

OFFICE OF THE GENERAL COUNSEL

PROCEDURES FOR THE CONDUCT OF HEARINGS UNDER THE OHIO CAMPUS
DISRUPTION ACT

The Ohio Campus Disruption Act (the “Act”), ORC §§3345.21 through 3345.26, requires that the University hold a hearing when a student, faculty or staff member is arrested for certain crimes of violence, as defined in the Act, that take place on campus or affect the University community or property. This hearing— often referred to as a “1219 hearing” – is distinct from the student judicial process set forth in the Student Code of Conduct, and from the faculty and staff disciplinary processes set forth in applicable collective bargaining agreements or policies. A student, faculty or staff member may be subject to those judicial or disciplinary processes in addition to the hearing described in these procedures.

I. Definitions:

- (A) “1219 Hearing” or “Hearing”: The hearing required pursuant to the Act, conducted in accordance with these procedures.
- (B) “Acquittal”: For the purposes of these procedures, the term “acquittal” includes any final judicial determination that does not result in a conviction. Examples include a dismissal of the charges with prejudice, or the overturning of a conviction on appeal.
- (C) “Arrested Person”: A student, faculty or staff member who is arrested for a crime of violence affecting the University and for whom a Hearing will be held.
- (D) “Crime of Violence Affecting the University”: A crime of violence affecting the University is an “offense of violence” listed in ORC § 2901-01(A)(9)(a) that:
 - (1) is committed on the University’s campus;
 - (2) affects members of the University community or University property; or
 - (3) is committed in the immediate vicinity of the University after an emergency has been declared by the President.

There are over thirty (30) offenses of violence, including, but not limited to: arson, assault, burglary, child abuse, domestic violence, discharging a firearm, extortion, human trafficking, inciting to violence, intimidation, kidnapping, manslaughter, menacing, murder, rape, riot, robbery, stalking, sexual battery and terrorism. ORC §2901-01(A)(9)(a) should be consulted for a definitive list.

- (E) Dismissal: Dismissal from the University shall mean permanent expulsion if the person dismissed is a student, or contract termination without the prospect of

reemployment, if the person dismissed is a faculty or staff member. Dismissals may only be reversed pursuant to Section VI below.

- (F) Preponderance of the Evidence: Preponderance of the evidence is the standard of proof used to determine whether an arrested person did commit a crime of violence affecting the University. To meet the preponderance of the evidence standard, the evidence presented must establish for a reasonable person that it is more likely than not that the person committed the crime.
- (G) Referee: A referee is an attorney appointed by the University to conduct the Hearing. The referee may not be an attorney for, or an employee of, the University.

II. Notification:

- (A) Upon learning of the arrest of a student, faculty member or staff member for crime of violence affecting the University, the University shall appoint a Referee.
- (B) The Referee shall determine a date and time for the Hearing. The hearing shall be held within five (5) days of the date of arrest, subject to reasonable extensions for good cause. The extensions will not exceed a total of ten (10) days.
- (C) The Office of General Counsel for the University will notify the arrested person of the date, time and place for the Hearing. The notice shall be delivered in person whenever possible. If it is not possible to deliver the notice in person, it shall be mailed to the last known address of the arrested person and emailed to the arrested person's University email address. Notification is deemed made upon completion of personal service or three days after the notice is deposited in the U.S. Mail.

III. Hearing

- (A) The Referee will conduct the hearing as an adversarial process. The Referee may administer oaths, and issue and enforce subpoenas.
- (B) The arrested person has the right to be represented by counsel. The University will be represented by counsel. Both parties have the right to present witnesses and evidence, and to cross-examine the other party's witnesses. The arrested person has the right to testify and, in the absence of a waiver of the right against

compulsory self-incrimination, such testimony may not later be used in a criminal proceeding against the arrested person.

- (C) If the arrested person does not appear at the hearing, he or she will be declared suspended as described in Section IV below.

IV. Suspension

- (A) If the Referee determines, based on a preponderance of the evidence, that the arrested person committed a crime of violence affecting the University, the Referee shall order the arrested person suspended.
- (B) In the alternative, if the Referee believes that the good order and discipline of the University will not be prejudiced or compromised by the arrested person's presence on campus, the Referee may permit the arrested person to return to campus under a strict disciplinary probation in lieu of suspending the arrested person.
- (C) The suspension will be in effect until the arrested person is acquitted or convicted of the crime for which he or she was arrested, or reinstated pursuant to Section VI below. The University shall notify the arrested person of the suspension via U.S. Mail and email to the person's University email address.
- (D) During his or her suspension, the arrested person is not permitted on campus except with the express permission of the Board of Trustees or the President. A student who has been suspended may not receive any academic credit, degree, honor, scholarship or student assistance during the suspension; an employee who is suspended may not receive any salary or wages during the suspension.
- (E) The decision of the Referee may be appealed to the Cuyahoga County Common Pleas Court in accordance with ORC §3345.22(G).
- (F) If the arrested person is acquitted of the crime for which he or she was suspended, the suspension automatically terminates. Upon acquittal, the arrested person shall be reinstated and the record of the suspension expunged from his or her University records.

V. Dismissal

- (A) If the arrested person is convicted of a crime of violence affecting the University, he or she shall be automatically dismissed from the University.
- (B) The date of the dismissal shall be considered the date of suspension, if the arrested person was suspended pursuant to Section IV above.
- (C) The President shall notify the arrested person of the dismissal. The notice shall be in writing and sent certified mail to the arrested person's address as listed on both court and University records.
- (D) Upon dismissal, the arrested person is no longer permitted on campus except with the express permission of the Board of Trustees or the President. A student who is dismissed may not receive any academic credit, degree, honor, scholarship or student assistance during the period of dismissal; an employee who is dismissed may not receive any salary or wages during the period of dismissal.
- (E) If the conviction is overturned on appeal, the dismissal will be deemed not to have occurred. The arrested person shall be reinstated and the record of the dismissal shall be expunged from his or her University records.

VI. Reinstatement

- (A) An arrested person who is suspended pursuant to Section IV above, or dismissed pursuant to Section V above, may request reinstatement after one (1) calendar year from the date of suspension or dismissal. Such reinstatement may only be granted by the Board of Trustees in its sole discretion.
- (B) Requests for reinstatement may be submitted to the Secretary of the Board of Trustees. An arrested person may only submit one (1) such request.

Approved: General Counsel, May 6, 2015