

## Charter of the University Student Judicial System

The new Charter of the University Student Judicial System follows. This Charter is in full force and effect as of the commencement of the current academic year.

The Charter was the subject of extensive review and consultation by many members of the University community, culminating in a series of University Council meetings last spring. During those meetings, consensus was reached on virtually all key issues. Opinions were closely divided on the composition of the University Hearing Board Panels. I have followed the advice I received from the majority of Council at the May 2 meeting: The panels will consist of two undergraduates and three faculty members when the respondent is an undergraduate and two graduate or professional students and three faculty members when the respondent is a graduate or professional student.

At the close of the last University Council discussion on the matter, I requested additional comments in writing from interested members of the University community, and advice received in response to that request has been considered carefully in preparing the new Charter. As I also stated at that meeting, I seek further comments during the course of this academic year about the new Charter. Based on comments received during the year and our experience with the Charter, revisions may be adopted to be in effect for Academic Year 1985-1986.

Special thanks are due to many faculty, students, and staff who contributed their time and talents to the preparation of the new Charter. I am particularly grateful to the members of the President's Commission, chaired by Professor John Keene, to the Task Force on Conduct and Misconduct, to Ms. Suzanne Reilly, to the leadership of the Faculty Senate, the Undergraduate Assembly, and the Graduate and Professional Students Association, and to my colleagues in the Administration who worked on the charter. Through their combined efforts, the broad consensus that a new Charter was needed was translated into this document.

I know all members of the University community will work hard to implement its provisions successfully.

  
Sheldon Hackney, President

## I. Statement of Purpose

The Student Judicial System exists to investigate and resolve alleged violations of the University's rules, regulations and policies by students. The system provides for notice of charges, opportunity for a hearing or settlement, judgment by University community members, and the right to appeal, thus ensuring fundamental fairness to all parties involved.

Persons involved in a dispute may avail themselves of advice from other members of the University community including the Judicial Inquiry Officer (the "JIO") and the Ombudsman to help them achieve reconciliation. If the parties fail to reach an agreement, the aggrieved student, faculty or staff member may formally file a complaint with the JIO.

## II. The University Hearing Board

### A. Jurisdiction

1. There shall be a University-wide board of original jurisdiction to be known as the University Hearing Board (the "Hearing Board"). Except as provided in paragraphs 2 and 3 of this Part II.A and Part V (Resolution by the Vice Provost for University Life), it will have exclusive original jurisdiction in all cases arising under regulations of the University involving students brought by students, faculty or staff members.
2. The Hearing Board shall have no jurisdiction in cases involving infractions of the Code of Academic Integrity, or infractions committed by graduate and professional students that lie within the original jurisdiction of a hearing board or other decision-making body established by the school in which the student is enrolled.
3. The Hearing Board shall have no jurisdiction in cases involving infractions of the University's parking regulations, which are heard by the Parking Violations Board.

### B. Composition

1. The Hearing Board shall consist of 20 undergraduate students, 20 graduate or professional school students, and 30 faculty members.
2. The Judicial Administrator (the "JA") shall randomly select the student members of the Hearing Board. Student members shall be in good academic and disciplinary standing. Faculty members shall be selected by the Senate Executive Committee.
3. Members of the Hearing Board shall serve for two years and their terms shall be staggered to provide continuity.
4. No member of the Hearing Board may simultaneously serve as the Appellate Officer. If a member of the Hearing Board ceases to be in good standing at the University, the JA shall remove him or her from the Hearing Board and a replacement shall be chosen in the appropriate manner.
5. The Hearing Board will sit in panels chosen by the JA from among the respective student and faculty pools. When the respondent is an undergraduate, the panel will consist of two undergraduates and three faculty members. When the respondent is a graduate or professional student, the panel will consist of two graduate or professional students and three faculty members.

## III. Staff

### A. Judicial Administrator

1. The Provost, with the advice and consent of the Steering Committee of University Council, shall appoint a Judicial Administrator (the "JA"), preferably a qualified faculty member, who shall administer this Charter and preside over hearings. The JA is responsible for overseeing the procedural integrity of this System. She or he will, for example, consider and resolve prehearing challenges to jurisdiction or procedures; alert the Hearing Board to procedural consequences of its actions; advise the Hearing Board of inconsistencies between the demands of fairness and its actions at any point in the proceedings; and consult as appropriate with faculty members and others about procedural issues and convey their advice, together with the JA's recommendations, to the Hearing Board.
2. The JA shall serve at the pleasure of the Provost.
3. Upon request, the JA shall refer a complainant or respondent to an advisor and shall maintain a list of advisors for this purpose.

4. The JA may advise respondents, complainants and their advisors on procedural matters.
5. Upon a showing of good cause by the JIO, complainant, or respondent, the JA may grant a reasonable extension of any time limit set forth herein.

### B. Appellate Officer

1. The Steering Committee of the University Council will appoint an Appellate Officer at the beginning of each academic year, preferably from among tenured faculty members who have had experience with the student judiciary (e.g., former Ombudsmen or those who have served on hearing panels). She or he shall serve for a one-year term, which may be renewed. The Appellate Officer shall hear and decide appeals of decisions made by Hearing Board panels.

### C. Judicial Inquiry Officer

1. The Vice Provost for University Life (the "VPUL") shall appoint a Judicial Inquiry Officer (the "JIO") whose duties under this Charter shall include investigating complaints against students under the regulations of the University; determining whether charges against students should be brought before the Hearing Board and/or before other bodies; resolving by agreement charges against students; presenting evidence supporting charges in hearings before the Hearing Board; testifying as a fact witness before the Hearing Board; recommending sanctions to the Hearing Board after a determination of guilt; maintaining records of cases; preparing and compiling summaries of cases arising under this Charter, which shall be available at the offices of the JIO and JA and/or at Van Pelt Library; and ensuring that agreements and sanctions are enforced.
2. The JIO shall be a University employee, and shall serve at the pleasure of the VPUL.
- D. In any case in which a staff member cannot perform her or his duties, an alternate may be designated using the procedures applicable to the staff member's position.

## IV. Procedures

### A. The Complaint and Investigation

1. Any student, faculty member or staff member who believes that a student has violated University rules or regulations may file a complaint, preferably written, with the JIO. Complaints made to others may be referred to the JIO. Within a reasonably prompt time after the filing of a complaint, the JIO shall inform the JA and the accused in writing of the complaint. The written notice shall cite the regulations, rules, or policies alleged to have been violated and shall describe the alleged acts constituting the violation. The notice shall also enclose a copy of this Charter and a copy of the regulations, rules, or policies alleged to have been violated. The JA shall decide questions of jurisdiction and may, when appropriate, refer a complaint to a University official other than the JIO.
2. The JIO shall investigate complaints within the jurisdiction of the Hearing Board and shall decide if there is reasonable cause to believe that an offense has been committed. The JIO shall make the determination of reasonable cause ordinarily after conducting a preliminary investigation. The JIO may interview any appropriate witness, including a potential respondent. All witnesses have the right to consult with an advisor, as defined herein, while being interviewed, and the JIO shall inform them that anything they may say may be introduced as evidence.
3. In light of the evidence uncovered by the investigation, the JIO may add charges beyond the scope of the original complaint, may add additional students as respondents and may dismiss charges as unfounded.
4. The University may proceed under this Charter regardless of possible or pending civil or criminal claims arising out of the same or other events. The JIO, with the concurrence of the VPUL, after consulting with the General Counsel, shall determine whether the University shall, in fact, proceed with charges against a respondent who also faces related charges in a civil or criminal tribunal. If the University defers proceeding with charges against a respondent in light of related charges in a civil or criminal tribunal, the University may subsequently proceed under this Charter irrespective of the time provisions set forth in sections IV.A.1 and IV.B.1.a.

## B. Procedures for Hearings

### 1. Preliminary Procedures

- a. The JA shall convene a panel of the Hearing Board and set a time and place for hearing after being informed by the JIO of the complaint. The hearing shall be scheduled reasonably promptly with due regard for the time required for all parties to prepare.
- b. The JA shall notify the complainant, respondent, and witnesses by hand delivery or certified mail, return-receipt requested, of hearing place, time and date, at least ten days before the hearing date. This notice will also contain the names of the panel members assigned to hear the case. If this notice is given by mail, it shall be deemed to be effective when mailed.
- c. Within a reasonable time and in any case not less than two days before the hearing, the JIO, the complainant, and the respondent shall exchange among themselves and with the JA copies of the exhibits to be introduced, the names of witnesses to be called and a brief summary of the testimony expected to be presented on direct examination. In exceptional circumstances, when a witness or exhibit becomes known or available immediately before the hearing, the JA may at his or her discretion admit the witness or exhibit or reschedule the hearing.
- d. If a party anticipates that a key witness will be unavailable for a hearing, the party may preserve the testimony of the witness on tape and introduce it as evidence at the hearing. All interested parties, including the JIO, the JA, the complainant and the respondent, must be notified in advance of the time, place, and date of the testimony. All parties who would be permitted to cross-examine such a witness at a hearing may cross-examine the witness on the tape.

### 2. Disqualification of Panel Members

- a. Members of the Hearing Board panel shall disqualify themselves from hearing a case if they believe in good faith that their capacity for making an objective judgment in the case is or may reasonably appear to be impaired. Members should not disqualify themselves for any other reason.
- b. A respondent or complainant may object for specific cause to any panel member assigned to hear the case; the objection must be written and received by the JA at least forty-eight hours before the hearing. Upon ruling that a challenge is valid, the JA, after notifying the respondent, complainant, and JIO, shall replace the challenged member with another from the same category.
- c. A respondent or complainant may object for good cause to the replacement member within a reasonably prompt time of the member's appointment, but no later than the beginning of the hearing. The JA shall rule upon the objection.

### 3. Conduct of Hearings

- a. All hearings shall be held in appropriate University facilities designated by the JA and shall be private unless both the respondent and complainant request an open hearing in writing to the JA. The JA may in any case limit attendance at a hearing to ensure fair and orderly proceedings.
- b. The JA shall preside over all hearings but she or he shall not vote with the panel on either a verdict or appropriate sanctions.
- c. The JIO shall present at the hearing relevant evidence supporting the charges.
- d. All hearings shall be conducted in such a manner as to permit the panel to achieve substantial justice. Participants and observers will conduct themselves in accordance with these objectives.
- e. Formal rules of evidence shall not apply. Evidence, including hearsay evidence, shall be admitted if it is relevant and not unduly repetitious, and is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.
- f. The JIO, the respondent, and the complainant shall have the right to present and cross-examine witnesses.
- g. No evidence other than that received at the hearing shall be considered by the panel.
- h. The panel may proceed to hear the evidence against a respondent in her or his absence, upon proof by the JA that the required notice was provided.

### 4. Advisors

- a. At hearings before the panel, each respondent and each complainant may be accompanied by an advisor who is a member of the University community (student, faculty or staff). If criminal charges are pending against a respondent, she or he may be accompanied by an advisor who is an attorney who is not a member of the University community; however, the attorney may not address the panel except as provided below with respect to advisors generally.
- b. During the hearing, the advisor may consult with her or his advisee, but may not address the panel, except that the advisor may make a summary statement to the panel before the panel begins its private deliberations. The time allowed for such summary shall be set by the JA.

### 5. Decisions of the Panel

- a. The panel's deliberations shall be divided into two separate stages:
  - (i) determination of guilt or innocence; and, if guilt is determined,
  - (ii) recommendation of a sanction.
- b. The panel shall presume a respondent innocent until proven guilty by a preponderance of the evidence.
- c. If the panel finds a respondent guilty, the JIO shall inform the panel of any previous offense and sanction or settlement and recommend a sanction. The respondent and the complainant may present evidence or otherwise respond to the JIO's proposed sanction.
- d. All decisions shall require a majority vote of the panel.
- e. As soon as possible after conclusion of the hearing, and in all events within ten days, the panel shall present its written opinion, including findings of fact, and the panel's conclusions therefrom, to the respondent, the complainant, the JA and the JIO.

### 6. New Evidence

- a. Upon the discovery of new and material evidence, a respondent may petition the Hearing Board for a new hearing by filing a written request with the JA stating the evidence to be presented and the reason for the failure to present the evidence initially. The JA shall furnish a copy of the petition to the JIO and the complainant, who may respond in writing.
- b. If the JA concludes that it is reasonably possible that the new evidence would alter the original panel's judgments, then the original panel, or as many members as are available, shall rule on the petition, considering (among other relevant factors) the reason for the respondent's failure to discover or present the evidence initially and the likely effect of the omission upon the original decision.
- c. A new hearing, if granted, shall be limited to the new and material evidence.

### 7. Settlements

- a. The JIO, in consultation with the complainant and JA, may settle the complaint at any time after the complaint has been filed and before final disposition of appeal, if any.
- b. Settlements shall be written, signed by the respondent, who shall waive further proceedings under this Charter, and the JIO.

### 8. Failure to Appear or Cooperate

- a. A fair, conclusive adjudication of a dispute under this Charter depends on the cooperation of all involved persons, including complainants, respondents, and witnesses. Therefore, all community members who may be interviewed are obliged to provide honest, complete statements to the JIO and to the Hearing Board in order that disputes may be equitably resolved as quickly as possible.
- b. Sanctions
  - (i) The panel may recommend that any sanction authorized by this Charter be imposed upon a student who is a complainant, respondent or witness and who fails, without good cause, to appear for a hearing after receiving notice thereof or fails, without good cause, to cooperate with the investigation of the JIO. However, a witness may not be required to incriminate her or himself.
  - (ii) A student who receives a sanction under this section may, within ten days, file a petition with the JA for removal of the



sanction or for a hearing under this Charter on the propriety of the discipline. The petition shall state the reasons for the student's failure to appear or cooperate. The panel that recommended the sanction, or as many members as are available, shall rule on the petition, considering (among other relevant factors) the reason for the student's failure to appear for the hearing or cooperate with the JIO.

- (iii) A hearing, if granted, shall be conducted in accordance with the procedures contained in this part IV.B.

## V. Resolution by Vice Provost for University Life

### A. Purpose

This part provides a simpler, less formal, alternative judicial procedure, which recognizes the special character of the University and its desire to function as a community. In cases in which the complainant and respondent choose to use this procedure, this section establishes the authority of the Vice Provost for University Life to hear complaints and evidence, decide guilt or innocence, and impose sanctions.

### B. Procedures

1. Within a reasonably prompt time after filing a complaint, a complainant who wishes the VPUL to hear the matter shall so notify the JA. Within a reasonable period after receiving notice of the complaint, a respondent who wishes the VPUL to hear the matter shall so notify the JA. Upon receipt of a request from one party, the JA shall seek the consent of the other party to use this procedure.
2. If both parties agree to use this procedure, the JA shall forward a copy of the complaint to the VPUL, who shall arrange a conference among the VPUL, the respondent, the complainant, their advisors, and the JIO, at which conference the JIO, the respondent and the complainant may present relevant evidence.
3. At the beginning of each academic year, the VPUL shall nominate for the approval of the Steering Committee a delegate to act as hearing officer under this procedure for any cases which the VPUL cannot hear. Upon approval of the delegate by the Steering Committee, the delegate may assume all the duties and authority of the VPUL under this procedure for cases that the VPUL cannot hear.
4. The VPUL shall make a written decision, including findings of fact, reasonably promptly and shall provide a copy of such decision to the JA, the JIO, the complainant, and the respondent.
5. The VPUL may impose any sanction authorized by this Charter.
6. The respondent may ask the VPUL to reconsider her or his decision within five days of receipt of such decision. No other appeal process is permitted.
7. The decision of the VPUL on all aspects of the matter, after reconsideration, if requested, shall be final.

## VI. Operation of the System

- A. For the purpose of calculating days, only the fall and spring class semesters shall be considered, except when a complaint is filed against a student enrolled in either of the summer sessions, in which case the summer sessions also shall be considered.
- B. Unless otherwise provided, days shall be counted on a calendar basis, including Saturdays, Sundays, and holidays.

## VII. Suspension Pending Hearing

- A. In extraordinary circumstances, when a student's presence on campus is a threat to order, health or safety, the VPUL may suspend a student temporarily, pending a hearing of charges against the student.
- B. The JIO and the JA shall expedite the hearing of charges against a suspended student upon the student's request.

## VIII. Sanctions

### A. Available Sanctions

1. The panel, acting under Part IV may recommend to the VPUL and the VPUL, after receiving such recommendation, or after hearing evidence under Part V, may impose any reasonable sanction against a respondent, including, but not limited to, warning, reprimand, fine, restitution, disciplinary probation for a specified period, withdrawal of privileges, indefinite probation (i.e., probation whenever and as

long as the respondent is a full-or part-time student at the University), term suspension (ordinarily not to exceed two years), indefinite suspension without automatic right of readmission, or expulsion. The panel, acting under Part IV, shall recommend and the VPUL shall decide whether the sanction should appear on the transcript of any individual respondent, and, if so, for how long.

2. Any sanction available under the Charter is available to the JIO in informal settlements.

### B. Enforcement

The JIO shall ensure that sanctions are enforced. In performing these duties, the JIO shall have the cooperation of the Office of Student Life, the respondent's Dean, and other appropriate University officers. No sanctions shall be enforced until the appeal process is completed.

## IX. Appeals

- A. The Appellate Officer shall decide appeals from panel determinations of guilt and recommended sanctions.

### B. Procedures

1. A respondent must submit any appeal to the Appellate Officer, in writing, with a copy to the JIO, the complainant, and the JA, within ten days of receipt of the panel's decision; the appeal shall state in detail the specific grounds upon which it is based, and shall attach a copy of the charge and the decision.
2. Upon receipt of a respondent's appeal, the JA shall provide the Appellate Officer with any exhibits considered by the panel in reaching its decision.
3. The Appellate Officer shall review the appeal within ten working days of his or her receipt of it. Upon request of the JIO, the complainant or the respondent, or upon his or her own motion, the Appellate Officer may hear oral argument.
4. The Appellate Officer shall issue his or her decision reasonably promptly, but no later than thirty days after receipt of the notice of appeal.

### C. Scope of review

1. Appellate review shall be limited to procedural error that materially prejudices the respondent, error in the interpretation or application of the relevant University regulations, and the severity of sanctions. Findings of fact may be reversed only if unsupported by substantial evidence.
2. Upon finding error, or that the facts were not supported by substantial evidence, the Appellate Officer may vacate or reverse the decision, or remand the case for appropriate proceedings.

## X. Confidentiality of Judicial Records and Proceedings

- A. The identity of individuals in particular cases before the JIO, the University Hearing Board, the VPUL, or the Appellate Officer, and all files and testimony, are confidential, in accordance with University guidelines concerning the confidentiality of student records pursuant to the Family Educational Rights and Privacy Act of 1974, as amended.
- B. When guilt is determined, the Dean of the respondent's school shall be informed and the record of the case shall be made available to him or her.

## XI. Reports

- A. Subject to the requirements of Part X above, the JIO, in consultation with the JA, shall make public reports at the beginning of each year and extraordinary reports on such occasions as necessary. The purpose of the reports is to inform the University community about the character and extent of the work of the Judicial System.
- B. The reports of the JIO shall deal both with cases that go to hearing and with cases that are settled before hearing, and shall include information such as the overall number of cases handled during the preceding year, broken down by cases that were settled and cases heard by panels, general descriptions of the type of cases handled, the number of cases in each general category, the range of sanctions imposed, the numbers of determinations of guilt and innocence, and so forth. Extraordinary reports shall inform the University community about the outcome of certain exceptional cases, as determined by the JA.