

# Article 6. Full Hearing

## 6.01

The SC Committee possesses the sole discretion to accept or reject the recommendation of the Subcommittee, including the recommendation by the Subcommittee to table further disciplinary action pursuant to Article 5.03 above, which acceptance or rejection of the Subcommittee recommendation shall be determined by a simple majority of the voting members of the SC Committee. Unless extraordinary circumstances exist or unless the accused student enters into a plea agreement pursuant to Article 10 of this SCC, however, the SC Committee should accept the Subcommittee's recommendation. In the event the SC Committee determines to accept the recommendation of the Subcommittee to table further adjudication of an alleged academic violation to a future date, or in the event the Subcommittee was unable to agree upon a recommendation and the Assistant Dean of Student and Career Services was called upon to make a recommendation pursuant to Article 5.03 above and recommended that the SC Committee table further adjudication of an alleged academic violation to a future date, the SC Committee must obtain the written acquiescence of the accused student in order to formally table the further adjudication of an alleged academic violation to a future date.

## 6.02

In the event that the SC Committee decides to proceed to a full hearing, it shall set a date for the hearing that falls within two weeks of the determination to proceed, or as soon as reasonably possible thereafter if extenuating circumstances are present. The SC Committee may decide to set the date of the hearing later in extenuating circumstances. Extenuating circumstances shall include, but not be limited to, the unavailability of witnesses, the unavailability of SC Committee members, or the scheduling of examinations or other events at the School of Law.

## 6.03

The Assistant Dean of Student and Career Services shall promptly notify the accused student of the hearing date by the method set out in Article 11 of this SCC. Requests for a continuance of a scheduled hearing shall be heard by the SC Committee and granted only in extraordinary circumstances.

## 6.04

The Hearing Panel shall consist of the members of the SC Committee who did not sit on the Subcommittee during the preliminary investigation, the committee faculty member, and the Assistant Dean for Student and Career Services acting as judicial officer. If 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.

## 6.05

At any time after the determination to proceed to a full hearing but 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. Furthermore, the Hearing Panel may propose and enter into a plea agreement pursuant to Article 10 of the SCC with the accused student at any time after the Subcommittee finishes its preliminary investigation and makes its recommendation to the SC Committee.

## 6.06

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 Chair not later than 24 hours before the hearing, requests that the hearing be public. Nothing within this provision shall prevent the Dean from attending the hearing. All statements, records, images, questions, verbal or visual, which are adduced into evidence in this matter are to be held strictly confidential by the accused student,

the members of the committee, all witnesses and persons involved in the matter whoever they may be, and such evidence may not be reported upon, transcribed, posted or otherwise commented upon outside of the hearing, except as expressly authorized by the party quoted or as otherwise authorized in this SCC.

#### **6.07**

All members of the SC Committee must be present at the hearing. The Assistant Dean of Student and Career Services shall preside as the Chief SC Committee Member at the hearing and 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 SC Committee; (b) the procedure to be followed in the hearing; (c) the possible penalties to be imposed should violation(s) of the SCC be proven; and (d) the rights of the accused student following the hearing. If the Assistant Dean of Student and Career Services is unavailable, has a conflict of interest, or has been recused voluntarily or involuntarily pursuant to Article 3.03 or 3.04, the Chair shall sit as the Chief SC Committee Member during the hearing. If neither the Assistant Dean of Student and Career Services nor the Chair is available, the Dean shall appoint the Chief SC Committee Member from among the remaining SC Committee members who comprise the Hearing Panel.

#### **6.08**

The Chair may 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 Chair deems suitable, after consultation with the Assistant Dean of Student and Career Services, the SC Committee, or both. The Chair may also forego the appointment of a Prosecutor, in which case one member of the SC Committee shall have the right to call and examine witnesses, present evidence, and cross-examine witnesses presented by the accused student, including the student himself/herself if he/she testifies.

#### **6.09**

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

#### **6.10**

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 Tennessee Rules of Evidence shall apply.

#### **6.11**

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.

#### **6.12**

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 SCC in no manner creates a responsibility of the SC Committee, 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.

#### **6.13**

Once a final hearing has been set, and upon the written petition of the Assistant Dean of Student and Career Services, the Prosecutor, or the accused student, or by his/her own authority as Chair, the Chair shall 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 produce physical or documentary evidence in their possession that was identified during the Subcommittee's investigation, including but not limited to, the identity of any person who filed the report of violation against the accused student and any statement by that reporter. The 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 Chair may refuse to issue a written request if he/she determines the evidence sought is confidential and/or privileged under the rules or regulations of the University or the School of Law. The Chair may amend, modify, or rescind the request, if, after the request is issued, he/she determines that the evidence sought confidential and/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 unless extraordinary circumstances prevent it.

#### **6.14**

The hearing shall be recorded by stenographic, mechanical, electronic, or sound photographic means. After the SC Committee has rendered a decision in a case, its opinion and all other records and documents pertaining to the proceeding shall be delivered to the Assistant Dean of Student and Career Services for safekeeping for a period not less than five years, after which time said opinion, records and documents from the proceedings may be destroyed.

#### **6.15**

In the event that the hearing results in a dismissal of all charges, the Assistant Dean of Student and Career Services shall ascertain that the complaint and any other references to the proceedings are promptly deleted from the accused student's file at the School of Law.

#### **6.16**

In the event that the hearing results in a determination that a violation occurred, the Hearing Panel shall determine the appropriate disciplinary sanctions pursuant to Article 8 of the SCC herein. The student may present evidence in mitigation, including, but not limited to:

##### **6.16.1**

Admission prior to allegation reported. It may be a mitigating factor when a student voluntarily admits misconduct before learning that someone has reported the matter or is about to report the matter. A student who has the integrity to come forth with a good-faith admission has reaffirmed a personal commitment to honor. Any student interested in making such an admission should contact the Associate Dean for Student Services.

##### **6.16.2**

Other admissions. An admission made after an allegation has been reported may have some mitigating value; however, a post-report admission is not as strong a mitigating factor as a pre-report admission.

##### **6.16.3**

Cooperation. The Associate Dean for Student Services may consider how cooperative, or uncooperative, the student was during the process, for meetings, provided requested information, and dealt honestly and civilly with others involved with the process.

##### **6.16.4**

Intent. Conduct falls on an intent continuum that ranges from malicious, willful, intentional, reckless, and grossly negligent conduct on the more serious end, to merely negligent, careless, and unintentional conduct on the less serious end.

##### **6.16.5**

Degree of harm or seriousness of offense. The degree of harm to others and the seriousness of the conduct are relevant factors in determining sanctions.

##### **6.16.6**

Prior violations.

**6.17**

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

**6.18**

The SC Committee 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 SCC.