

## Student Due Process Policy

### 1. **Policy Statements:**

Forest Institute has established a procedure to ensure the rights of its students to receive fair and impartial treatment. This procedure shall apply in all matters, including those related to academic integrity and professional conduct. Additionally, a student may utilize this procedure to file a written appeal if he or she believes any aspect of the program is unfair, biased, unprofessional or not consistent with other policies or procedures of Forest Institute.

### 2. **Definitions:**

- (a) **Days.** In any instance where action is required to be taken by this policy, reference to the word “days” shall mean Monday through Friday, except for those days that Forest Institute is closed as defined by the academic calendar.
- (b) **Ex officio.** “Ex officio” means to participate in proceedings but without formal voting rights.
- (c) **Arbiter.** “Arbiter” means an instructor, other evaluator of the student’s performance, Adjudicator, Dean, VPPA, President, or Review Officer who considers a student appeal under this Due Process Policy.
- (d) **Notices.** Any notices, requests or other communications required or permitted to be given hereunder shall be in writing and shall be delivered by email to the student’s Forest Institute email address and by either a widely recognized national overnight courier service (subject to a written confirmation thereof) or mailed by United States registered or certified mail, return receipt requested, postage prepaid, or hand-delivered and addressed (or delivered) to each party as follows:
  - (i) To the student: to the last address currently on record with Forest Institute. Failure by the student to have a current local address on record with Forest Institute shall not be construed to invalidate such notice.
  - (ii) To the Arbiter, Dean or any other employee of Forest Institute: 2885 West Battlefield Road, Springfield, Missouri 65807.

Any such notice, request or other communication shall be considered given, delivered or received, as the case may be, (i) on the day following the date of deposit with the overnight courier or (ii) the date which is three (3) days following the deposit in the United States mail as provided above, or (iii) on the date the same is hand-delivered. Rejection or other refusal to accept or inability to deliver because of a changed address of which no notice was given shall be deemed to be receipt of the notice, request or other communication. By giving at least five (5) days prior written notice thereof, any party may, from time to time, at any time, change its mailing address hereunder.

- (e) **Record of the Case.** The phrase “Record of the Case” shall mean all documents considered by persons who have considered any appeal at any stage of the Due Process Review, including, but not limited to, each and every written

request for review submitted by the student; each and every written decision on the student's appeal; any evidentiary documentation submitted by a student, an instructor or by any other evaluator of the student's performance; and any evidence or documentation considered by any Arbiter or by any member of a Review Committee.

3. **Review of Student Grades or Other Student Performance Evaluation.**

(a) **Grounds for Appeal.** Any appeal from a grade or other student performance evaluation (hereinafter referred to as "evaluation") is subject to the following criteria:

- (i) No grade or other evaluation may be appealed unless it is alleged that:
  - (1) The grade or other performance evaluation is assigned on some basis other than the student's performance.
  - (2) The grade or other performance evaluation was assigned by reference to more exacting or demanding standards than were applied to other students at the same developmental level participating in the same activity (e.g., students in the same course; students at the same level of practicum).
  - (3) The grade or other performance evaluation was assigned by reference to a performance standard which substantially deviated from the performance standard previously announced by the instructor.
  - (4) The grade or other performance evaluation was assigned after the instructor refused to correct mathematical or grading errors.
- (ii) The following non-exclusive allegations would not be grounds for appeal under this provision:
  - (1) A challenge to the instructor's standards of academic performance.
  - (2) A challenge with respect to the instructor's judgment of the substantive quality of the student's academic performance.
  - (3) A challenge with respect to other purely judgmental determinations made by the instructor.

Any review under this Section is an appeal of the decision by the instructor or other evaluator of the student's performance and is not to be considered a de novo review of the academic performance of the student. In no case shall the review involve a substitution of the instructor's judgment, or that of any other evaluator of the student's performance, with respect to the substantive quality of the student's academic performance. No grade or other evaluation shall be changed based merely on judgmental matters.

(b) **Standard of Review: Preponderance of the Evidence.** The student will have the burden of establishing and proving the facts necessary to justify a decision in favor of the student by a preponderance of the evidence, meaning it is more likely than not.

(c) **Procedures for Appeal.** If a student believes they have been graded or evaluated unfairly:

(i) **Step 1.** The student must discuss with the instructor or other evaluator of the student's performance ("instructor/evaluator") the grade or other evaluation, as well as the performance standards expected by the instructor/evaluator. A meeting between the student and instructor/evaluator is required to afford both parties adequate opportunity to provide and receive feedback in the matter at hand. The student must initiate such discussion by delivery of a written request to the Executive Assistant to Administration within five (5) days of their receipt of the grade or other evaluation. The written request shall:

- (1) Identify the course in which the grade or other evaluation was received.
- (2) State the name of the instructor/evaluator whose grade or other performance evaluation is being challenged.
- (3) Identify the semester in which the grade or other evaluation was received.
- (4) Describe the specific facts which lead the student to consider the grade or other performance evaluation meets the criteria in section 3.a.(i) of this policy .
- (5) Describe the relief sought.
- (6) Contain the signature, address and local phone number of the student.
- (7) Request a meeting date and time be set.

The meeting request will be forwarded to the instructor/evaluator who will meet with the student to consider the student's request. Within ten (10) days of the required meeting with the student and not later than twenty (20) days following receipt of the student's request for review, the instructor/evaluator will issue a final determination in writing to the student stating the grounds for granting or denying the relief requested by the student. A copy of the written determination will be provided to the Executive Assistant to Administration.

(ii) **Step 2.** In the event of unsuccessful resolution of the appeal under Step 1, the student may wish to proceed with further review of the appeal.

Within five (5) days of receipt of the final determination of the instructor/evaluator, the student who wishes to appeal to the next level must submit his or her written notice of the grounds for appeal or review to the Dean of the degree program for which the grade or other evaluation is being appealed. The written request shall be delivered to the Executive Assistant to Administration, and shall state and be accompanied by the following:

- (1) The course in which the grade or other evaluation was received.
- (2) The name of the instructor/evaluator whose grade or other performance evaluation is being challenged.
- (3) The semester in which the grade or other evaluation was received.
- (4) The specific facts why the student considers the grade or other performance evaluation meets the criteria in Section 3.a.(i) of this policy.
- (5) The relief sought.
- (6) The signature, address and local phone number of the student.
- (7) A copy of the Record of the Case.
- (8) A statement as to whether the student wishes to provide a face to face presentation to the Dean.

(iii) Upon receipt of the written request as described in Step 2, the Dean shall, within ten (10) days:

- (1) Acknowledge receipt of the request in writing to the student at the address provided by the student.
- (2) Provide a copy of the petition to the instructor/evaluator whose grade or other evaluation is being appealed.
- (3) As requested by the student, schedule a meeting to receive a face to face presentation of information from the student and a separate meeting with the instructor/evaluator to receive a face to face presentation of information.

(iv) The final determination of the Dean under Step 2 shall be issued in writing and shall state the grounds for granting or denying the relief requested by the student. A copy of the written determination will also be provided to the Executive Assistant to Administration. The final determination shall be communicated to the student and the instructor/evaluator within twenty (20) days following final submission of any evidence to be considered.

(d) **Further Review of Grades or Other Evaluation.**

- (i) Although there is no absolute right of further appeal beyond the Dean, the student or instructor/evaluator may request that the Vice President of Academic Affairs (“VPAA”) or his designee grant further review. The VPAA or his designee may grant or deny the request for further review in his or her discretion on the basis of the student’s written request and the Record of the Case.
- (ii) Any request for review beyond the Dean shall be submitted in writing. The written request shall comply with the provisions of Section 3(c)(ii) above and the request shall also state and be accompanied by the review steps already completed in the matter, the Record of the Case, and why the final decision in that review process was erroneous.
- (iii) If the request for review is granted, the VPAA or his designee shall follow the procedural provisions contained within Section 3(c)(iii) and 3(c)(iv) above.

4. **Review of All Matters Other Than Student Grades or Other Student Performance Evaluations.**

Appeal of any decisions or actions resulting from application of a policy or procedure (e.g., determinations of administrative withdrawal, comprehensive exam and internship eligibility, missed deadlines, failed degree requirements, enforcement of pre-requisite requirements) is subject to the following criteria and processes.

- (a) **Step 1. Appeal to Adjudicator.** The student must discuss the grievance with the person issuing the decision or taking the action which is the subject of the appeal (hereinafter referred to as the “Adjudicator”). A meeting between the student and the Adjudicator is required to afford both parties adequate opportunity to provide and receive feedback in the matter at hand. The student must initiate such discussion by delivery of a written request for a meeting with the Adjudicator within five (5) days of the occurrence of the matter giving rise to the grievance. The written request shall be delivered to the Executive Assistant to Administration and shall:
  - (i) Describe the matter complained of.
  - (ii) State the specific facts which support the student’s position.
  - (iii) Be accompanied by copies of any documents which support the student’s position.
  - (iv) Describe the relief sought.
  - (v) Contain the signature, address and local phone number of the student.
  - (vi) Request a meeting date and time be set.

The meeting request will be forwarded to the Adjudicator who will then meet with the student to consider the student's request. Following the meeting, the Adjudicator will issue a final determination to the student stating the grounds for granting or denying the relief requested by the student. A copy of the written determination will also be provided to the Executive Assistant to Administration. The final determination shall be sent to the student in writing within ten (10) days of the required meeting with the student and not later than twenty (20) days following receipt of the student's request for review.

- (b) **Step 2. Appeal to Review Officer.** In the event the student wishes to proceed with further review of the appeal, within five (5) days of receipt of the Adjudicator's final determination, the student must submit his or her written notice of the grounds for appeal or review to the Executive Assistant to Administration. The President shall appoint a Review Officer to examine all documentation submitted, including, but not limited to, the Record of the Case. The Review Officer will also meet separately with the student, the Adjudicator and other individuals deemed necessary in determining the facts of the matter at hand. The final determination of the Review Officer shall be issued in writing. It shall state the grounds for granting or denying the relief requested by the student, as well as the right of the student to appeal the Review Officer's decision. The final determination shall be communicated in writing to the student and the Adjudicator within twenty (20) days following final submission of any evidence to be considered.
- (c) **Step 3. Request for a Review Committee Proceeding.** If the student is not satisfied with the decision of the Review Officer, the student may submit a written appeal to the Review Committee, through the Executive Assistant to Administration, within five (5) days from the date of receipt of notice of the Review Officer's decision. The Review Committee Chair, or designee, will select the date, time and place for the hearing, and will make a reasonable attempt to accommodate the student's schedule. The student, the Adjudicator and the Review Officer will be notified in writing a minimum of ten (10) days prior to the proceeding, and will be provided with information about the proceeding.
- (d) **Review Committee Composition.** A Review Committee proceeding is conducted by three persons to be appointed by the President annually. In the event of the inability of any person so appointed to serve, the President may appoint either a temporary or a permanent replacement, in the President's discretion. Composition of the Review Committee shall consist of two faculty members and one student. In addition to the appointed members, the President, or the President's designee, shall serve as the Chair of the Review Committee as a non-voting member, except in the case of a tie vote. The role of the Chair is to exercise impartial control over the Review Committee Proceeding in order to achieve an equitable, orderly, timely and efficient process. The Chair is authorized to make decisions and rulings as are necessary and proper to achieve that end, including such decisions and rulings as pertain to scheduling and to the admissibility of documentation.

(e) **Review Committee Procedure:**

- (i) The Review Committee Chair or designee will select the date, time and place for the hearing, and will make a reasonable attempt to accommodate the student's schedule. The student, the Adjudicator and Review Officer, along with members of the Review Committee, will be notified in writing a minimum of ten (10) days prior to the proceeding, unless a shorter time be fixed by the Chair for good cause.
- (ii) It is the responsibility of both the person desiring the Review Committee and the Adjudicator to submit documentary evidence, in printed form to the Executive Assistant to Administration not less than five (5) days before any Review Committee proceeding. All witness statements and documentary evidence provided will become part of the "Record of the Case" and will be forwarded to all parties having a direct interest in the proceeding prior to the hearing.
- (iii) The meetings of the Review Committee shall be closed hearings. The Chair shall preside at the hearing, call the hearing to order, call the roll of the committee in attendance, ascertain the presence or absence of the student and the Adjudicator, read the notice of hearing and the reason for the appeal, verify the receipt of the notice of the meeting, establish the presence of any advisor, and establish the presence of any other persons in attendance.
- (iv) Procedural questions which arise during the hearing not covered by these general rules shall be determined by the Chair, whose rulings shall be final, unless the Chair shall present the question to the committee at the request of a member of the committee, in which event, the ruling of the committee by majority vote shall be final.
- (v) The Chair will rule on all requests and points of order and may consult with the Review Committee's legal advisor prior to any ruling.
- (vi) The Review Committee may require witnesses to appear before the committee to present evidence in cases where the committee deems it appropriate.
- (vii) The student shall present to the Review Committee a summary of the incident and an analysis upon which the grievance is based. Materials included in the Record of the Case are not to be read to the Review Committee, it being the responsibility of the Review Committee to review these materials in advance of the Review Committee hearing.
- (viii) The Adjudicator may also present relevant information and arguments before the committee.
- (ix) The Review Officer attends the Review Committee hearing at the pleasure of the Chair and may be called upon to present a summary of

his or her findings and an analysis upon which his or her decision was based.

- (x) If a documented disability prevents a student from speaking, a non-attorney advisor may speak on behalf of the student. This does not preclude the student from being directed to testify and to reply to questions directed to him or her.
- (xi) A student may also be accompanied by an advisor, who may be an attorney. The role of the advisor during a Review Committee proceeding will be limited to providing confidential advice to the student, provided such advice does not interfere with or disrupt the hearing as determined by the Chair. The student must take an active and constructive role in the hearing. Specifically, a student must fully cooperate with the Review Committee and respond to its inquiries without intrusion by an advisor.
- (xii) In consideration of the limited role of advisors, and the compelling interest of Forest Institute to expeditiously conclude the matter, the work of the Review Committee will not, as a general practice, be delayed due to the unavailability of an advisor, except in the case of a documented disability requiring a non-attorney advisor be present.
- (xiii) If the student who initiated a Review Committee proceeding has been properly notified of the proceeding, but fails to appear, the proceeding may take place in his or her absence and the decision of the Review Committee will be binding. Only under exceptional circumstances (to be determined by the Chair of the Review Committee) will a new proceeding be granted on the basis of absence.
- (xiv) The student, the Review Officer, and the Adjudicator may present and question persons having knowledge of the incident and offer documents or other materials pertaining to the alleged incident(s). The student, the Review Officer, the Adjudicator, and all members of the Review Committee may question any person giving testimony. The student, the Review Officer (in the discretion of the Review Committee), and the Adjudicator have the right to be present during all stages of the Review Committee Proceeding except during the deliberations of the Review Committee.
- (xv) The members of the Review Committee may request any additional material or the appearance of other persons they deem appropriate, both prior to and during the proceeding.
- (xvi) Any party, including the Review Officer, may make summary statements to close the proceeding for such period of time as permitted by the Chair.
- (xvii) The presence of others at a Review Committee Proceeding lies within the judgment of the Chair. A Review Committee Proceeding is a confidential investigation. It requires a deliberative and candid atmosphere, free from distraction. Accordingly, it is not open to the public or other "interested"

persons; however, at a party's request, the Chair will permit a party's parent(s) or legal guardian(s) and/or spouse to observe and may permit a limited number of additional observers. The Chair may remove from the Review Committee hearing any person who disrupts or impedes the investigation, or who fails to adhere to the rulings of the Chair. The Chair may direct that persons, other than a party, who are to be called upon to provide information be excluded from the Review Committee Proceeding except for the purpose of providing information. The members of the Review Committee may conduct private deliberations at such times and places as they deem proper. The Chair shall determine the admissibility of any written statement.

- (xviii) It is the responsibility of the persons desiring the testimony of a witness before a Review Committee Proceeding to ensure that the witness appears or that a written statement is made available. Any written statement must be dated, signed by the person making it, shall contain the name, address and telephone number of the person making the statement and contain a statement of the reasons that the witness cannot, or reasonably should not, be expected to appear. Written statements shall be witnessed by a notary and delivered to the Executive Assistant to Administration, and received by the Chair and any other interested party at least five (5) days prior to the time the proceeding will commence. Written statements become part of the "Record of the Case" distributed to interested parties prior to the proceeding. A Review Committee Proceeding will not, as a general practice, be delayed due to the unavailability of a witness.
- (xix) It is the responsibility of the person desiring the Review Committee to consider documentary evidence to submit, in printed form, such documents to the Executive Assistant to Administration. All witness statements and documentary evidence any interested party wishes to have considered by the Review Committee, must be received in the Executive Assistant to Administration not less than five (5) days before any Review Committee Proceeding.
- (xx) After the close of the hearing, the Review Committee may meet privately to discuss the case. The committee will reach a finding by a simple majority vote and shall communicate its decision in writing to all parties within ten (10) days of the date of the Review Committee Proceeding.
- (xxi) The Review Committee shall provide the parties and, if a student's record is affected, the Office of the VPAA, a written notice of the Review Committee's determination. While student conduct records are not part of the student's academic record, they are maintained as part of a disciplinary file and are considered to be a part of the student's educational records. A copy of the Committee's report will be maintained in the office of the VPAA for a period of seven (7) years.
- (xxii) Any request for continuance or extension of the time deadlines shall be made in writing to the Chair, who shall have the authority to continue the hearing, or to extend a time deadline, if the request is made prior to the

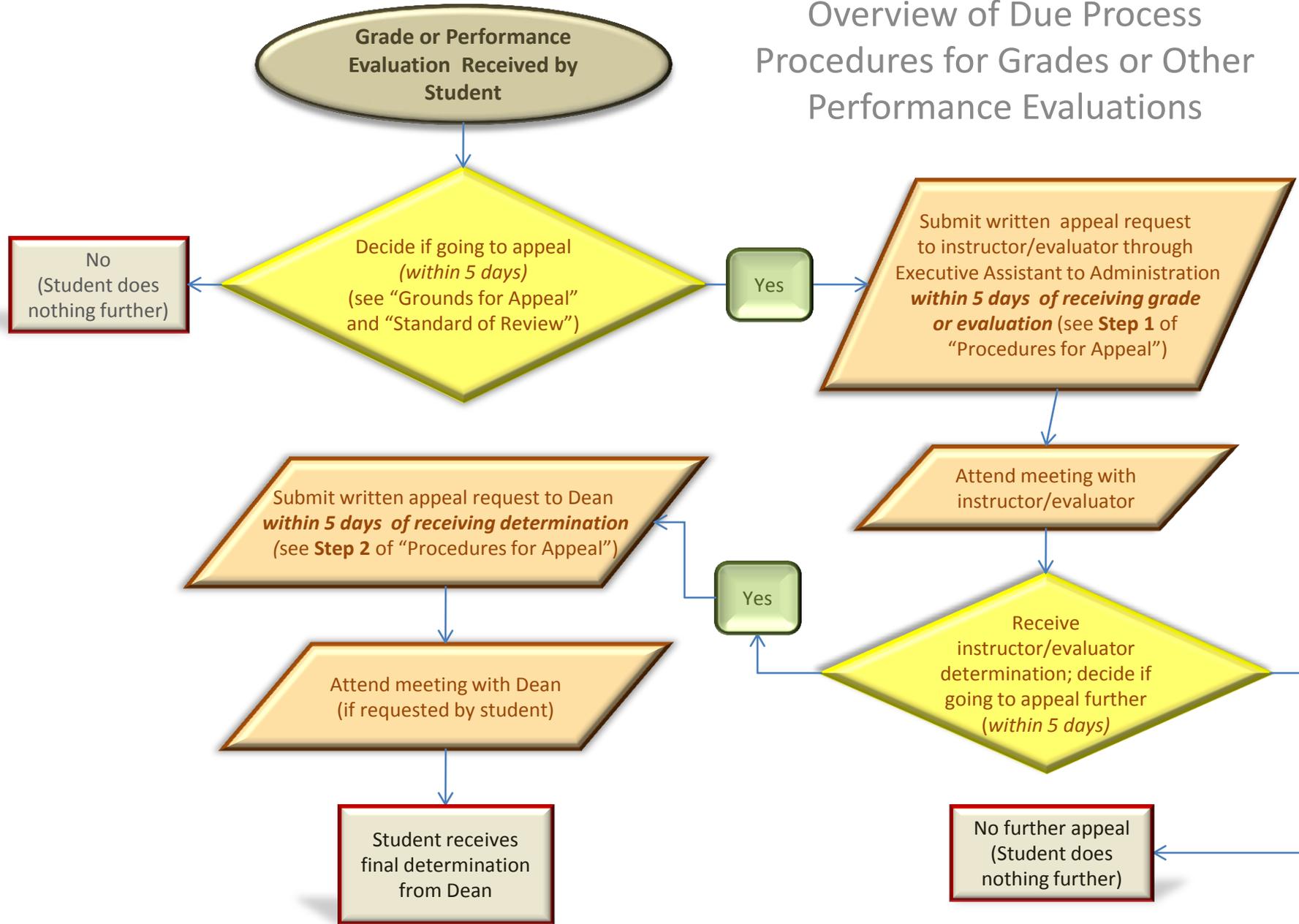
passage of the time deadline and if made for good cause. The Chair shall notify all parties of the new date for the hearing or other new time deadline. The request for continuance, or the request for extension of any time deadline, shall include all reasons for the request.

- (xxiii) The standard of review is de novo. The determination of the Review Committee shall be made on the basis of a preponderance of the evidence (whether it is more likely than not), except in cases of suspension and expulsion. In cases of suspension or dismissal, the determination of the committee, as well as prior notices to and from the student that have been issued in the matter prior to appeal to the Review Committee, shall become the "Final Record of the Case" and shall be accessible at reasonable times and places to all parties as determined by the Chair.

5. **Miscellaneous.**
- (a) **Disciplinary Records.** Third parties normally will not have access to this file unless the student grants written permission. The Family Educational Rights and Privacy Act of 1974 (FERPA) describes circumstances under which the contents of such records may be disclosed without written consent of the student.
  - (b) **Participation by a Student's Attorney.** Other than involvement as described in paragraph 4(e)(xii) above, direct participation in the Due Process Review at any stage by an attorney representing a student is not permitted, including, but not limited to, participation through correspondence, making of written requests on behalf of the student, the presentation of documents or witnesses, examination of witnesses, participation in personal meetings or presentation of arguments on behalf of the student. Notwithstanding anything contained in this subparagraph to the contrary, an attorney may advise and assist the student informally, including in the preparation of documents, requests and arguments, provided that same are submitted in the name of, and by, the student.
  - (c) **Due Process Liaison.** The President shall, from time to time, appoint one or more individuals to assist students to understand the Due Process Procedure as outlined in the Forest Institute Due Process Policy. The liaison's function is to provide guidance as to procedural matters as set forth in this Due Process Policy only. The liaison shall not (1) provide opinions as to the merits of any matter, either the strengths or the weakness; (2) advise or advocate for the student; or (3) attempt to interpret or apply Forest Institute policies. It is not the function of the liaison to coach or to interpret the meaning of any policy or procedure, including that of this Due Process Policy. The liaison will not accompany the student to any informal or formal meeting or proceeding relating to the implementation of the Due Process Policy.
  - (d) **Arbiter Conflict of Interest.** In the event any Arbiter identified under this Due Process Policy as having responsibility for review of the student's appeal, other than the President, recuses himself or herself from consideration of any appeal under this Due Process Policy, the President shall designate someone to act in place of the Arbiter. In the event of recusal by the President, the President shall appoint a Review Committee to consider the student's appeal. Having had the student in a class or other instructional setting, other than a class which is the subject of due process review, or having other interaction in one's customary role as a member of the faculty, shall not per se be a conflict of interest.
  - (e) **No Appeals by Arbiter Following Decision by a Subsequent Arbiter.** No Arbiter shall be permitted to appeal the decision of a subsequent Arbiter involving the same student appeal.
  - (f) **Utilization of Faculty Panel.**
    - (i) In any appeal or review proceeding hereunder where the VPAA or the President may, in the discretion of the VPAA or the President, act as the Arbiter, the VPAA or the President, as the case may be, may appoint a faculty panel to hold a hearing and/or to make recommendations as to whether to grant a discretionary petition for review.

- (ii) The number of members of a faculty committee shall be at the discretion of the appointing authority, the exercise of which discretion shall not be considered under the standards of review contained herein.
  - (iii) Whenever any faculty panel is appointed, or whenever such committee makes findings or recommendations pursuant to these rules, the action of the faculty panel must be reviewed by the appointing authority, and any decision made pursuant to these rules is to be considered the decision of the appointing authority and not the decision of the faculty committee.
- (g) **Student Status Pending Appeal.** Except in the case of a student whose status is that of a student engaged in clinical training (in which case the due process procedure set forth in the Clinical Training Manual shall control), a student who is appealing any matter has the right to continue to attend classes until the right of appeal has been exhausted, or the time for appeal has expired. Provided, however, when, in the opinion of the Review Officer, a student's conduct presents a threat to the safety of other members of the institutional community, the Review Officer may issue an immediate interim suspension from all or part of the program. Interim suspensions should be issued in writing, stating clearly the privileges that are being suspended (attendance at a particular class, attendance to all classes, or access to institution facilities), and should inform the student of his or her due process rights. The student may appeal issuance of the interim suspension to the President. The President may lift or modify the interim suspension during the appeal process. If a matter is pending at the end of a term, the student will be placed on probation and receive an incomplete (I) in the course until the matter is resolved. If the student drops the class in which an act is alleged to have occurred, sanctions may still be imposed, including those that involve a revision of the student's transcript (for example, a WP grade recorded when the student dropped the course may be revised to XF if that sanction has been upheld). For purposes of classifying the student's status as a student, such status shall be determined as of the date of any final decision by any Arbiter (meaning there is no further appeal available to the student as a matter of right under this Due Process Policy, or the time for pursuing such an appeal has passed without action on the part of the student to initiate such an appeal), or as of the date of any final decision by the Review Committee. Any refunds to which a student may be due in the event of the student's dismissal from Forest Institute shall be determined per the Academic Calendar and Forest Institute Policy governing refunds.
- (h) **Due Process Appeals Involving Charges of Harassment or Discrimination.** When any appeal makes allegations of harassment or discrimination, the Equal Opportunities Officer ("EOO") shall be promptly informed of the allegations. The EOO shall separately investigate the allegations and report the results of the EOO's investigation to the Arbiter other than one who is accused of having harassed or discriminated against the student, and said Arbiter shall consider the findings of the EOO in deciding the appeal. The decision of the Arbiter shall not operate to limit or impair any action the EOO may elect to pursue regarding the allegations.

# Overview of Due Process Procedures for Grades or Other Performance Evaluations



# Overview of Due Process Procedure of All Matters other than Student Grades or Other Performance Evaluations

