

# **REPORT OF THE STUDENT RIGHTS AND RESPONSIBILITIES COMMITTEE**

## **September 2005**

### **Background**

This is a continuation of the report that began at the May 12 Faculty Senate meeting. These recommendations are revisions to Procedures for Cases of Violations of Community Standards of Behavior and University Policies as they appear in the University Manual. The recommendations were created over the course of two years by committee members Leo Carroll, Chet Hickox, Barbara Luebke, and John Merrill; student members Michael Katz, Cristin Langworthy, Jesse Whitsitt Lynch, Kevin McCarthy, and Ryan Rabideau; staff members Joan Harrington, Maureen McDermott, with Dean of Students Fran Cohen serving as Chair.

Discussion on the first recommendation, 9.24.10, Jurisdiction, began in May.

For information purposes only:

A question came up in May about the content of the University Manual and the Student Handbook. While the University Manual provides the structure for University operations, it is not a document that gives detailed procedures for the implementation of policy. This responsibility is routinely delegated to Faculty Senate Committees or other administrative units.

University Manual section 5.73.10 indicates that the Student Rights and Responsibilities Committee (SR&R) has the responsibility for reviewing the student handbook and making appropriate recommendations for modifications. All Handbook content is approved by SR&R, which includes 4 faculty for the discipline section and 2 faculty for the section on community standards.

A point of controversy last spring was a phrase that would appear in the Student Handbook. After the May 12 meeting the SR&R Committee voted to drop the strike-through phrase from the list of examples that will appear in the Handbook as noted below.

*The proposed policy gives the University discretion to decide whether or not to apply jurisdiction in the following types of circumstances: actions causing injury to self or others, harassment, felony arrests, ~~hosting events with underage or excessive alcohol consumption~~, riotous behavior and/or inciting violence toward people or property.*

### **Recommendations**

The changes recommended for 9.24.10 come to you with the unanimous support of the SR&R committee for your approval.

#### **9.24.10 Jurisdiction of the Student Discipline System over Off-Campus**

**Conduct.** Off-campus conduct shall be subject to the jurisdiction of the Student Discipline System if one of the following conditions is met: 1) an infraction of a community standard of behavior as listed in the STUDENT HANDBOOK occurs

at: a) an official University event, such as a field trip; b) a University sanctioned event as defined in Section 8.51.12 of the UNIVERSITY MANUAL; or c) an event sponsored by a recognized student organization, fraternity or sorority; or 2) an off-campus action performed by a person while he or she is a student is of a nature such that it would be subject to the Student Discipline System if it had occurred on campus, and the nature and circumstances of the infraction provide reasonable grounds for believing that the alleged offender ~~posed or poses a threat to life, health, or safety of the University community, or to University property~~ the safety of self or others or if the alleged offender is repeatedly arrested or cited for violating local, state or federal laws. The decision to apply jurisdiction to off-campus conduct shall be made by the Dean of Students.

*Rationale: Broadens University's ability to act to protect safety of students and others. 17 out of 17 state colleges and universities regarded as peer institutions have jurisdiction policies that are broader than that recommended above. The proposed policy gives the University slightly broader discretion to decide whether or not to apply jurisdiction. As indicated in the policy revision, safety will be a significant consideration. In addition, the Manual already provides a process with which to appeal the application of jurisdiction.*

**9.23.10 Emergency Suspension.** .... for reasons of imminent danger to the safety or well-being of the University community. The decision to separate a student from the campus under these conditions shall be made only with the approval of the Vice President for Student Affairs or the President. ....

*Rationale: Streamlines approval process as the Vice President for Student Affairs typically handles emergencies.*

**9.21.29 Appeals Procedure.** .... When a hearing panel or hearing officer recommends a judicial sanction, the accused student shall have the right to appeal the decision to the University Appeals Board (5.20.10-12). Such appeal requests, which must be presented in writing, shall be based only on evidence of fraud, denial of rights, procedural error, or on the claim of new evidence which was not available at the hearing, and which would have materially affected the decision of the hearing panel or officer. Following a hearing, a complainant has the right to submit an appeal request to the University Appeals Board based on new evidence (as described above).

Appeal requests must be filed with the Dean of Students within one week of receipt of the letter informing the accused student that a judicial sanction has been recommended. ....

*Rationale: This provision better balances the rights of the accusing individual and the accused individual if new evidence were found by either party within a week.*

Appendix G  
POLICY #86-1

*Please note that in 3a below, limited administrative search, the SR&R committee voted to drop the word "closet." Therefore these recommendations come to you for your approval with the unanimous support of the committee*

1. Entry and Search by Consent of the Student

a. .... In situations where the student refuses consent search procedures described below may be implemented.

~~e. Any student who is a resident of the room, suite, or apartment may consent to entry of the authorized University employee and to the search of that student's personal belongings. However, no student may consent to the search of another student's bedroom, closets, locker, suitcases, or other areas under the primary control of another student. Whenever a student's area or belongings are searched by consent, a consent to search form is to be completed by the staff member, making the search and signed by the student(s) whose belongings are to be searched.~~

c. A resident student can give consent to an authorized University employee to enter his/her room, apartment or shared bathroom. The resident student can give consent only to the search of his/her belongings, and of shared areas that are not under the primary control of another student. For example a student may give consent to a search of a shared refrigerator but not to any closed containers therein that are the property of another student. No student may consent to the search of another student's bedroom, closets, locker, suitcases, backpacks, or other areas under the primary control of another student.

2. Entry Without Consent in a Health or Safety Emergency

The Director of Security, Director of Safety and Risk Management or his/her designee, the Director or Assistant Director of Residential Life, ~~the Associate Director of Residential Life~~, a Hall Director or an ~~Evening Manager Supervisor~~ Assistant Hall Director or Security Officer may enter .....

3. Entry For Routine Inspections

..... inspections for health, safety, and building maintenance purposes. In the case of fraternity or sorority rooms, the Vice President for Student Affairs or his/her designee may enter for such inspections and maintenance.

4. Entry Without Consent on Suspicion of Violation of University Regulations or Federal or State Law

a. ~~Where federal, state, or local law enforcement officers, including URI campus police, are involved in an investigation of possible violation of state or federal law, any search of a student residence shall be conducted only by such law enforcement officers and only in accord with legal standards applicable to police searches of private residences, and no University employee or agent other than a URI police officer is authorized to conduct a search of a student residence in connection with such investigation. URI officials may, however, cooperate with the law enforcement~~

officers executing a search authorized by an appropriate federal or state judicial officer.

b. If no federal, state, or local law enforcement officer (including URI campus police) is involved in an investigation of a possible violation of University policy, and if a URI employee (other than a URI campus police officer) or student has reason to believe that search of a particular room will yield evidence of violation of a University regulation by a particular student, that employee or student should contact the Director of Security, the Director of Residential Life or the Associate Director of Residential Life. If the Director of Security, Director of Residential Life or Associate Director of Residential Life, after hearing the employee's or student's statements to that effect, believes that a search of a particular student residence will produce evidence of a violation of University regulations, or evidence of the identity of a person participating in such a violation, the Director of Security, the Director of Residential Life or Associate Director of Residential Life may apply to the Dean of Students (or if the Dean of Students is unavailable, to the Vice President for Student Affairs) for an administrative search warrant. The Dean of Students or Vice President for Student Affairs to whom application is made shall review the application and may ask any additional questions of the Director of Security, the Director of Residential Life or Associate Director of Residential Life, or of the additional applicants. The Dean of Students or Vice President for Student Affairs shall sign the student residence search warrant only if s/he concludes there is reasonable cause to believe that the property described in the application and related to the commission of a violation is located as described in the application and that it is in the best interest of the University and its students to conduct an administrative search. Once the administrative warrant has been granted the search will be conducted only by the Director of Security, the Director of Residential Life or the Associate Director of Residential Life. Evidence found in the administrative search that indicates a violation of University policy may be used for internal University action.

In the following section, "concrete information" is something known from direct observation or information from a reliable source. For example, a resident assistant reports hearing a drinking game; a resident assistant sees alcohol being brought into the room of an underage student; there is the smell of marijuana, a towel under the door, the window is open and a fan is on; a credible message is received about a suicide threat.

A Hall Director or Assistant Hall Director or someone of higher authority may use master keys for entry only under the following circumstances.

-health and safety crisis

-search warrant from court

-verbal permission has been given for a limited administrative search

-written permission has been given for a full administrative search

a. Limited Administrative Search. A Hall Director or Assistant Hall Director who has concrete information of a violation of community standards must get verbal permission from a Director or Assistant Director of Housing and Residential Life to

open the door of a non-responsive student. The resulting search will be hands-off and limited to what is in plain sight, closet and refrigerator contents and a quick look under and around surfaces. Any evidence found in a limited administrative search may be used for campus disciplinary procedures.

b. Full Administrative Search. If federal, state, or local law enforcement officers (including URI campus police) are not involved in an investigation of possible criminal activity, and if a staff or student provides concrete information that the search of a particular room will yield evidence of a serious violation of community standards by a particular student, the Director of Housing and Residential Life, the Dean of Students, or the Vice President for Student Affairs or his/her designee may issue a written administrative search warrant. Once the administrative warrant has been granted, the Director of Housing and Residential Life, Vice President for Student Affairs or their designee will conduct the search. Any evidence found in the administrative search may be used for campus disciplinary procedures.

~~a. c. .... an investigation of possible violation of state or federal law, any search of a student residence shall be conducted only by such law enforcement officers and only in accord with legal standards applicable to police searches of private residences. , and no University employee or agent other than a URI police officer is~~ Only law enforcement officers are authorized to conduct a search of a student residence in connection with such investigation. URI officials may, however, cooperate with the law enforcement officers executing a search authorized by an appropriate federal or state judicial officer. While executing a search warrant. University staff may accompany officers. Evidence found may be used in criminal proceedings and/or in campus disciplinary proceedings.

*Rationale: Updates language and position titles. Under specific circumstances and with approval, permits two levels of administrative search*

**Language.** Change all references in sections 9.20.10 through 9.25.10 from “judicial” to “conduct.”

*Rationale: Reduces legalistic terminology.*

**9.21.17.....**When the charged student denies responsibility; the burden of proof shall rest upon the person(s) bringing the charges. The standard for this proof shall be ~~clear and convincing evidence~~ more likely than not.

*Rationale: This describes the degree of confidence the hearing panel or judicial officer must have regarding the occurrence of the violation. Stoner’s model code states that the standard of “substantial evidence” (33% sure) or “more likely than not”(51% sure) is the standard used at most colleges and universities. University Counsel Saccoccio recommends and the Committee voted to replace “clear and convincing”(66% sure) with “more likely than not”) for the following reason. We must balance the rights of the accused with the rights of community members who expect a safe and peaceful environment in which to pursue their education. If the information presented at a hearing results in a reasonable conclusion that, at*

*minimum, it is more likely than not that a policy violation occurred, sanctioning for the violation is in the interest of community wholeness.*