

1 **Resolution Number:** 206-2021

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3 **Title:** Amendment to Current Statement on Position or Policy E-1 Due Process

4

5 **Reference Committee Assignment:** Membership and Education

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7 **Sponsor(s):**

8 Michael J. Rosales, Roseman University (RU) C/O 2022

9 Olivia Kalloo, RU ASDA Legislative Liaison, RU National Student Research Group President

10 Jonathan Wong, RU ASDA President

11 Priscilla Leung, RU ASDA Vice-President

12 Richelle Castro, RU ASDA Pre-Dental Chair

13 Danny Huynh, RU C/O 2021

14 Hazel Williamson, RU C/O 2022

15 Joshua Kabins, RU C/O 2022

16 Jennie Oh, RU C/O 2022

17 Ayrton Sanguino, Council on Communications, Video Production Manager

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19 **Financial Impact:** None

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21 **Board of Trustees Comments:** None

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23 **Reference Committee Comments:** The reference committee recommends a yes vote.

24

25 **Background:** ASDA's Due Process policy is designed to provide additional protection to
26 students facing disciplinary charges. Without a standard of review, a due process policy lacks
27 meaning. A standard of review sets forth the requirement for the level of evidence required to
28 establish fault with one party or another. If there is no standard of review, there is no
29 framework to establish the level of certainty needed to find a student at fault.

30

31 There are two commonly used standards of review used in dental schools: 1) Preponderance of
32 the Evidence, and 2) Clear and Convincing. The Preponderance of the Evidence, or "more likely
33 than not" standard only requires that the certainty that a student committed an alleged act is
34 51%. This means that to be found at fault, a student only needs to be found more likely than
35 not to have committed the charged act. Any time a student is found at fault, the student risks
36 losing their position in dental school and their potential future. With the average dental student
37 graduate debt surpassing \$288,000, and the number of years a student invests into becoming a
38 dentist, a higher standard should be used.

39

40 The Clear and Convincing standard requires that the judicial body be reasonably certain that a
41 student committed a punishable offense. At a base level, it would be recommending that some
42 schools go from a "more likely than not" standard to a "substantially likely" standard. The Clear
43 and Convincing standard would balance the certainty of a decision with the potential loss of the
44 student's future than the Preponderance of the Evidence standard.

45

46 Currently, ASDA does not recommend a standard of review. Therefore, where a student is
47 facing a disciplinary charge, a Clear and Convincing standard of review should be applied by the
48 judicial body when making decisions to adequately protect the student's investment and future
49 interests.

50
51 In addition to establishing a standard, some additional language has been included for clarity.
52 Other language has been edited for consistency. ASDA should amend its current E-1 Due
53 Process policy to recommend the Clear and Convincing standard of review. Therefore, be it
54

55 RESOLUTION

56
57 **Resolved**, that the Current Statements of Position or Policy E-1 Due Process be amended to
58 read as follows:

59
60 The American Student Dental Association endorses the concept of due process for dental
61 students in U.S. CODA-accredited dental schools. Dental schools should develop and publicize a
62 clear definition of its procedures for the evaluation, **discipline**, advancement, and graduation of
63 students to its faculty and students.

64
65 **Subject to applicable law**, dental school due process procedures should encompass the
66 following:

- 67
- 68 a. **Prior to discipline, a student has the right to a hearing.** Hearings should include student
69 members. No student or faculty member involved in the case should be allowed to be a
70 member of the judicial body.
 - 71
72 b. The accused student ~~should~~ **must** be informed of charges **in writing** and be given
73 adequate time to prepare for the hearing. The content of all charges against the student
74 ~~should~~ **must** be clearly outlined.
 - 75
76 c. The student charged must be given the opportunity to select an advisor of his or her
77 choice for assisting in his or her defense.
 - 78
79 d. The burden of proof must rest upon the party bringing the charge. **The student charged**
80 **is considered innocent until proven guilty by clear and convincing evidence. If clear**
81 **and convincing evidence is not established, student should be acquitted of charges.**
 - 82
83 e. The student charged must be given the opportunity to ~~present~~ **introduce** evidence, ~~and~~
84 ~~witnesses and to hear and question adverse witnesses.~~ **call witnesses, and cross-**
85 **examine adverse witnesses. Notice of any items or witnesses intended to be**
86 **introduced as evidence or called to testify should be presented to the opposing side at**
87 **least three days prior to the hearing.**
 - 88
89 f. All matters upon which the decision is based should be entered as evidence before the
90 judicial body.
- 91

92 g. The student has the right to appeal the decision of the judicial body.

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94 **Action:** The Chair moves 206-2021 with the recommendation of a yes vote.