

ATTORNEY CLIENT COMMUNICATIONS / ATTORNEY WORK PRODUCT  
PRIVILEGED & CONFIDENTIAL

# LEGAL UPDATE ACADEMIC MISCONDUCT

H. Bruce Marvin, Assistant Attorney General

January 31, 2020

WSSSC Winter Meeting, Skagit Valley College

## OVERVIEW

- Distinction between Disciplinary Sanctions and Academic Sanctions
- The hybrid nature of Academic Misconduct
- Complications arising from Academic Misconduct Adjudications
- Best Practices

## DUE PROCESS - ACADEMIC

- Grade appeals
- Procedure handled by Instruction
- Relatively informal
- College's decision granted substantial deference by courts, which don't want to second guess academic evaluations

## DUE PROCESS - DISCIPLINE

- Discipline based on violation of student conduct code
- Relatively formal procedure subject to the APA and WACs
- Due process varies on discipline imposed
  - Brief adjudicative proceeding for a sanction of less than 10 days suspension
  - Full hearing for a suspension of 10 days or more, or dismissal
- Courts less deferential because student conduct proceedings do not involve exercise of academic expertise

# ACADEMIC MISCONDUCT

- Academic misconduct includes:
  - Cheating,
  - Plagiarism,
  - Academic fraud, misrepresentation
- Hybrid violation that can result in both disciplinary sanctions and academic sanctions.

## COMPLICATING FACTORS

- Two review processes = Risk of inconsistent decisions
- Is Student Conduct Committee qualified to make academic decision?
- Is it appropriate for Student Conduct Committee to be making academic decision?
- Is academic appeal process capable of resolving complex factual issues?

## DUE PROCESS – ACADEMIC MISCONDUCT

- **Hypothetical:** Student caught cheating on nursing examination. Nursing handbook and code of professional ethics both prohibit academic dishonesty. Student conduct code also prohibits cheating.

Scenario One: Student Conduct Committee hears student discipline case and exonerates the student.

Scenario Two: Conduct Review Officer finds student responsible for cheating in BAP.

- Nursing faculty would like to academically dismiss student from program.

## HYPOTHETICAL

- Faculty member in computer science BAS program determines that Student has submitted plagiarized materials as part of their capstone project. Faculty member reports the issue to Student Conduct Officer and also gives student a failing grade, which results in Student's dismissal from the BAS program. Student Conduct Officer is also prepared to discipline student.
- How should the College proceed?



## BEST PRACTICES

- If student's academic misconduct jeopardizes their enrollment in academic program, College procedures should allow for full hearing to adjudicate underlying facts
- Options:
  - Adjudicate Academic Misconduct through Academic Honor Board comprised of College faculty, or
  - Student Conduct Committee finds facts for academic sanctions; Instruction, however, retains control over academic discipline resulting from findings

**QUESTIONS?**