





National University of Health Sciences General Policies

Title: Withdrawal - Involuntary Administrative	Page	1	of	7
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 President	 Date			

A. Standards For Withdrawal

1. As a general principle, the NUHS Student Code of Conduct serves as the customary, and preferred, method of adjudicating instances of student misconduct. The procedural alternatives described within the *Involuntary Administrative Withdrawal Policy* are only to be employed in rare circumstances in which the Dean of Students (or a Presidential designee) deems the customary process of resolving student misconduct to be inapplicable and/or unsuitable because the student's misconduct results from a mental disorder with the conditions described in A., 2., (a) and (b).

A student accused of violating the NUHS Student Code of Conduct may be diverted from the disciplinary process and withdrawn in accordance with these standards, if the student, as a result of a mental disorder:

- a. Lacks the capacity to respond to pending disciplinary charges, or
 - b. Did not know the nature or wrongfulness of the conduct at the time of the offense.ⁱ
2. A student will be subject to involuntary administrative withdrawal from the University, or from University housing, if it is determined, by clear and convincing evidence, that the student is suffering from a mental disorder,ⁱⁱ and, as a result of the mental disorder, engages, or threatens to engage, in behavior which:
 - a. Poses a danger of causing physical harm to self or others, or;
 - b. Would cause significant property damage, or directly or substantially impede the lawful activities of others.

Students subject to disciplinary charges who intend to introduce relevant evidence of any mental disorder must inform the Dean of Students in writing at least two business days prior to any disciplinary hearing.ⁱⁱⁱ If the Dean determines that the evidence may have merit, the case shall then be resolved in accordance with these standards and procedures.

These standards do not preclude removal from the University, or University housing, in accordance with provisions of the NUHS housing license agreement, or other University rules and regulations.

Referral For Evaluation

The Dean of Students may refer a student for evaluation by an independent licensed psychiatrist or psychologist chosen and remunerated by the institution, if the Dean reasonably believes that the student may meet the criteria set forth in Section A., #1, or if a student subject to disciplinary charges wishes to introduce relevant evidence of any mental disorder.

Students referred for evaluation in accordance with Section B., #1, shall be so informed in writing, either by personal delivery or by certified mail, and shall be given a copy of these standards and procedures. The evaluation must be completed within five business days from the date of the referral letter, unless the Dean (in writing) grants an extension. A licensed psychologist or psychiatrist of their choice, who may observe, but not participate in the evaluation process, may accompany students. Legal representation will not be permitted.

Any pending disciplinary action may be withheld until the evaluation is completed, in the discretion of the Dean of Students.

In order to facilitate the evaluation process, the student will be asked to sign a release of information (request and authorization to exchange information) so that all relevant parties can disclose information needed to make a decision regarding the evaluation and to delay, modify, or waive any disciplinary proceedings.

A student who fails to complete the evaluation in accordance with these standards and procedures may be withdrawn on an interim basis, as set forth in Section C., #1–#4, or referred for disciplinary action, or both.

B. Interim Withdrawal

An interim administrative withdrawal may be implemented immediately if a student fails to complete an evaluation, as provided by Section B., #1 and #2, of these standards and procedures. Also, an interim withdrawal may be implemented immediately if the Dean of Students determines that a student may be suffering from a mental disorder, and the student's behavior poses an imminent danger of:

- a. Causing serious physical harm to the student or others, or,
- b. Causing significant property damage, or directly and substantially impeding the lawful activities of others.

A student subject to an interim withdrawal shall be given written notice of the withdrawal either by personal delivery or by certified mail, and shall be given a copy of these standards and procedures. The student shall then be given an opportunity to appear personally before the Dean of Students, or a designee, within two business days from the effective date of the interim withdrawal, in order to review the following issues only:

- a. The reliability of the information concerning the student's behavior;
- b. Whether or not the student's behavior poses a danger of causing imminent, serious physical harm to the student or others, causing significant property damage, or directly and substantially impeding the lawful activities of others;
- c. Whether or not the student has completed an evaluation, in accordance with these standards and procedures.

A student subject to interim withdrawal may be assisted in the proceeding specified at Section C., #2, by a family member and a licensed psychologist or psychiatrist, or in lieu of a licensed psychologist or psychiatrist, by a member of the family or staff of the institution.^{iv} Furthermore, legal counsel may accompany the student, although the role of counsel will be limited to providing legal advice to the student. Students will be expected to speak for themselves whenever possible.

An informal hearing, as provided in Section D., #1, will be held within seven business days after the student has been evaluated by the appropriate mental health professional. Such evaluation should be undertaken within two business days after the student submits a proper request for an appointment. The student will remain withdrawn on an interim basis pending completion of the informal hearing, but will be allowed to enter upon the campus to attend the hearing, or for other necessary purposes, as authorized in writing by the Dean of Students.

C. Informal Hearing

Students subject to an involuntary withdrawal shall be accorded an informal hearing before the Dean of Students, or a designee. The following guidelines will be applicable:

- a. Students will be informed of the time, date, and location of the informal hearing, in writing, either by personal delivery or certified mail, at least two business days in advance.
- b. The entire case file, including an evaluation prepared pursuant to Section B., #1, of these standards and procedures, and the names of prospective witnesses, will be available for inspection by the student in the Dean of Student's office during normal business hours. The file, which should be available at least two business days before the informal hearing, need not include the personal and confidential notes of any institutional official or participant in the evaluation process.

- c. The informal hearing shall be conversational and non-adversarial. Formal rules of evidence will not apply. The Dean or designee shall exercise active control over the proceedings to avoid needless consumption of time and to achieve the orderly completion of the hearing. Any person who disrupts the hearing may be excluded.
- d. The student may choose to be assisted by a family member and a licensed psychologist or psychiatrist, or, in lieu of a licensed psychologist or psychiatrist, by a member of the faculty or staff of the institution. Furthermore, legal counsel may accompany the student, although the role of counsel will be limited to providing legal advice to the student.
- e. Those assisting the student, except for legal counsel, will be given reasonable time to ask relevant questions of any individual appearing at the informal hearing, as well as to present relevant evidence.
- f. A tenured faculty member will be appointed to review and challenge any evaluation containing a recommendation for involuntary withdrawal. The Vice President for Academic Services will select the faculty member in advance. The faculty member shall be given notice of the informal hearing, and access to the case file, in accordance with items (a.) and
- g. (b.) of this section. Furthermore, the faculty member will be given reasonable time at the hearing to ask relevant questions and to present relevant evidence designed to challenge the involuntary withdrawal recommendation.
- h. Whenever possible, the student will be expected to respond to questions asked by the Dean or designee. Students who refuse to answer on grounds of the Fifth Amendment privilege may be informed that the Dean or designee could draw a negative inference from their refusal, which might result in their dismissal from the institution, in accordance with these standards and procedures.^v
- i. The informal hearing may be conducted in the absence of a student who fails to appear after proper notice.
- j. The mental health professional who prepared the evaluation pursuant to Section B., #1, of these standards and procedures may be expected to appear at the informal hearing, and to respond to relevant questions, upon request of any party, if the Dean or designee determines that such participation is essential to the resolution of a contested issue in the case.^{vi}
- k. The Dean or designee may permit a University official, and the mental health professional who prepared the evaluation, to appear at the informal hearing and to present evidence in support of any withdrawal recommendation.^{vii} Legal counsel for the University will not present such evidence.
- l. The informal hearing shall be tape recorded by the Dean or designee. The tape(s) shall be kept with the pertinent case file for as long as the institution maintains the case file.

- m. The Dean or designee shall render a written decision within five business days after the completion of the informal hearing. The written decision, which should be mailed or personally delivered to the student, should contain a statement of reasons for any determination leading to involuntary withdrawal. The student should also be advised as to when a petition for reinstatement would be considered, along with any conditions for reinstatement.
- n. The decision of the Dean or designee shall be final and conclusive and not subject to appeal.
- o. Reasonable deviations from these procedures will not invalidate a decision or proceeding unless significant prejudice to a student may result.^{viii}

D. Decision Notification

Prior to making the decision, the Dean of Students shall certify, by letter to be included in the record, that he/she has reviewed the proceedings and read all attachments thereto.

If the Dean of Students, or designee, concludes that the student should be involuntarily withdrawn, he/she shall send a letter to the student informing him/her of the decision and explain that the student is blocked from re-enrolling in the university until certain conditions are met. A notation shall be placed on the student's record that he/she is blocked from re-enrollment for medical reasons.

A letter will also be sent to the University Registrar to request that a notation be placed on the student's transcript indicating a block for medical reasons. The block will remain on the student's academic record until the student completes the "Application to Remove Enrollment Block" form and the student is approved for readmission.

E. Re-Enrollment Procedure

Upon receipt of a completed "Application to Remove Enrollment Block" and "Treating Doctor's Re-Enrollment Questionnaire" and treatment summary from the treating professional(s), the Dean of Students, or designee, shall make an evaluation of the request.

Consideration shall be given to any conditions for re-enrollment set forth in the student's letter of involuntary withdrawal and any other relevant information that the Dean of Students deems necessary for a complete review.

The evaluation process shall normally be completed within twenty (20) university business days, after receipt of a complete application. Thereafter, the Dean of Students, or designee, shall make a determination to approve or disapprove the re-enrollment application. If the re-enrollment application is approved, it shall be within the discretion of the Dean of Students to require an additional letter of recommendation from the student's treating professional immediately preceding re-enrollment and/or class attendance to confirm that the opinion of the treating professional has not changed since the date of the initial letter of recommendation.

If the re-enrollment application is disapproved, the Dean of Students shall notify the student in writing.

END NOTES

ⁱ Student lacks the ability to tell right from wrong due to mental incapacity.

ⁱⁱ As defined in the current *American Psychiatric Association Diagnostic Manual* (DSM-IV).

ⁱⁱⁱ Such notice may also be given by a family member, or by others advising or assisting the student.

^{iv} In this (Section C., #3) and in Section D., #1 (d), a University faculty or staff member who is an attorney will be regarded as "legal counsel."

^v See generally, *Hart v. Ferris State*, 557 F. Supp. 1379, 1385 (W.D. Mich., 1983).

^{vi} Routine cross-examination should not be permitted. Instead, the Dean or designee will need to be convinced that some critical issue (e.g., personal bias) could only be resolved through direct questioning at the informal hearing.

^{vii} This provision may be invoked in factually complicated cases when reliance upon a written evaluation may not be sufficient.

^{viii} See *Winnick v. Manning*, 460 F.2d 545, 550 (2nd Cir. 1972). ("Minor" deviations not affecting "fundamental fairness" will be permitted).
