

3364-82-06 Appeal of disciplinary action and due process.**(A) Policy statement**

Students enrolled in the college of nursing are subject to the general rules of conduct for the college of nursing “CON” and the university of Toledo at large (the “University”), as well as additional standards of conduct and professionalism applicable to nursing students.,.

(B) Purpose of policy

Students in the CON are responsible for understanding and complying with university and CON policies, procedures, regulations, standards of conduct, and expectations for professional behavior when representing the CON both on and off-campus. A failure to comply may result in disciplinary action up to and including dismissal from the CON. Students subject to certain adverse actions are entitled to due process and appeal rights as outlined below.

(C) Scope

This policy applies to all students enrolled in a CON program and works in conjunction with rule 3364-30-04 of the Administrative Code (student code of conduct). The university prohibits discrimination or harassment on the basis of race, color, religion, sex, age, national origin, ancestry, sexual orientation, gender identity and expression, military or veteran status, the presence of a disability, genetic information, familial status, political affiliation, or participation in protected activities under rules 3364-50-01 or 3364-50-02 of the Administrative Code. Matters involving alleged violations of those policies will not follow the procedures in this rule, but will follow the procedures in rules 3364-50-01 and 3364-50-02 of the Administrative Code and rule 3364-30-04 of the Administrative Code (student code of conduct). Any staff or faculty member who receives a report of conduct prohibited under rules 3364-50-01 or 3364-50-02 of the Administrative Code must promptly forward that information to the title nine coordinator. Records that include the complaint, findings, and sanctions imposed as a result of a finding of discrimination or harassment on the basis of race, color, religion, sex, age, national origin, ancestry, sexual orientation, gender identity and expression, military or veteran status, the presence of a disability, genetic information, familial status, political affiliation, or participation in protected activities will be provided to the college of nursing and included in the college’s records on a student.

(D) Procedure for disciplinary action (for matters not involving conduct covered by rules 3364-50-01 or 3364-50-02 of the Administrative Code)

- (1) Procedure. This policy sets forth the procedure for disciplinary action and due process. The procedure for academic misconduct is guided by rule 3364-82-05 of the Administrative Code (CON academic due process and appeal of final course grade).
- (2) Conditions for disciplinary action. Nursing students are subject to disciplinary action for violation of the institutional and nursing standards of conduct, including breach of student responsibilities and public safety. Students are responsible to inform the associate dean for academic affairs of any arrests, charges, convictions or pleas. The CON cannot guarantee the licensure of a student who has any criminal charges or convictions on their record regardless of the admission decision. Due process will be provided to a student accused of violating institutional standards where suspension or dismissal from a program or the CON/university is a possible outcome. Students who may be subject to disciplinary action, or believe that his/her rights are being impinged upon are entitled to due process and appeal rights in accordance with paragraphs (E) and (G) of this rule.
- (3) Levels of disciplinary action. When a code of conduct or professionalism violation is suspected the responsible CON faculty member will discuss the incident with the student and file a written report (in accordance with faculty manual CON-04-020).
- (4) The levels of disciplinary action include but are not required to be progressive and are dependent on the situation at hand, including suspension or dismissal.

(E) Due process (For matters not involving conduct covered by rules 3364-50-01 and 3364-50-02 of the Administrative Code)

- (1) The student has the right to submit a written request for a hearing by the CON student grievance committee "SGC" when the student has been advised that dismissal from the CON is a possibility. The written request must be delivered by the student

to the associate dean for academic affairs within ten business days of receiving the notice of dismissal. The student will then be given a written notice that they have the opportunity to appear before the SGC to fully present their position on the charge(s) as set forth in paragraph (F)(1) of this rule. The student may waive the right to a hearing at the student's sole discretion.

(2) Upon receiving a request for a hearing before the SGC, the SGC chair will provide a written notice to the student that includes: the charge(s); the date, time and location of the hearing; and membership composition of the SGC within ten business days before the hearing date. The notice will include the specific protocols to be followed in the hearing and will include a copy of this policy.

(3) The associate dean for academic affairs may suspend the SGC hearing until finalization of a criminal matter before a criminal court or administrative venue which has the same acts or omissions as the conduct under review of the CON, in which case, written notice should be sent to the student and SGC chair immediately. The CON cannot guarantee licensure of a student who has any criminal charges or convictions on their record that is determined by the Ohio board of nursing, which has legal accountability for licensure.

(F) Conduct of the Hearing (for matters not involving conduct covered by rules 3364-50-01 and 3364-50-02 of the Administrative Code)

(1) The hearing will be conducted as follows:

(a) The chair of the SGC will promptly notify the grievant, respondents, associate dean for academic affairs, and the dean of the college of nursing of the date, time, and place of the hearing and the committee members who will be present. The chair of the SGC will appoint the members of the SGC committee, which committee will be comprised of no less than two faculty members from the college of nursing, and two student members in programs within the college of nursing and the designated chair of the SGC. The chair should strive to make the hearing committee an

odd number of persons (adding two additional faculty members if necessary). The committee members of the SGC will include those elected by the college of nursing faculty. In the event that there is difficulty assembling a full committee from the appointed members, either the chairperson or co-chairperson of the committee may appoint substitute(s) that are unbiased faculty or students to fill the vacancies. An appointed committee member who perceives conflict or bias in a particular petition may also withdraw from serving on the hearing after discussion with the chair of the SGC. The vice chair will serve as chair if a conflict exists with the chair.

- (b) The student may challenge the composition of the committee within twenty-four hours of the notification of the member composition by the chair if there is a member with a potential or actual conflict. If challenged, the chair may decide to appoint an acceptable replacement taking into consideration the best interests of the student.
- (c) Confidentiality will be maintained by all persons involved in the SGC hearing and no discussion will be entertained outside by the parties involved as to information, testimony, or recommendations of the grievance process or hearing. This is an essential component of the grievance procedure and due process. All specific information is kept within the committee. Proceedings of the committee are to be kept in a secured file at the college of nursing for seven years.
- (d) The student may have a grievant support representative “GSR” attend the hearing and assist the student. The role of the GSR is to provide emotional support and neutrality for the student during the hearing process. This representative may be a faculty member, a student, or an academic advisor. Attorneys and family members are excluded from functioning in this role. In addition, the GSR may not be a testimonial witness to the grievance. The student may proceed without a GSR, but if the student wishes to have a GSR present at the hearing, the name of the GSR shall be submitted in advance to the SGC chair.

GSR is to remain quiet during the hearing; and may only address the committee if requested by the chairperson.

- (e) A student may wish to provide a witness if able to provide supporting evidence that is pertinent to the grievance at hand. The intent of a witness's testimony shall be submitted to the chair forty-eight hours in advance of the hearing. The committee reserves the right to restrict the testimony to those issues relevant to the grievance during the hearing. Any witness is to be available outside the hearing room until called; to answer specific questions; to leave the hearing room on completion of testimony.
- (f) The student and the faculty member(s) involved, including the faculty member who assigned the final course grade and program director if appropriate, will be present during the grievance hearing, but not during deliberations of the SGC committee. Persons attending the hearing will be limited to the committee members, the appropriate faculty members, a GSR for the student, witnesses to be called and a recorder.
- (g) The role of the chair during the hearing includes:
 - (i) Indicating the purpose of meeting and time limitations of the hearing;
 - (ii) Make introductions and identify role of each person in attendance;
 - (iii) Read brief statements of student's petition;
 - (iv) Direct the discussion;
 - (v) Call and excuse the witnesses;
 - (vi) Allow for the making of final statements;
 - (vii) Excuse the student, GSR, Faculty members involved in the assignment of the final course grade and witnesses;

- (viii) Facilitate the deliberation and the preparation of the written recommendations;
 - (ix) Call for committee vote with the chair being a voting member.
 - (x) Submit recommendations to associate dean for academic affairs.
 - (h) Audio recording or transcription will record the hearing to ensure accuracy of the information and proceedings. Committee deliberation will not be part of the recording or be made a part of the record.
 - (i) Deliberations will be conducted in closed session by SGC committee members only. Deliberations will be limited to data and testimony collected during the hearing. If the committee wishes to review the transcript, the committee deliberations may be suspended until the transcript is completed for review. The chair will reconvene the committee. The evidence presented during the hearing is to be weighed and conclusions of fact should be drawn and a recommendation approved by majority vote. A written recommendation will be based exclusively on the information received at the SGC hearing.
 - (j) The findings of fact and the written recommendation of the SGC committee will be delivered by the SGC chair to the associate dean of academic affairs within five business days of the hearing. The written report may also contain suggestions for the college of nursing to consider with respect to policies or procedures or improvements. The associate dean for academic affairs will make a decision regarding the student's petition, which will be upheld or denied and the student will be notified in writing within five business days by personal hand delivery or by certified mail, return receipt requested, with a copy to the dean of the college of nursing and the SGC chair.
- (G) Appeal Process (for matters not involving conduct covered by rules 3364-

50-01 and 3364-50 -02 of the Administrative Code)

- (1) A written request for appeal may be made by the student to the dean of the college of nursing “Dean” and must be received within five business days following the date of receipt of the written decision of the associate dean for academic affairs by the student, or any further right to appeal is waived.
- (2) The Dean may review all applicable evidence presented in the hearing.
- (3) After completing such review, the Dean will ask for a meeting with the student.
- (4) The Dean will meet with the student to consider the appeal only after the student is provided with at least five business days’ notice of the date, time, place of the hearing, and who will be present.
- (5) The Dean will review the information and may choose to uphold, reverse, or return findings and decisions to the SGC hearing committee or the associate dean for academic affairs for reconsideration of some or all of their findings or decisions. The Dean will provide the decision to the student within ten business days of the filing of the appeal, unless circumstances warrant additional time, with sufficient notice provided to the student.

(H) Pendency of action

Generally, implementation of dismissal of a student from the college of nursing will be deferred until all the due process hearing and time for appeals made by the student have been exhausted. However, the dean of the college of nursing, the associate dean for academic affairs for the college of nursing, the title nine coordinator or deputy title nine coordinator may in his or her discretion impose interim suspensions and/or restrictions on the student if the alleged conduct in any way concerns patient or public safety (including faculty and other students), or to protect the complainant or other members of the university.

Effective: 5/3/2019

CERTIFIED ELECTRONICALLY

Certification

04/23/2019

Date

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