

# Polk State College Procedure

Subject	Reference	Date	Number
Student Appeals Hearing Protocol	DBOT Rule 4.01	11/5/2019	5025

## I. Purpose

The purpose of this procedure is to establish guidelines for the process of hearing appeals before the Academic Hearing Committee or the Student Services Discipline Committee. Both Committees derive their membership from the Student Services Quality Council as listed in Polk State College Procedure 6002: *Committee System*.

## II. Procedure

The following procedural guidelines apply to hearings before the Academic Hearing Committee or the Student Services Discipline Committee.

- A. Hearings are closed to the public. Students, faculty and staff members, and representatives of the College who are participating in any disciplinary proceedings may each be accompanied by one representative (this individual may be an attorney). A party who wishes to be represented by an attorney must inform the Dean of Student Services (or his or her designee) in writing at least two school days prior to the scheduled date of the proceedings. A representative may not appear in lieu of the student. The student and faculty or staff member are each responsible for presenting their own cases to the committee; therefore, any person in attendance in an advisory capacity is not permitted to directly address the committee during a hearing. In complex cases, the presiding officer may request the College President to provide legal assistance to the Academic Hearing Committee or Student Services Discipline Committee to assist the College.
- B. The Vice President for Student Services oversees disciplinary appeals. The Vice President for Academic Affairs oversees academic appeals, per Polk State College Procedure 1018: *Academic Appeal Procedure*. The Vice President for Academic Affairs and the Vice President for Student Services (or his or her designee) each act as both the Committee Chairs and Hearing Officers for their respective committees. Members of the Academic Hearing Committee or Student Services Discipline Committee who have participated or plan to participate as a witness in a case under review are excused. Other members may be challenged as set forth in VII.1.h. A quorum consists of a simple majority of the committee membership, not counting the Chair. If an adequate number of members is unavailable to ensure a quorum during the hearing process, the appropriate Vice President (or designee) must appoint alternate members from a pool of faculty members, staff members, and students.
- C. When directed to do so by the Hearing Officer, College students and employees are expected to comply with requests to appear as witnesses, unless compliance would

result in significant and unavoidable personal hardship or substantial interference with normal College activities.

- D. In hearings involving more than one accused student, the Hearing Officer, at his or her discretion, may permit the hearings concerning each student to be held separately.
- E. No student is to be found in violation of the *Polk State College Student Code of Conduct* solely because he or she did not appear for a hearing. In all cases, the evidence in support of the charges must be presented and considered; however, if a student has been charged with failing to obey a summons from the Academic Hearing Committee, the Student Services Discipline Committee, or a Polk State College official, and the student fails to attend the hearing, then he or she must be found in violation of the *Polk State College Student Code of Conduct*.
- F. The Hearing Officer exercises control over the hearing to avoid needless consumption of time and to prevent harassment or intimidation of witnesses.
- G. All proceedings that come before the committees are recorded and are the property of Polk State College.
- H. Any party may challenge a committee member on the grounds of personal bias. A committee member may be disqualified upon majority vote of the remaining members. Voting is accomplished by secret ballot.
- I. A witness may be asked to affirm that his or her testimony is truthful.
- J. The faculty member, staff member, or administrator; the student; and the committee each have the privilege of presenting witnesses that are subject to the right of cross-examination by the committee.
- K. The student must notify the Hearing Officer of any witnesses and evidence he or she wishes to present at least two school days prior to the hearing.
- L. Prospective witnesses may be excluded from the hearing during the testimony of other witnesses. All parties are excluded during committee deliberation.
- M. The burden of proof is upon the faculty member, staff member, or administrator, who must establish the guilt of the student by a preponderance of evidence.
- N. Formal rules of evidence are not to be applicable in disciplinary proceedings conducted pursuant to this procedure. The Hearing Officer gives effect to the rules of confidentiality and privilege, but otherwise admits all matters into evidence that reasonable persons would accept as having probative value in the conduct of affairs. Unduly repetitious or irrelevant evidence may be excluded.
- O. The student and faculty member, staff member, or administrator are each accorded an opportunity to question witnesses who testify at the hearing. At the discretion of the Hearing Officer, the accused may have the privilege of facing his or her accuser.

- P. Affidavits cannot be admitted into evidence unless signed by the affiant and notarized.
- Q. All procedural questions are subject to the final decision of the Hearing Officer.
- R. The committee determines final decisions by majority vote of the members who are present and able to vote. A tie vote results in a recommended acquittal in an original proceeding. The Chair and Hearing Officer does not vote. All decisions of the committee are final.
- S. The final decision of the committee is communicated in writing to the student by the Hearing Officer immediately following the hearing.
- T. In cases before the Student Services Discipline Committee, a determination of a violation of the *Polk State College Student Code of Conduct* may be followed by a supplemental proceeding at which the respondent (or designated representative) and the Dean of Student Services (or his or her designee) may submit evidence or make statements concerning the appropriateness of any sanctions imposed as a part of the disciplinary process. Among the factors to be considered in mitigation are the respondent's present demeanor and past disciplinary record, and the nature and extent of any injury to the victim. The past disciplinary record of the respondent is supplied to the Student Services Discipline Committee at the discretion of the Dean of Student Services (or his or her designee) prior to the supplemental proceeding.

**History:**      Adopted:    August 28, 2007  
                      Revised:    January 24, 2012; July 1, 2014; and November 5, 2019

<i>Reginal T. Wehl</i>	<i>11/18/19</i>	<i>Reginal T. Wehl</i>	<i>11/18/19</i>
<b>Executive Responsible for Procedure</b>	<b>Date</b>	<b>President's Staff Member's Approval</b>	<b>Date</b>
<i>Michelle Galbreath</i>			<i>11/18/19</i>
<b>President's Approval</b>			<b>Date</b>