

Students to Vote on Proposed Changes

Title III. Judicial

SECTION 3. COUNCILS

The Judicial power of the Student Government Association shall be vested in: (1) a Residence Hall Council for each residence hall; (2) the Chowan College Judiciary Committee, and (3) an Administrative Committee.

C. The purpose of an Administrative Committee shall be to function as needed in lieu of the Chowan College Judiciary when members of the Chowan College Judiciary Committee are not available for hearings scheduled before classes are begun at the beginning of semesters, during vacation periods, and during examination periods.

SECTION 4. JURISDICTION

C. An Administrative Committee appointed to hear a case in lieu of the College Judiciary Committee shall have the same jurisdiction as the College Judiciary Committee.

SECTION 5. MEMBERSHIP

2. The student members shall be appointed by the Executive Officers of the Student Government Association prior to the end of each academic year.

5. When an accused student does not wish to be heard by students, a request and explanation are submitted in writing to the Associate Dean of Students who decides if the request is granted/denied. If the request is approved, the case will be heard by the faculty/administration staff members (four members and one alternate) of the College Judiciary Committee.

C. An Administrative Committee shall be composed of five members appointed by the Dean of the College.

SECTION 6. QUALIFICATIONS OF CANDIDATES AND MEMBERS

D. Administrative Committee members may be appointed from any person whose college employment places them in an administrative, managerial, teaching, or secretarial position.

SECTION 7.

A. The Chairmen, Vice Chairman and Secretary shall be appointed by the Committee on Committees, subject to approval by the President.

B. The Secretary shall be a paid secretary of the college and not a member of the Judiciary Committee.

C. The Chairman of an Administrative Committee shall be appointed by the Dean of the College.

SECTION 8.

DUTIES OF OFFICERS

A. The Chairmen shall preside over all meetings and cast the deciding vote in a case of a tie.

B. The Vice Chairman shall assume the duties of the Chairman in the temporary absence of the Chairman.

C. The Secretary shall provide copies of the minutes of the hearing.

D. The Secretary shall see that hearings and deliberations are taped.

SECTION 9.

DUTIES OF MEMBERS AND ALTERNATES

A. Members and Alternates, unless excused by the Chairman, shall be present at all meetings of the Judiciary Committee.

B. An alternate will be seated to replace either a student member or a faculty/administrative staff member who has been excused or removed.

SECTION 10.

ADMINISTRATIVE DISCIPLINARY ACTION.

Administrative disciplinary action is taken by the Associate Dean of Students against individuals for certain violations of College Policies, General Guidelines and Expectations which do not involve possible suspensions and/or expulsion. If students do not agree with or accept the penalties imposed by the Associate Dean of Students, they may request a hearing before the Judiciary Committee. A student has the right to appeal any administrative disciplinary action to the Dean of Students.

SECTION 11. STUDENT JUDICIAL POLICY AND PROCEDURES.

1. (a) Students accused of violating a Chowan College policy may be offered a waiver. (b) A waiver is a written instrument whereby a student pleads "guilty" or "no contest" to the violation charged and relinquishes the right to a hearing on his guilt or innocence. (c) A plea of "no contest" is a formal declaration by the accused student that he will not contend with the Chowan College Judiciary Committee (the Judiciary Committee) in respect to the charge or charges and is tantamount to a plea of guilty for purposes of the particular policy violation to which it is tendered and accepted, insofar as it gives the Judiciary Committee the power to recommend a penalty, and the Judiciary Committee may recommend a penalty thereon as upon a plea of guilty. (d) But a plea of "no contest" does not establish the fact of guilt for any other purpose, and will not support a recital in the record that the accused student has been "found guilty." (e) Upon execution of a waiver, a penalty will be recommended and imposed in accordance with the remaining provisions of this policy.

2. If a student is accused of violating a College policy, and he denies guilt, and he does not want to sign a waiver pleading no contest, he is guaranteed a speedy and fair hearing before the Judiciary Committee.

3. Every accused student is presumed innocent until proven guilty.

4. (a) The burden of proof shall rest upon the accusers. (b) The burden of proof is by the preponderance of the evidence, which is simply evidence of greater weight than that offered in opposition to it. The term "preponderance of the evidence" relates to the credibility of evidence offered, and not to the quantity. It does not mean that one party must offer "more" evidence than the other.

5. (a) The accused student shall be informed of the charges against him at least 48 hours prior to the hearing. (b) The notification of charges will include the time and place of the hearing. (c) In addition, the accused student shall receive a written confirmation of the above prior to the hearing.

6. (a) Hearings are private. Parents and friends may not be present when the accused student appears before the Judiciary Committee. (b) Parents of dependent students will be notified in writing of any formal disciplinary actions taken by the college against their sons and/or daughters.

7. At least five (5) members of the Judiciary Committee must be seated to constitute a quorum for a hearing to be conducted.

8. The accused student has the right to be represented and assisted at any hearing before the Judiciary Committee by an advisor, who shall be a current member of the College community, i.e., a member of the faculty, staff, or student body.

9. (a) Each judicial hearing will be tape recorded, minutes will be kept, and the tape recording and minutes will be kept on file for five years. (b) The College will be under no obligation to transcribe any tape recording. (c) The College will make the minutes and the tape recording available to the accused student for transcription at his expense.

10. The Judiciary Committee shall decide whether the accused student is guilty or not guilty as charged.

11. (a) Voting on the issue of the guilt or innocence of the accused student shall be by secret ballot. (b) The results of the vote, i.e., the number of votes for guilty and the number of votes for not guilty, shall be made a part of the record of the hearing.

12. At the conclusion of the guilt or innocence phase of the hearing, the accused student shall be informed of the results of the vote on his guilt or innocence, including the number of votes for guilty and the number of votes for not guilty.

13. If the accused student is found not guilty on all charges, the accused student shall be discharged and the hearing adjourned.

Memo: To College Community From: Dean R. Clayton Lewis

In the spring of 1988, the administration directed General Counsels (Revelle, Burleson, Lee, and Revelle of Murfreesboro, North Carolina) to study the student discipline policy of Chowan College as it is written and applied and to make recommendations deemed necessary for the protection of students and the institution. The study was completed in December, 1988.

General Counsels (Revelle, Burleson, Lee, and Revelle), after studying the Student Government Association Constitution, The General Guidelines and Expectations which are contained in the Student Handbook, and the Chowan College catalog, put the current judicial policy in chronological order.

The only proposed changes which are not a part of Article III, the judicial section of the SGA Constitution, are in Article V, the amendment procedure, in Article VI, the by-laws, and in Article VII, the section on ratification.

By comparing the proposed changes which are given below with the General Guidelines and Expectations as stated on pages 30-32 and Articles III, V, VI, and VII of the Student Government Association Constitution as prescribed on pages 43-45 of the 1988-89 Student handbook, one can quickly come to understanding of the suggested changes. Individuals who wish to discuss the suggested changes are encouraged to contact Executive Officers of the Student Government Association, members of the Student Legislature, Miss Elizabeth Stark, Dr. John Davis, Dean Earl Dilday or Dean Clayton Lewis. Upon invitation, programs on the proposed changes will be presented to clubs and organizations by Dean Earl Dilday and/or Dean Clayton Lewis.

Students will be given a vote for or against the proposed changes in a referendum which will be scheduled in compliance with requirements described in Article V of the Student Government Association Constitution, See pages 45 of the current Student Handbook.

14. When an accused student is found in violation of any College policy, whether by his signing a waiver or by a finding of guilty by the Judiciary Committee, the Judiciary Committee shall recommend any penalty which it deems just and equitable, provided it falls within the guidelines established by the Constitution of the Chowan Student Government Association (the SGA Constitution) and published in the College's General Guidelines and Expectations for Chowan College students (the General Guidelines) and in the College catalog, (the Catalog).

15. (a) If the student has plead guilty or no contest by waiver or has been found guilty by the Judiciary Committee after a hearing, he shall then be advised that the student disciplinary policy requires the Judiciary Committee to recommend any penalty which it deems just and equitable, provided it falls within the guidelines established by the SGA constitution and published in the General Guidelines and in the Catalog. (b) The student shall then be advised of the published minimum and maximum penalties for each violation of which he has pled guilty, pled no contest, or been found guilty. (c) The Judiciary Committee shall then receive any documentary or testimonial evidence and hear argument on the question of what its recommendation of penalty should be. (d) The student shall then be given the opportunity to present documentary or testimonial evidence and argument to the Judiciary Committee on the question of what its recommendation of penalty should be. (e) The Judiciary Committee, out of the presence of the student, shall deliberate and determine what its recommendation of penalty will be. (f) The Judiciary Committee's deliberations shall be tape recorded and the Committee's reasons for its recommendation shall be tape recorded.

16. At the conclusion of the penalty phase of the hearing, the accused student shall be informed of the recommended penalty and the reasons therefor.

17. (a) A student has the right to appeal a Judiciary Committee determination that he is guilty of violating a College policy. (b) A student has the right to appeal a Judiciary Committee recommendation for penalty, whether the student has been found guilty of violating a policy, has entered a plea of guilty, or has entered a plea of no contest. (c) The foregoing appeal rights shall be coexistent.

18. (a) A student's appeal from the Judiciary Committee must be submitted in writing to the Dean of Students within 48 hours after the Judiciary Committee notifies the student of its recommendation of penalty. (b) The student's written appeal shall set forth which of the following grounds of appeal the student is relying upon: (i) The Judiciary Committee did not permit the student an opportunity to present his defense at the guilt-or-innocence phase of the hearing; (ii) The evidence presented at the guilt-or-innocence phase of the hearing was not sufficient to support a finding of guilty of the policy violation charged; (iii) The Judiciary Committee did not permit the student an opportunity to present evidence or argument at the penalty-recommendation phase of the hearing; (iv) The recommended penalty exceeds the maximum penalty for the violation found; (v) Though it does not exceed the maximum penalty for the violation found, the recommended penalty is so disproportionate to the offense, in light of all circumstances, as to be shocking to one's sense of fairness.

19. However, the right of appeal does not automatically entitle a student to a rehearing of the case.

20. In support of his appeal, the accused student has the right to present to the Dean of Students any documentary or testimonial evidence and any argument bearing upon any of the findings the Dean of Students must make to grant the student a rehearing before the Judiciary Committee.

21. If, after receiving and considering the materials submitted by the student in support of his appeal,

the Dean of Students has reasonable cause to believe that: (a) The Judiciary Committee did not permit the student an opportunity to present his defense at the guilt-or-innocence phase of the hearing; or (b) The evidence presented at the guilt-or-innocence phase of the hearing was not sufficient to support a finding of guilty of the policy violation charged; or (c.) The Judiciary Committee did not permit the student an opportunity to present evidence or argument at the penalty-recommendation phase of the hearing; or (d) The recommended penalty exceeds the maximum penalty for the violation found; or (e) Though it does not exceed the maximum penalty for the violation found, the penalty recommended is so disproportionate to the offense, in light of all the circumstances, as to be shocking to one's sense of fairness; the Dean of Students shall direct a rehearing before the Judiciary Committee on the question of the student's guilt, or on the recommendation of penalty, or on both.

22. Whether or not the student appeals to the Dean of Students, the Judiciary Committee will notify the Dean of Students in its recommended penalty and the reasons therefor.

23. Whether or not the student appeals, the Dean of Students shall review the penalty recommended by the Judiciary Committee.

24. Whether or not the student appeals, the Dean of Students has the authority to approve the recommended penalty, to increase the recommended penalty, or to decrease the recommended penalty.

25. The Dean of Students has the authority to decrease the recommended penalty if it exceeds the maximum penalty for the violation.

26. The Dean of Students has the authority to decrease the recommended penalty if, based upon the entire record of the hearing before the Judiciary Committee, it clearly appears that the recommended penalty is so disproportionate to the offense, in light of all the circumstances, as to be shocking to one's sense of fairness.

27. The Dean of Students has the authority to increase the recommended penalty if, based upon the entire record of the hearing before the Judiciary Committee, it clearly appears that the recommended penalty clearly is so disproportionate to the offense, in light of all the circumstances, as to be so shocking to one's sense of fairness.

28. As provided in the Catalog and in the General Guidelines, if the student's conduct is regarded as undesirable, the Dean of Students may recommend excluding the student from the college without specifying any further reason for exclusion. In this regard, "undesirable" is defined as "not wanted and disagreeable," and "disagreeable" is defined as "unpleasant, offensive, causing discomfort."

29. If the Dean of Students approves the penalty recommended by the Judiciary Committee, he shall immediately notify the accused student in writing, setting forth the reasons why he is approving the recommended penalty.

30. (a) The Dean of Students will immediately notify the Chairman of the Judiciary Committee if the Dean of Students decides that he cannot approve the penalty recommended by the Judiciary Committee, and a meeting between the Dean of Students and the Judiciary Committee will be scheduled and held as quickly as possible for the following purposes as applicable: (b) If the Dean of Students proposes to decrease the recommended penalty because in his opinion it exceeds the maximum penalty for the violation, then at the meeting the Dean of Students will: (i) So advise the Judiciary Committee; (ii) Advise the Judiciary Committee of the opinion of the Dean of Students as to what is the maximum penalty for the violation; (iii) Give the Judiciary Committee an opportunity to recommend a penalty which does not exceed the maximum; (iv) If it fails to act, inform the Judiciary Committee that he decrease the recommended penalty to what he considers to be the maximum penalty for the

violation. (c) If the Dean of Students proposes to decrease the recommended penalty because it is his opinion that, based upon the entire record of the hearing before the Judiciary Committee, it clearly appears that the recommended penalty is so disproportionate to the offense, in light of all the circumstances, as to be shocking to one's sense of fairness, then at the meeting the Dean of Students will: (i) So advise the Judiciary Committee; (ii) Advise the Judiciary Committee of the portions of the record which in the opinion of the Dean of Students support his opinion the recommended penalty exceeds the gravity of the situation; (iii) Give the Judiciary Committee an opportunity to convince the Dean of Students that he is mistaken in his interpretation of the record and that the penalty recommended by the Judiciary Committee should in fact be upheld; (iv) If the Judiciary Committee is reasonably unsuccessful in convincing the Dean of Students that he is mistaken in his interpretation of the record, give the Judiciary Committee an opportunity to recommend a penalty which in the opinion of the Dean of Students is not so disproportionate to the offense in light of all the circumstances, as to be shocking to one's sense of fairness; (v) If it fails to act, inform the Judiciary Committee that he decrease the recommended penalty to one which in his opinion is not so disproportionate to the offense, in light of all the circumstances, as to be shocking to one's sense of fairness; (d) If the Dean of Students proposes to increase the recommended penalty because he is of the opinion that, based upon the entire record of the hearing before the Judiciary Committee, it clearly appears that the recommended penalty clearly is so disproportionate to the offense, in light of all the circumstances, as to be shocking to one's sense of fairness, then at the meeting the Dean of Students will: (i) So advise the Judiciary Committee; (ii) Advise the Judiciary Committee of the portions of the record which in the opinion of the Dean of Students support his opinion the recommended penalty clearly is so disproportionate to the offense, in light of all the circumstances, as to be shocking to one's sense of fairness; (iii) Give the Judiciary Committee an opportunity to convince the Dean of Students that he is mistaken in his interpretation of the record and that the penalty recommended by the Judiciary Committee should in fact be upheld; (iv) If the Judiciary Committee is reasonably unsuccessful in convincing the Dean of Students that he is mistaken in his interpretation of the record, give the Judiciary Committee an opportunity to recommend a penalty which in the opinion of the Dean of Students is clearly proportionate to the offense, in light of all the circumstances, as to not be shocking to one's sense of fairness; (v) If it fails to act, inform the Judiciary Committee that he increase the recommended penalty to one which in his opinion clearly is proportionate to the offense, in light of all the circumstances, as to not be shocking to one's sense of fairness. (e) If the Dean of Students proposes to find that the student's conduct is regarded as undesirable and to exclude the student from the College without specifying any further reason for exclusion, then at the meeting the Dean of Students will: (i) So advise the Judiciary Committee; (ii) Advise the Judiciary Committee of the student's conduct which the Dean of Students regards as undesirable; (iii) Give the Judiciary Committee an opportunity to convince the Dean of Students that he is mistaken in his understanding that the student committed the conduct regarded as undesirable, inform the Judiciary Committee that he excludes the student from the College because the student has committed conduct regarded as undesirable. (f) With regard to Items Nos. 30 (e) ii and iv immediately above, the Dean of Students is