

# Article 6. Full Hearing

## 6.01

In the event that a full hearing is to be commenced, the Associate Dean of Academic Affairs will appoint a Hearing Panel consisting of himself or herself and three faculty members who were not members of the Academic Integrity Committee addressing the charge. The Associate Dean of Academic Affairs will also appoint a member of the Hearing Panel to act as recording secretary for the Panel.

## 6.02

The Associate Dean of Academic Affairs is an ex-officio, nonvoting member of the Hearing Panel and shall serve as the Chair of the Panel. In the event that the Associate Dean for Academic Affairs is unavailable, has a conflict of interest, or has been recused voluntarily or involuntarily, the Dean shall appoint an additional faculty member who was not a member of the Academic Integrity Committee addressing the charge to serve on the Panel and shall choose a Panel Chair and recording secretary from among Panel members.

## 6.03

The Panel Chair shall appoint a "Prosecutor" to present witnesses and evidence against the accused student at the hearing. The Prosecutor may be a full-time or adjunct professor of law, an attorney outside of the School of Law, or any other person whom the Panel Chair deems suitable after consultation with the Dean.

## 6.04

The full hearing shall be set within four weeks of the decision to proceed to a full hearing, or as soon as reasonably practicable thereafter. Circumstances resulting in a possible delay include, but not limited to, the unavailability of witnesses, the unavailability of committee members, or the scheduling of examinations or other events at the School of Law.

## 6.05

The Panel Chair shall promptly notify the accused student of the hearing date by the method set out in Article 10 of this Code. Requests by the student or the student's counsel for a continuance of a scheduled hearing shall be heard by the Panel Chair and granted only in extraordinary circumstances. In the event that a full hearing is scheduled, the accused student shall have access to the evidence gathered in the Subcommittee's investigation. There shall be no other prehearing discovery.

## 6.06

At any time before the hearing is held, the Hearing Panel may meet to consider any preliminary matters as they arise, including, but not limited to, the accused student's request to sever parties or to have discrete violations heard separately. Such determinations shall remain within the sole discretion of the Hearing Panel.

## 6.07

The Hearing Panel may propose and enter into a plea agreement pursuant to Article 9 of the Code with the accused student at any time prior to the conclusion of the hearing and the issuance of the decision of the Hearing Panel.

## 6.08

The hearing shall be confidential and closed to all but those directly involved in the proceeding, unless the student, by written request delivered to the Panel Chair not later than seven (7) working days before the hearing, requests that the

hearing be public. The decision of whether to open the hearing to the public rests in the sole discretion of the Panel. Opening the hearing to the public will result only upon a majority vote of Panel members. Nothing within this provision shall prevent the Dean from attending the hearing.

#### **6.09**

All members of the Hearing Panel must be present at the hearing. The Panel Chair shall state at the commencement thereof: (a) the scope of the hearing, the allegations in the complaint, the identity of the accuser, and the jurisdiction of the Panel; (b) the procedure to be followed in the hearing; (c) the possible penalties to be imposed should violation(s) of the Code be proven; and (d) the rights of the accused student following the hearing.

#### **6.10**

The accused student has the right not to testify at the hearing. No inferences shall be drawn from the exercise of this right.

#### **6.11**

The hearing shall be conducted in such a manner as to do substantial justice and shall not be unduly restricted by the rules of procedure or evidence; therefore, neither the Federal nor the Tennessee Rules of Evidence shall apply.

#### **6.12**

The accused student shall be presumed innocent. The accused student has the right, and shall be provided any and all reasonable opportunity, to present witnesses and submit evidence at the hearing, including documentary materials of any kind.

#### **6.13**

The accused student may be represented by a person of his/her choice. It is the sole responsibility of the student to obtain representation. This Code in no manner creates a responsibility on the part of the Hearing Panel, the Dean, or the School of Law to provide appointed representation for the accused student or to provide compensation to the accused student's representative.

#### **6.14**

Upon the written petition of the Prosecutor, the accused student or the accused student's counsel, or by his/her own authority as Panel Chair, the Panel Chair may issue a written request to students, faculty members, staff members or employees of the School of Law to appear as witnesses at the hearing and/or to produce physical or documentary evidence in their possession. The Panel Chair shall sign the written request and deliver it to the prospective witness or source of physical or documentary evidence, or his/her department head, at least three days before the hearing, or as soon as reasonably possible thereafter. The Panel Chair may refuse to issue a written request if he/she determines that the evidence sought is irrelevant, confidential, overly burdensome, or privileged under the rules or regulations of the University or the School of Law. The Chair may amend, modify, or rescind a written request, if, after the request is issued, he/she determines that the evidence sought is irrelevant, confidential, overly burdensome, or privileged under the rules or regulations of the University or the School of Law. Upon receipt of a written request, the student, faculty member, staff member or employee of the School of Law shall appear as a witness at the hearing and/or produce the physical or documentary evidence requested. The only exception shall be in the case of extraordinary circumstances to be determined in the sole discretion of the Panel Chair.

#### **6.15**

The hearing shall be recorded by stenographic, mechanical, electronic, or sound photographic means. After the Hearing Panel has rendered a decision in a case, its opinion and all other records and documents pertaining to the proceeding shall be delivered to the Associate Dean for Academic Affairs for safekeeping for a period not less than five years, after which time said opinion, records and documents may be destroyed.

**6.16**

At the close of questioning and upon consideration of all of the evidence presented, the Hearing Panel, in private deliberations, shall decide whether the accused student has committed a violation.

**6.17**

A determination by the Hearing Panel that the accused student violated the Code requires a simple majority of the voting members of the Hearing Panel to determine, by a preponderance of the evidence, that the accused student committed acts that violated the Code. For purposes of any vote pursuant to this rule, each member of the Hearing Panel, regardless of rank, shall have one vote.

**6.18**

In the event that the hearing results in a dismissal of all charges, the Associate Dean for Academic Affairs shall ascertain that the complaint and any other references to the proceedings are promptly shown as dismissed in the student's file.

**6.19**

In the event that the hearing results in a determination that a violation occurred, by a simple majority of the members, the Hearing Panel shall determine the appropriate disciplinary sanctions pursuant to Article 7 of the Code herein.

**6.20**

A brief written opinion stating the Hearing Panel's findings of fact and the basis for its judgment shall be prepared by the Secretary.

**6.21**

The Hearing Panel Chair shall notify the accused student of the Hearing Panel's determination as soon as practicable by the method set out in Article 10 of the Code. If the Committee determined that the accused student violated the Code, such notification shall advise the student of his/her right to appeal pursuant to Article 8 of this Code.

**6.22**

The Chair shall transmit information regarding the final disposition of the hearing, including any pertinent evidence presented therein, to the Dean of the School of Law.

**6.23**

The Hearing Panel may adopt any further rules or make any further regulations necessary for a fair and impartial hearing that are not inconsistent with Article 6 of this Code.