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Disciplinary processes will not change, despite recent events

By Brent Forgues
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In spite of recent publicity behind a suspended football player's lawsuit against Purdue, a University official said he does not foresee any immediate changes to disciplinary processes for students.

Tony Hawkins, dean of students, said his office routinely reviews professional literature and significant court decisions relative to student conduct proceedings.

Should a decision by the courts suggest a revision in the University's disciplinary process, Hawkins said his office would consult other officials and seek student, faculty and Board of Trustee approval.

However, the national coverage given to the lawsuit of Uche Nwaneri, suspended offensive lineman, claiming his rights to due process and equal protection were violated during an appeals hearing will not bring about any changes.

The appeal was the result of a decision by an official in the Office of the Dean of Students to suspend Nwaneri for an altercation he had with a former teammate.

"At this point in time, I'm not aware of any changes, but it doesn't mean at some point in time there could be some changes," Hawkins said. "But it won't be on the basis of any articles."

Those policies that have received the most contention for change are the limited role of attorneys in judicial proceedings, and the fact that recordings are not allowed during the initial hearing.

Although 2005-06 University Regulations do not make any mention of whether initial hearings may be recorded, the University still does not permit their use. The regulations also state that the student may not have anyone present at the hearing except at the discretion of the hearing official. An attorney is only allowed if there are possible criminal charges. If present, they can only advise their clients and cannot speak on their behalf.

Students may have an adviser or attorney present during their appeal; however, they are again restricted by the same limitations of the hearing.

"As a matter of fact, some University policies, here and elsewhere, clearly lean in the other direction," Hawkins said, "expressly prohibiting or limiting attorney involvement more so than Purdue's current disciplinary proceedings."

Although it is common among universities to restrict the role of the attorney, that doesn't make it right, said David French, the president of the Foundation for Individual Rights in Education.

"In essence, you take a student, untrained in any form of legal proceeding, and tell the student, 'You have to be your own advocate,'" he said. "That strikes me as profoundly unfair."

The absence of a tape recorder from the initial hearing is also problematic, French said, and augmented since the hearing is disavowed when the case goes to an appeal, re-addressing all of the evidence and testimonies again.

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"Why have it when you can redo the whole thing?" he said. "Often the content of the hearings is so frequently a subject of contention, and to have no record of it at all, it just paves the way for future controversy and gives them far too much latitude to abuse their discretion or to rule using inappropriate factors."

Under the U.S. and state constitution, it becomes a denial of due process if students do not receive a hearing that is recorded during an administrative hearing, said Douglass Shortridge, an Indianapolis attorney.

Shortridge, an alumnus from Purdue's class of 1959, said that when he was a student, the dean of students could dispense discipline and make a decision without a hearing. However, now that the University has created rights for students, Shortridge said they have to be "meaningful."

"Then to be meaningful, you've got to let lawyers do what lawyers do," he said. "Define the issues, provide summaries, examine and cross-examine witnesses and generally be an advocate for your client."

"Not being able to talk doesn't cut the constitutional mustard or rise to the proper level of standard."

Students may even have a potential civil damage case against the University when the procedures which have been set up by the administration are violated, Shortridge said.

"The University probably can get away with not having any hearings or appeals or anything else; just the judgment of the dean of students," he said.

"But once you create this procedure and right, then the students have the expectancy that they're going to be treated fairly and receive what we call due process," he said.


"To start the procedure and only go halfway, you're potentially in a world of hurt if someone wants to pursue it."

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