings

1. Hearings are limited to the principals in the case (claimants and respondents), participating members of the board, witnesses, advisors to the principals, and the chair (except during voting, when the chair may not be present).

2. The chair convenes the meeting, introduces all participants, and explains voting privileges.

3. The chair describes the nature of the appeal and explains the board's procedures.

4. The appellant presents his or her case first and is permitted a maximum of 15 minutes in which to do so.

5. The respondent is allowed a maximum of 15 minutes to present his or her case.

6. The board may then ask questions and engage in discussion with the principals, during which time any party wishing to call a witness may do so.
7. Following this period of questioning, discussion, and testimony, the chair asks both the respondent and the appellant if they wish to make any rebuttal statements. If so, they are given a maximum of five minutes each to speak on their behalf.

8. If the board has no further questions for the principals, their witnesses, and their advisors at the end of the closing statements, these persons are excused.

9. The board discusses the case until it reaches a point in its deliberation when the members are ready to take a vote. At this point, the chair designates one board member to coordinate the voting. The chair then leaves the room.

10. The board votes (by voice), recalls the chair, and informs him or her of the decision of the board and provides for the record an explanation of the bases upon which that decision was made. In the event of deadlock, the chair breaks the tie by casting the deciding vote. Otherwise, the chair is not permitted a vote.

11. Appellant(s) and respondent(s) are then recalled and informed of the board's decision. Within three calendar days, the chair also provides both parties with written notification of the decision. (If the principals are not available to be recalled in person, they are notified in writing only.)

Details on the conduct of disciplinary hearings are contained in College Regulation 665, Discipline Hearings.

V. GUIDELINES

A. This regulation applies to appeals of disciplinary actions or decisions. Appeals of academic decisions are described in Regulation 663, Appeal of Academic Decisions. This regulation does not apply to grievances filed by students concerning discrimination or harassment or other allegations of misconduct. (See Reg 591, Student Grievances.) Records of disciplinary actions, decisions, and all steps within the appeal process will be maintained in the Office of Student Services.

B. Verbatim transcripts of a hearing may be made only with the agreement of both the claimant and respondent. The College is not responsible for making transcripts. Tape recordings of all hearings will be made by the College. Tape recordings will be maintained in the Office of Student Services.

C. All information is kept in strict confidence throughout all steps in an appeal, with only those college officials having a right or a reason to know being advised or consulted about an appeal or being allowed to attend a hearing.

D. The VP/I is responsible for insuring that this regulation is administered properly and for resolving any procedural issues that may arise.

E. Due to unusual circumstances, students may request a delay in the implementation of a disciplinary decision while their appeal is pending. Such requests are made to the VPSS and are accompanied by a full written appeal as outlined in Step Three. The VPSS exercises judgment in areas where the health, safety, welfare, or rights of others are involved or where a delay in implementation would have an adverse effect on students' education or where the college's legal and contractual rights and responsibilities may be affected.

F. A copy of this regulation is made available to any student who requests it.

G. This regulation does not apply to appeals of decisions concerning college policies such as academic suspension or probation, readmission, and disciplinary action. These other topics are covered by separate regulations.

H. Summary of Deadlines
<table>
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<tr>
<th>ACTION</th>
<th>DEADLINE</th>
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<tbody>
<tr>
<td>Step One</td>
<td>Must be completed within 7 calendar days of date of original decision.</td>
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<tr>
<td>Step Two</td>
<td>Must be initiated within 5 calendar days of completion of Step One; and must be completed within 5 calendar days of initiation.</td>
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<tr>
<td>Step Three</td>
<td>College Hearing Board must be convened within 10 calendar days of completion of Step Two; and board must complete deliberations within 5 calendar days after being convened.</td>
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<tr>
<td>Step Four</td>
<td>Must be initiated within 5 calendar days of completion of Step Three; and must be completed within 10 calendar days of initiation.</td>
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<tr>
<td>Step Five</td>
<td>Must be undertaken at the next available regular meeting of the Board of Trustees.</td>
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**Note:** The above deadlines may be adjusted and expanded to account for summer, winter, and spring breaks when faculty and students are absent from campus, or by written agreement of the parties.

JC/FRV/FRV  
4-19-95  
TP/BAM  
1-15-08  
DL/BAM  
6-24-14