

**ADMINISTRATIVE REVIEW AND
GRIEVANCE PROCEDURES
FOR AUC STUDENTS**

(effective date: 2 May 2006)



American University of the Caribbean

School of Medicine

St. Maarten Campus

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VAN WORMER JUDICIARY COMMITTEE

Role of the Van Wormer Judiciary Committee

- 1.1 The American University of the Caribbean (“AUC”) has established an Honor Code, which is intended to set a professional standard of conduct for all medical students. The Honor Code was developed jointly by Faculty, Students and Administration. As future professionals, all students are expected to meet the standards set out in the Honor Code.
- 1.2 The Honor Code is published in AUC’s catalogue, website and Student Handbook, which is distributed to new students on registration and is available to any student on request from the Registrar’s office or the Student Government Association.
- 1.3 For the purposes of disciplinary proceedings, the Van Wormer Judiciary Council is an optional initial forum for mediating considering any student-to-student allegations of misconduct of a non-academic nature, and occurring on or off campus **except** allegations of sexual harassment. Students may, but are not required to, bring a matter to the attention of the Van Wormer Judiciary Council prior to making a Complaint for the purpose of initiating an Administrative Review.
- 1.4 If such a matter is brought before the Van Wormer Judiciary Council, it is authorized by AUC to initiate a non-binding mediation of the issues arising between the parties in accordance with processes that it may adopt from time to time.
- 1.5 Any party remaining unsatisfied after a Van Wormer Judiciary Council mediation may invoke a formal Administrative Review in accordance with these procedures. Alternatively, the Van Wormer Judiciary Council may recommend that the matter be referred for a formal Administrative Review without conducting a mediation.

PROCEDURES FOR ADMINISTRATIVE REVIEW

Administrative Review

- 2.1 A student, faculty member or administrator who wishes to invoke the Administrative Review procedure in relation to a student must first make a formal complaint as described in Clause 3 to the administrative reviewer (“the Reviewer”) identified in Clause 2.2, within 180 Semester Days from the day the basis of the complaint arose or that the conduct leading to the complaint was discovered. (A “Semester Day” is a day that classes are in session at AUC’s St. Maarten campus.)
- 2.2 The appropriate Reviewer to be approached will depend on:
- 2.2.1 who is making the complaint;
 - 2.2.2 whether the alleged conduct occurred at the St. Maarten campus or a clinical hospital site; and
 - 2.2.3 whether the complaint involves academic or non-academic conduct.

St. Maarten Campus

2.3 Academic Complaint:

- 2.3.1 A complaint by a student or faculty member of an academic nature against a student should be addressed to the Basic Medical Sciences Dean (the “Dean”) or his designee.
- 2.3.2 A complaint made by the Dean against a student on academic grounds should be addressed to the Chief Academic Officer (“CAO”) or his designee.

2.4 Non-academic Complaint:

- 2.4.1 A student who wishes to make a complaint of a non-academic nature against a student should first discuss the matter with the Associate Dean for Student Affairs (“ADSA”) to determine whether it may be resolved by non-binding mediation through the Van Wormer Judiciary Council, if that venue is available according to clause 1. Thereafter, or if Van Wormer Judiciary Council is not an available forum, a formal complaint should be made to the ADSA.
- 2.4.2 A complaint made by a faculty member against a student on non-academic grounds should be addressed to the ADSA.

2.4.3 A complaint made by the ADSA against a student on non-academic grounds should be addressed to the Dean or his designee.

2.4.4 A complaint made by the Dean against a student on non-academic grounds should be addressed to the CAO or his designee.

Clinical Science Clerkships

2.5 A complaint made either by a student or faculty member about academic or non-academic conduct on the part of a student on clinical rotations should be directed to the Hospital Site Director of the hospital where the conduct occurred.

2.6 A complaint made by a Hospital Site Director about academic or non-academic conduct on the part of a student on clinical rotations should be directed to the appropriate Clinical Dean, being either the Clinical Dean for the U.S.A or for Europe.

2.7 A complaint made by a Clinical Dean about academic or non-academic conduct on the part of a student on clinical rotations should be directed to the CAO.

Requisites for Complaint

3.1 The Administrative Review procedure requires that a complainant provide a signed, written statement, which sets out the facts alleged and affirms that he or she wishes to invoke the Administrative Review process (“a Complaint”). No anonymous or unsigned statement will constitute the basis for an Administrative Review.

3.1.1 An approved Complaint form is attached as Appendix “A”.

3.1.2 If three or more signed Complaints are received concerning the same student but the original complainants did not choose to invoke the Administrative Review procedure, their Complaints may be referred to the Dean or appropriate Clinical Dean, who may elect to make his or her own Complaint based on corroborated allegations set out in the original Complaints, and thereby invoke the Administrative Review procedure.

3.2 Once a Reviewer receives a Complaint, he or she will promptly:

3.2.1 inform the person accused about the nature of the allegations;

3.2.2 provide the name(s) of complaining party/ies to the accused, along with a warning not to engage in any behavior towards the complainant(s) that could in any way be construed as retaliatory, if retaliation is considered to be a risk; and

3.2.3 notify the General Counsel of the Complaint.

Administrative Responsibility

- 4.1 Under these procedures, the Reviewer conducts an investigation of the Complaint and determines appropriate corrective action if he or she determines that the findings of the investigation so warrant. In addition, if deemed advisable by the Reviewer, he or she may appoint an *ad hoc* committee to conduct the investigation and review. Members of the Van Wormer Judiciary Council may be appointed to such a committee.
- 4.2 Responsibility for implementing this Policy falls upon University administrators, and a timely and appropriate response is required. For an Administrative Review, the University considers a timely response to be 30 Semester Days from receipt of a Complaint through submission of a Final Report as described in Clause 6.4 **unless** the Reviewer requires additional time to investigate the claim, wishes to take into account the outcome of third-party proceedings, or has other good reason to extend the review process.
- 4.3 Exigent circumstances involving personal safety or other considerations such as preservation of academic integrity may require the Reviewer to implement interim measures (such as suspension) pending investigation of the Complaint and completion of the Administrative Review.

Reviewing the Complaint

- 5.1 In determining whether the Complaint constitutes sufficient grounds for disciplinary action and what, if any, corrective action should be taken, a Reviewer must consider the record as a whole, as well as the totality of the circumstances, such as the nature of the alleged conduct and the context in which it occurred.
- 5.2 If a Reviewer finds that the conduct complained of is not sufficient to warrant disciplinary action, efforts should be made for the process to be constructively educational for all parties, informing them about the boundaries of acceptable conduct, and how to avoid a similar incident in the future.
- 5.3 If a Reviewer finds evidence of conduct that warrants disciplinary action, the action taken should preferably be corrective rather than punitive. Sufficient resolution may include an acknowledgment by the accused of the wrongful nature of the conduct, a commitment not to engage in such behavior in the future along with a written

- warning, or other appropriate action such as the imposition of conditions that person complained of will be required to satisfy while progressing in the curriculum.
- 5.4 If the Reviewer is a Dean, Clinical Dean or CAO, and he or she determines that harsher penalties are appropriate, including probation, suspension, or dismissal, he or she may impose such penalties with or without conditions.

Required Documentation and Report

- 6.1 Whether or not there is ultimately a finding supporting disciplinary action, the Reviewer shall make a Review Report, which includes the names of parties involved, any documents submitted or signed by the complainant concerning the nature of the alleged conduct, any documents submitted or signed by the accused concerning that party's response to the allegations, and the proposed resolution of the Complaint.
- 6.2 If the Reviewer was the ADSA, a Hospital Site Director, or other person designated by a Dean, he or she shall submit the Review Report to the appropriate Dean or Clinical Dean on completion.
- 6.3 All Review Reports, including those prepared by a Dean or Clinical Dean in the first instance, shall be submitted to the General Counsel and CAO upon completion.
- 6.4 The persons receiving a Review Report under Clauses 6.2 and 6.3 will have a reasonable time to review and affirm or amend the Review Report, including any recommended disciplinary action. The approved report will be the Final Report and outcome of the Administrative Review.
- 6.5 The Reviewer will maintain an appropriate record of the Final Report in the confidential student file.

Notification of Findings

- 7.1 On receiving the Final Report as set out in Clause 6.4, the Reviewer will notify all parties of the results of the Administrative Review. The Reviewer may inform the complainant that disciplinary action has been taken, but is not required to reveal the specifics of the action.
- 7.2 At that time the Reviewer shall inform both the complainant and the accused that if either one of them is dissatisfied with the outcome, he or she may file an appeal of the Administrative Review under the Grievance Procedures outlined below.

- 7.3 Such notice will be made by personal service or certified mail (or equivalent) to the student's permanent address of record, with an acknowledgement of receipt.

GRIEVANCE PROCEDURES

Grievance Policies

- 8.1 Any Grievance must be handled as expeditiously as possible.
- 8.2 In all Grievance procedures the appeal of an Administrative Review Final Report will not be considered a Grievance against the person who conducted the initial Administrative Review.
- 8.3 As with Administrative Review procedures, in determining whether alleged conduct warrants disciplinary action and what, if any, corrective action should be taken, the record as a whole must be considered, as well as the totality of the circumstances, such as the nature of the alleged conduct and the context in which it occurred.

Initiation of Grievance Procedure

- 9.1 Either party to an Administrative Review has 30 Semester Days from being notified of the Final Report to file a Grievance. A person filing a Grievance must submit a written, signed statement detailing the basis for his or her appeal. This should include specific reasons why he or she does not agree with the Final Report of the Administrative Review. The Grievance should be addressed to the Reviewer, who will forthwith forward it to the appropriate Dean and General Counsel for the purpose of convening an *ad hoc* Grievance Committee ("GC") to consider the matter.
- 9.2 The GC has 30 Semester Days to make an investigation, conduct a hearing, and to submit its report with recommendations to the General Counsel, the supervising dean of the accused, and the CAO **provided that** if the supervising Dean is a party to the proceedings, notice need only be given to the CAO (all such deans are hereafter collectively known as "the Deans")

Grievance Committee Procedures

The Committee shall observe the following procedures for matters arising under this Policy:

- 10.1 The grievant and the accused shall have the right to counsel, to present the testimony of witnesses and other evidence, and to examine all submitted documents and other evidence. Counsel may not examine witnesses or other parties, but may advise their clients during the hearing in a manner that is not disruptive to other involved parties at the hearing.
- 10.2 The scope of the investigation shall be determined by the Committee Chairperson in his or her discretion, according to the charge and the facts. Further, except as otherwise described in this Procedure, the conduct of the hearing is under the charge of the Committee Chairperson. For instance, the Chairperson may require separation of the parties into different rooms if there are serious concerns of health and safety or if proceedings threaten to become unduly acrimonious.
- 10.3 The Committee will consider the evidence presented at the hearing, using its judgment in deciding what evidence presented is fair and reliable. In doing so, it is not bound by the rules of evidence. The Committee may also consider the documents and records adduced during the Administrative Review.
 - 10.3.1 Internal University communications, such as email or memoranda, will not be discoverable by the parties.
 - 10.3.2 No tape recording may be submitted as evidence by any party unless the recording initially records consent thereto by all person(s) being taped.
- 10.4 A tape recording or other record shall be kept of all proceedings in which evidence is presented.
- 10.5 For all committees, if the majority of the members find that the accused may have engaged in conduct warranting disciplinary action, the Committee will be entitled to receive and review the records, if any, of prior Complaints involving the accused, and will be entitled to consider such records in reaching its recommendations. A summary of these records must be included in the Committee's recommendations.
- 10.6 If the majority of the Committee finds that the accused has engaged in conduct warranting disciplinary action, it will recommend, in writing, an appropriate course of action -- which may include recommendation of appropriate sanctions -- to the Deans and General Counsel.

- 10.6.1 The Committee will have the authority to recommend any suitable disciplinary action, including suspension, probation, or dismissal from enrollment.
- 10.7 The Deans and General Counsel will consider the Committee's recommendations and prepare a written Final Decision within 15 Semester Days that accepts or rejects the Committee's report, conclusions, and recommendations -- in whole or point-by-point.
- 10.8 Unless the parties have agreed to another method of delivery, notice of such Final Decision will be made by personal service or certified mail (or equivalent), with an acknowledgement of receipt.
- 10.9 It is the responsibility of the supervising Dean to oversee notification and implementation of the Final Decision, including implementation of any disciplinary action.

Grievance Decision is Final

- 11.1 The Final Decision rendered as a result of a Grievance Procedure will be final and not subject to appeal or further review.

GENERAL

Amendments

- 12.1 The provisions of the Administrative Review and Grievance Procedures may be modified, amended or revised from time to time by AUC and any changes will be binding on all parties from the effective date.

Effective Date

- 13.1 The effective date of these Administrative Review and Grievance Procedures is 2 May 2006.

