



FACT FINDING COMMITTEE PROCEDURE

1. PURPOSE

The purpose of this procedure is to give specific guidance to assist the West Virginia School of Osteopathic Medicine (WVSOM) with implementation of, and ensure institutional compliance with, Institutional Policy DO-01: Academic and Professional Standards in regards to the Fact Finding Committee (FFC).

2. APPLICABILITY

- 2.1 This procedure applies to the function of the FFC.
- 2.2 WVSOM reserves the right to amend this procedure at any time, as necessary or appropriate.

3. GENERAL PROVISIONS

- 3.1 Any member of the campus community may bring charges of misconduct or unprofessionalism against any student.
- 3.2 Standards of student conduct, professional conduct, and academic integrity are defined in Institutional Policy DO-01. Standards of conduct are further defined in the Appendix of this Procedure.
- 3.3 Incident reports must be detailed in writing including date, time, who was involved, witnesses and any other pertinent information.
- 3.4 Incident reports shall be submitted to the Assistant Dean of Student Affairs who will distribute the report to the appropriate Associate Dean. If deemed necessary, the Associate Dean is responsible for informing (a) member(s) of the campus community of a possible violation of school policies and/or local, state, or federal laws by a student.

4. REFERRAL OF A MATTER TO THE FACT FINDING COMMITTEE

- 4.1 The appropriate Associate Dean will investigate the incident via contact with the individual or group making the complaint, as well as gather any other information needed from available sources. This may include the accused student.
- 4.2 Once the Associate Dean has obtained all this information, the student accused will have an additional opportunity to present their version of the incident. This may occur in person (preferred) or by skype, telephone or e-mail at the discretion of the Associate Dean.
- 4.3 Upon completion of the investigation, the Associate Dean will determine any action deemed necessary (e.g., conference, counseling, referral to Fact Finding Committee or Student Promotions Committee) in accordance with Institutional Policy DO-01. Appropriate faculty/staff members will be notified if such distribution is necessary to inform (a) member(s) of the campus community of a violation of school policies and or local, state, or federal laws.
- 4.4 The Associate Dean may refer an issue to the FFC if he/she determines the matter includes disputes of material facts and requires independent findings of fact.
- 4.5 Pending hearing and resolution, a student's status shall not be altered unless there are exceptional circumstances in which the health or safety of the accused or other campus community personnel is in jeopardy. In such cases, immediate suspension may be authorized by the appropriate administrative authority. If referred to the FFC, a hearing will be scheduled within a reasonable time, usually within five (5) business days of the incident.

5. COMPOSITION OF THE FACT FINDING COMMITTEE

- 5.1 Eight (8) faculty members (minimum of three (3) from the Department of Biomedical Sciences and three (3) from the clinical departments) shall be duly elected by the faculty to serve on the FFC. These eight (8) shall elect one (1) member to serve as Chair for the academic year. The Chair shall only vote in case of a tie.
- 5.2 Five (5) members of the Committee including two (2) clinicians, shall constitute a quorum.
- 5.3 Each class of the first- and second-year student body shall elect three (3) students to serve on the FFC.
 - 5.3.1 In cases of cheating or other non-academic matters (e.g., misconduct) referred to the Committee:
 - a. The Chair shall select two (2) students to include on the FFC to consider the matter.
 - b. Five (5) faculty including two (2) clinicians plus two (2) students, shall constitute a quorum.
 - 5.3.2 Except in cases of cheating, student members to the FFC may not participate in matters concerning academics.

6. CONVENING THE FACT FINDING COMMITTEE

- 6.1 When an alleged violation of a statement of policy, rule or regulation is referred to the FFC, the WVSOM Academic and Professional Standards policy (DO-01) and *Fact Finding Committee Procedures* will be delivered by hand or by e-mail to the student and FFC Chair by the Associate Dean.
- 6.2 The date, time and place of the hearing and statement of student's rights to an advisor will be delivered to the student by the FFC Chair. These shall be delivered by hand or email usually within five (5) business days of the decision of the administrative authority to send the matter to the FFC.
- 6.3 Meetings of the FCC are called by the Chair. The hearing should be scheduled to occur usually within ten (10) business days after receipt of the charges in order to make a determination of the facts of the case.
- 6.4 It shall be expressly provided that service of charges and notice of hearing by the student's WVSOM email account shall not be defective if student shall have refused to read or otherwise maintain access to their WVSOM email account and the hearing may proceed without hindrance or delay.

7. HEARING PROCEDURE

- 7.1 Investigative hearings are the principle method by which the Committee collects information on a matter in question.
 - 7.1.1 The committee shall investigate as it deems appropriate and call witnesses as necessary to investigate the matter in question and make a determination.
 - 7.1.2 Hearings shall be conducted in such a way as to allow substantial justice and shall not be unduly restricted by the rules or procedure of evidence.
 - 7.1.3 The Assistant Dean for Student Affairs shall present cases at the hearing. The appropriate Associate Dean may select another designee to present a case to the FFC.
 - 7.1.4 Hearings by the FFC are closed to the public and the press.

- 7.2 A member of the FFC involved as a witness or having a conflict of interest with the matter under consideration may not serve as a member of the hearing panel.
- 7.3 Advisors
- 7.3.1 The accused student has the right to have one (1) advisor of their choosing present in the hearing. An advisor may consult with the accused student, but may not speak on behalf of the student or otherwise participate directly in the proceedings unless given specific permission to do so by the Chair of the hearing. The advisor may be a member of the WVSOM community (i.e., faculty, staff, or student) or external to WVSOM (e.g., parent, guardian, or legal counsel).
- 7.3.2 The School may have legal counsel present, but counsel may not address the FFC unless given specific permission to do so by the Chair of the hearing.
- 7.4 There shall be a complete and accurate record of the hearing in the form of an audio recording.
- 7.4.1 Deliberations of the Committee will not be recorded.
- 7.4.2 Copies of audio recordings, together with copies of the exhibits, shall be furnished to the student upon request at no charge.
- 7.5 All material and relevant evidence may be presented subject to the right of cross-examination of the witnesses.
- 7.6 The student shall be advised of her/his rights by the Chair.
- 7.7 The accused student shall be entitled to be present throughout the testimony of witnesses, presentation of evidence and arguments of the parties; to know the identity of and content of testimony of the witnesses against him/her and to have them present at the hearing at appropriate times; and to present witnesses and any evidence on her/his behalf as may be relevant and material to the case.
- 7.8 In hearings involving more than one student, in which one or more, but not all, requests a private hearing, severance shall be allowed.
- 7.9 Witnesses will be called one at a time, but will not be present during the testimony of other witnesses.
- 7.10 Neither the accused nor any witnesses will be permitted in the hearing room during the deliberations of the FFC.
- 7.11 An accused student or witness who disrupts the normal progress of the hearing may be dismissed by the Chair and the hearing will proceed.
- 7.12 The Chair may postpone the hearing for any reason if she/he deems it necessary for fairness to all parties involved. No more than thirty (30) calendar days, however, may pass between the time of the student's official notification of charges and the date of the hearing.
- 7.13 In the event the student or any witness fails to be present at the hearing, it shall take place as scheduled if sufficient information and documentation are available to make a decision, or shall be rescheduled if additional documentation is needed by the FFC.
- 7.14 No recommendation for the imposition of penalties/sanctions may be based solely upon the failure of the accused student to answer charges or appear before the FFC. In such a case, the evidence in support of the charges shall be presented and considered. In any event, all conclusions shall be based solely upon the evidence in the case as a whole.

8. POST-HEARING

After the hearing, the Committee shall, within a reasonable time [usually five (5) business days] make findings of fact that a policy, rule or regulation was or was not been violated according to the standard of “more likely than not”, adopt them by majority vote and forward a written report of their findings to the referring Associate Dean or Vice President for Academic Affairs and Dean, as appropriate.

9. APPEAL OF A DECISION FOR DISMISSAL OR OTHER SANCTION

- 9.1 Following the written decision of an administrative authority to dismiss or impose other sanctions on a student, the student may appeal the decision except as otherwise noted. The decision of an Associate Dean may be appealed to the Vice President of Academic Affairs and Dean. A decision by the Vice President of Academic Affairs and Dean may be appealed to the President. The appeal must be submitted in writing to the Vice President of Academic Affairs and Dean or President, as appropriate, setting out the reasons an appeal should be granted.
- 9.2 The procedure for grade appeals are detailed in the document Procedure for Appeal of Final Course Grades.
- 9.3 The appropriate administrative authority will make a final decision on the appeal. This decision is final and cannot be appealed further by the student.
- 9.4 If referred to the FFC, the Committee may consider the merits of the appeal and will hear such proof of facts as may be deemed proper and reasonable and make such investigation and enter such recommendations as the facts justify and the circumstances may require. The investigations and hearings should include, but are not limited to, examination of the previous deliberations which resulted in the decision of dismissal (or imposition of sanction) for areas in which they might have been in error or might have contained violations of due process.
- 9.5 Committee hearings on an appeal will be conducted as described in the Hearing Procedure section above.
- 9.6 The Committee will determine if any new information submitted as part of the appeal was known prior to or after the decision to dismiss or impose sanctions. The Committee may consider as part of the appeal any relevant, new information discovered after the decision to dismiss or impose sanctions. Information that was known but not disclosed by the student prior to the decision to dismiss or impose sanctions may not be entered as new evidence in support of an appeal.
- 9.7 The Committee may recommend the appeal be allowed to move forward or be rejected based on the criteria listed in Institutional Policy DO-01 Section 14.6: Appeals – Role of the Fact Finding Committee. A recommendation must specifically identify and address the areas in the decision being appealed why the appeal does or does not meet the criteria for the appeal to proceed.

Procedure Title: Fact Finding Committee Procedure

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Updated: August 30, 2023

APPROVED BY:

Approving Administrator – Vice President for Academic Affairs and Dean:


Date: 4/10/18

Vice President for Legal & Governmental Affairs and General Counsel:


Date: 4/10/18



APPENDIX: STANDARDS OF CONDUCT

1. Conduct required in general

All students at the institution are subject to, and are required to comply with, observe and obey the following:

- The laws of the United States;
- The laws of the State of West Virginia;
- Local municipal and county ordinances; and
- The policies, rules, and regulations of the institution.

2. Prohibited conduct; disorderly

Any and all students who behave in a disorderly or unlawful manner on or about institutional property or facilities, are subject to institutional disciplinary action. Such disorderly conduct includes, but is not limited to:

- Fights;
- Assaults or battery;
- Public disturbances; or
- Unlawful assembly.

3. Prohibited conduct; theft of or damage to property

No student, individually or by joining with one or more others, shall misuse, steal, damage, or destroy any institutional property or facilities or the property of any member of the institutional community on or in campuses, property or facilities of the institution.

4. Prohibited conduct; disruption

No student, individually or by joining with one or more persons, shall do any of the following:

- Disrupt or interfere with any institutional activity, program, meeting or operation;
- Interfere with the rights of any member of the institutional community;
- Injure or threaten to injure, or coerce by bodily harm or restraint or threats thereof, or by any other means, any member of the institutional community or persons lawfully upon the institution's campus, property or facilities;
- Seize, hold, commandeer or damage any property or facilities of the institution, or threaten to do so, or refuse to depart from any property or facilities of an institution upon direction, pursuant to policies, rules and regulations of the WVSOM Board of Governors or the institution, by an institutional officer, faculty or staff member, or other person authorized by the president.

5. Prohibited conduct; discrimination

No student, individually or by joining with one or more other persons, shall promote or demand action on their part or that of any other member of the institutional community that would constitute unlawful discrimination on the basis of race, sex, color, religion, national origin, disability or age.

6. Additional Offenses

Additional offenses which fall into the category of possible suspension or expulsion penalties/sanctions are as follows:

- Violation of published college regulations.
- Violation of sanctions imposed for previous offenses.
- Alteration or misuse of campus community documents, records, or identification; or knowingly furnishing false information to WVSOM.
- Forced, illegal, or unauthorized entry into any locked building, room, file, or property of the campus community or unauthorized entry into the property of a faculty member, student, administrator, or other staff member of the campus community.
- Possession, brandishing, or use of dangerous weapons or firearms on the campus community owned or controlled property. This includes explosives such as, but not limited to, ammunition, fireworks, black powder, dynamite, and dynamite caps, etc.
- Misuse or unauthorized use of campus community telephones or any other equipment that is intended only for official campus community use.
- Unauthorized use or tampering with the campus community computer system, blatant misuse or abuse of equipment or software, or the unauthorized alteration of program data.
- Failure to adhere to the WVSOM Alcohol and Drug Policy.
- Failure to comply with directions and orders of the officers, faculty, or staff of the institution who are charged with the administration of institutional affairs.