

STATEMENT BY THE BOARD OF HIGHER EDUCATION
ON THE MAINTENANCE OF CAMPUS ORDER

(AMENDMENT TO THE INTERIM STATEMENT OF THE
EXECUTIVE COMMITTEE DATED AUGUST 13, 1970)

In adopting the "student due process bylaws" (Article XV) it was the intention of this Board to provide the means to enable the administration, faculty, and students of each college of the University to administer a system of student conduct and discipline designed to maintain campus order and protect the rights of members of the college community.

The legislation creating the Board of Higher Education granted to the Board the power and the responsibility to govern and administer the college system under its jurisdiction and to prescribe the conditions of student admission, attendance and discharge. Accordingly, the Board, mindful of this responsibility provided in the Bylaws (Section 15.6) that "The board reserves full power to dismiss or suspend a student, or suspend a student organization for conduct which impedes, obstructs, or interferes with the orderly and continuous administration and operation of any college, school, or unit of the university in the use of its facilities or in the achievement of its purposes as an educational institution."

The Board believes that in situations involving the enforcement of its Rules and Regulations for the maintenance of Public Order pursuant to Article 129A of the Education Law (popularly known as the "Henderson Rules"), the procedures outlined in Article XV will be inadequate to the protection of individual rights and the maintenance of order at a particular campus and that in such cases the Board has the responsibility to exercise the powers reserved in Section 15.6.

Accordingly, the Board now serves notice that it will exercise its powers under Section 15.6 when the Chancellor determines, on his own motion or when a President so certifies to the Chancellor, that a violation of the Henderson Rules exists, and that such violation constitutes conduct which impedes, obstructs, or interferes with the orderly and continuous administration of a unit of the University in the use of its facilities or in the achievement of its purposes as an educational institution and requests the Chancellor to constitute a hearing panel as hereinafter described. In such cases the Board will invoke the following procedures:

1. Written charges signed by the President, the Acting President or a full dean shall be personally delivered or sent to the student at the address appearing on the records of the college by registered or certified mail. The charges shall contain a complete and itemized statement of the charges being brought against the student including the rule which he is charged with violating and the possible penalties for such violation.

2. Along with the charges, there shall be served upon the student involved a written direction to appear at a time and place to be designated by the Chairman of the hearing panel for a hearing upon such charges and statement of the students rights in the proceeding and possible consequence. The student shall be notified that anything he may say at the hearing may be used against him at a non-university hearing, that he may remain silent at the hearing without assumption of guilt, and that he has a right to have legal counsel and witnesses participate at the hearing.

3. The student shall be notified of the time, place and date of the hearing at least five school days prior thereto unless the student consents to an earlier hearing. The notice may be personally delivered or sent to the student by first class mail to the address appearing on the college records. In the event the student has been temporarily suspended by the President or a full Dean the hearing shall be scheduled for a date not later than seven school days after the effective date of the suspension.

4. At the hearing the proof in support of the charges will be adduced and the student, with such advisor as he deems appropriate, shall have the opportunity to controvert the charges or to make such explanation as he deems appropriate. Both sides may introduce evidence and cross-examine witnesses. In the event the student does not appear the hearing nevertheless shall proceed.

5. A record of each such hearing by some means such as a stenographic transcript, a tape recording or the equivalent shall be made. The student involved is entitled upon request to a copy of such a transcript without cost.

6. The hearing shall be public or private as the hearing panel as hereinafter provided shall determine, except that the hearing shall be private if the student so requests.

7. As soon after the conclusion of the hearing as may be practical the hearing panel shall make a decision and shall communicate it to the President and to each student involved. The decision shall be that the charges or any of them are sustained or dismissed. If the charges or any of them are sustained, the hearing panel shall state the penalty therefor. The penalty may consist of censure, disciplinary probation, restitution, suspension for a period of time or expulsion. The decision of the hearing panel shall be final except that a suspension for a year or longer or expulsion shall be appealable to a committee designated by the Board. Any appeal under this section shall be made in writing within fifteen days after the delivery of the hearing panel's decision. This requirement may be waived in a particular case for good cause by the Board Committee.

8. The hearing panel shall consist of such persons as the Chancellor may designate. One such person shall be designated by the Chancellor as the presiding officer. One person shall be a student selected from a roster submitted by the University Student Senate, but such student shall not be from the college attended by the student under charges. One person shall be a member of the permanent instructional staff selected from a roster submitted by the University Faculty Senate, but such faculty member shall not be from the college attended by the student under charges. In the event that no roster has been submitted by the University Student Senate or by the University Faculty Senate, or in the event that no person on one or the other of such rosters is available or willing to serve in a particular case, the Chancellor shall designate a student or a member of the permanent instructional staff, as the case may be, to serve on the hearing panel. The presiding officer shall be in charge of the hearing and shall make such rulings in the course of the hearing as he deems appropriate for a fair hearing. The presiding officer shall be empowered to proceed in the absence of the faculty member or student member, or both.

9. A request by the President that a hearing panel be constituted under the provisions of this statement shall not affect the power of a president or full dean temporarily to suspend a student or temporarily suspend the privileges of a student organization as provided in Section 15.6 of the bylaws.

10. In the event that a student is suspended or expelled under these procedures or the procedures of Section 15.3 of the bylaws and the suspension or expulsion is subsequently vacated on appeal or by the courts, the college will provide at no cost to the student the academic services lost as a result and will delete the suspension or expulsion from the student's academic record.