

# The Report of the Oversight Committee on Three University Policies and Procedures:

## University Student Judicial System Code of Academic Integrity Guidelines on Open Expression

### To the University Community

Over the past two academic years faculty-student committees have been examining the University Student Judicial System, the Code of Academic Integrity, and the Guidelines on Open Expression. Their reports were published in *Almanac* last spring and conveyed to an oversight committee that was charged to reconcile any ambiguities in the documents, to ensure the documents were consistent with one another, and to make the wording of the documents as parallel as possible. The three documents are now ready to be considered by the schools and the University community for possible implementation.

The process needed to implement each of these documents is different. Following is a brief description of what is involved.

**The University Student Judicial System**—Many schools, and various sub-divisions within these schools, use the Judicial Charter to adjudicate departures from expected behavior. Some schools, however, have developed their own judicial procedures. Therefore, each school must now decide whether it—or any of its sub-divisions—would like to utilize the proposed new system. If so, that charter must proceed through the school's decision-making process. Whether a school adopts this particular procedure is not as important as having one in place, although you will note that the oversight committee found many of these school-based documents in need of major revision. I of course hope we could have some uniformity across our schools—certainly across our undergraduate programs. If a school has no procedure for some set of students, it is important either to adopt this proposed one or to develop a code that will permit allegations of misconduct to be addressed in a fair and impartial manner. In the event a school would like to adopt the proposed procedure in place of its own, it would conceivably be possible to alter the panel structure so that, for example, allegations of misconduct of students in a professional degree program would be heard by a panel of students and faculty from the same professional degree program.

**Code of Academic Integrity**—Just as there is some variation in the use of the existing Judicial Charter by schools and sub-divisions, so too there is some variability in the use of the existing Code of Academic Integrity. The decision to adopt the proposed Code of Academic Integrity must be made by the faculty of a school. Therefore, if a school has used the previous Code of Academic Integrity, its faculty will have to make a decision about adopting the proposed revisions to it. In the event a school, or sub-division of the school, has not adopted a code for its students, I would urge them to use this opportunity to consider either adopting this code or some equivalent code. If a school would like to adopt the proposed revised Code in place of its own, here, too, it conceivably would be possible to alter the panel structure so that allegations of academic misconduct would be heard by a panel of students and faculty from the same professional degree program.

**Guidelines on Open Expression**—The Guidelines will be reviewed by the University Council Committee on Open Expression and then forwarded to the University Council for discussion. President Hackney is charged with their implementation. While no action is required by a school or faculty, if either should have additional advice, Sheldon and I would be pleased to receive it.

We are hopeful that during this academic year we can move forward with the implementation of these three sets of procedures using the decision processes described above for each one.

—Michael Aiken, Provost

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## Summary of Major Changes Proposed

In the following pages are revised versions of the Charter of the University Student Judicial System, the Code of Academic Integrity and the Guidelines on Open Expression which have been unanimously approved by the Oversight Committee.\* The major changes made in the individual documents by the Oversight Committee are listed below.

### Charter of the University Student Judicial System

This document is substantially the same as the one published in *Almanac* on April 3, 1990. The significant changes are:

1. The duties of the JIO are not split between two separate individuals, a "settlement JIO" and a "prosecutorial JIO"; rather, the investigation settlement and hearing stages of the procedure are clearly defined and openly delineated during the process (see Section IV) so that the respondent is always aware of the nature of all discussion with the JIO. This modification made the document acceptable to the student members who had vigorously objected to the previous version.

2. The section "Resolution by Vice Provost for University Life" was deleted, since this procedure apparently has not been used in recent memory and, in the opinion of the Committee, is unlikely to be used in the future.

3. A new section was added at the end which specifies review of the Charter every five years at a minimum.

### Code of Academic Integrity

The content of this document is also substantially the same as the one published in *Almanac* on May 22, 1990. There are some important changes, however.

1. The Code was modified to make it stand alone, separate from the Charter, thereby necessitating substantial additions to (new) Section IV, "Judicial Procedures..."

2. The changes noted in #1, above, under the Charter were also incorporated into the Code.

3. Direct reference is made to the availability of using the Office of the Ombudsman to resolve complaints (see [new] Section III).

4. The section on "Appeals" ([new] Section IV) was reworded to make it parallel with the corresponding section in the charter.

5. Sections on "Confidentiality" ([new] Section VII) and "Reports" ([new] Section VIII) were added.

### Guidelines on Open Expression

This document is also substantially the same as published in *Almanac* on March 20, 1990. Changes were made to clarify the locations at which these Guidelines apply. Specifically, a definition of "University location" is included in (new) Section II, "Definitions."

The Committee spent a great deal of time making the wordings of the Charter and the Code as nearly parallel as possible. To this end, the wording in various sections have been made either identical or very similar. For example, section IV of the Charter and the Code which relate to procedures are very similar, as are the sections on confidentiality and reports.

Finally, we looked into the Codes and Charters of those parts of the University which do not use the University-wide documents and found them, in general, to be in need of major revision. Consequently, we recommend that each School which has its own Code and/or Charter should review those documents in light of the revised documents published here, and then report back to the Provost.

—David P. Pope, Chair, Oversight Committee

\* See page 12.

# University of Pennsylvania Charter of the University Student Judicial System

Proposed Revisions Completed May 7, 1991

## 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 settlement or hearing, 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, it shall have exclusive original jurisdiction in all cases brought by students, faculty or staff members arising under regulations of the University against persons who are registered as students, or students who are on an unexpired leave of absence.

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 sit in four panels of five members each. Each panel shall consist of one undergraduate student, one graduate or professional student and three faculty members. Each panel shall have at least one alternate faculty member.

2. The faculty members of the Hearing Board shall serve for two-year terms, and their terms shall be staggered to provide continuity. Student members shall serve for one year terms. If any Hearing Board member is unable to serve for any reason, a replacement shall be selected in the same manner as the original Board member was chosen.

3. Student members shall be in good academic and disciplinary standing.

4. Members of the Hearing Boards shall be chosen by the Provost from slates submitted by the Senate Executive Committee (faculty), the Graduate and Professional Students Assembly (graduate/professional), and the Nominations and Elections Committee of the Undergraduate Assembly (undergraduates). The slates submitted to the Provost from each group shall contain twice as many names as there are positions to be filled from that slate.

5. Two of the panels shall hear cases at regularly-scheduled times in alternate months; one of the panels shall serve as an appellate panel, and one panel shall serve as an emergency hearing panel.

6. If a member of the Hearing Board ceases to be in good standing at the University, the Judicial Administrator (JA) shall remove him or her from the Hearing Board and a replacement shall be chosen in the same manner as the original Board member was chosen.

7. If a member of a panel is unable to hear a case by reason of death, illness, or any other condition that cannot be accommodated by postponement for a reasonable time, and hearings have not commenced or substantially progressed, the JA shall designate a replacement member from alternates or other panels. If such disability occurs after hearings

have substantially progressed, the remaining members of the panel shall proceed to hear the case. In the event the panel cannot reach a decision by the required majority of remaining members, the case shall be reassigned to another panel. Decisions as to whether postponement for a reasonable time is possible and whether hearings have substantially progressed shall be made by agreement of the JIO, the respondent, and remaining members of the panel, and failing agreement, by the JA. The JA's decision shall be final and not subject to appeal.

### **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 shall, 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. In addition, the Vice Provost for University Life shall compile and maintain lists of members of the University community who are willing to serve as advisors, including those with a particular interest in assisting minority and foreign students. Such lists shall be available upon request.

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. 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; maintaining records of cases; and ensuring that agreements and sanctions are enforced. The JIO shall also institute and maintain an information system capable of providing an accessible and secure record of the characteristics and disposition of every complaint filed, including a case-based record system adequate to:

(a) facilitate review and disposition on a timely basis;

(b) provide information on the range of sanctions applied, by settlement or VPUL decision following panel hearing, in cases of a similar nature; and

(c) ensure the dissemination of useful statistical information about the incidence and resolution of cases to the University community in a timely fashion.

2. The JIO shall be a University employee, and shall serve at the pleasure of the VPUL.

#### **C. Replacement of JA and JIO**

In any case in which the JA or JIO cannot perform her or his duties, an alternate may be designated using the procedures applicable to the position. If circumstances require the appointment of a special JIO or JA for a particularly complex and/or controversial case, to serve for a limited duration or until the case is resolved, the appointment will be made using the procedures applicable to the position.

### **IV. Procedures**

The resolution of a complaint shall take place in separate, distinct stages, as outlined in this section. These stages are: the Complaint and Subsequent Investigation by the JIO, see IV.A.; the Settlement Stage, see IV.B.; and, the Hearing Stage, see IV.C.

Since settlement between the JIO and the Respondent without going to a formal hearing is preferred, every attempt should be made to accomplish such a settlement.

#### **A. The Complaint and Investigation**

1. Any student, faculty member or staff member who believes that a student has violated a University rule may file a written complaint 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, the respondent and the complainant in writing of the complaint. The written notice shall also enclose a copy of this Charter, a copy of the regulations, rules, or policies alleged to have been violated, and a summary of the rights and responsibilities of those involved in the process (complainant, respondent, witnesses and advisors), including the right of the respondent and witnesses to be assisted by an advisor, and the means for obtaining such an advisor, as defined in this Charter, at each stage of the procedures, and the responsibility to observe confidentiality. Where a respondent is a graduate student the JIO shall verify that individual's current address with her or his department or school before providing written notice.

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, but shall not do so until the witness has been furnished with a summary of the rights and responsibilities of those involved in the process. All witnesses have the right to consult with an advisor, as defined in this Charter, while being interviewed, and the JIO shall inform them that anything they say during this investigatory stage may later be introduced as evidence at a formal Hearing. During interviews with a respondent, the JIO shall allow reasonable recesses of short (15 minutes, or so) duration for private conversations between the respondent and her/his advisor. If the respondent has no advisor and at some point in the interview decides to obtain one, then the interview shall be recessed for a period not to exceed four working days.

3. In light of 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. If, having dismissed charges as unfounded, the JIO concludes that there is reasonable cause to believe that the complainant knew the complaint was false, the JIO may initiate a complaint against that individual under this Charter or, with respect to those not students, other available procedures.

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 the Charter irrespective of the time provisions set forth in the Charter.

5. At any time after the filing of a complaint, the JIO, with the written approval of the JA, may place a "Judicial Hold" on the academic records of a respondent for the purpose of preserving the status quo pending the outcome of proceedings under this Charter. When reasonably possible a respondent shall be given an opportunity to comment on a proposed Judicial Hold prior to its institution and otherwise shall be given that opportunity promptly thereafter. In addition, the VPUL shall promptly review the propriety of a Judicial Hold at the request of a respondent. The JIO and the JA shall expedite the hearing of charges against a respondent whose academic records have been placed on Judicial Hold if the respondent so requests. A Judicial Hold may prevent, among other things, registration, the release of transcripts, and the awarding of a diploma.

#### **B. Settlement**

Informal settlement between the JIO and the respondent is the preferred method of resolving a complaint. It is expected that most complaints will be handled in this way. Settlement negotiations shall proceed expeditiously and if a settlement is not reasonably in prospect the case shall go to a hearing.

1. At some point in the investigation the JIO shall inform the respondent that he/she is interested in entering the "settlement phase" of the process.

2. If the respondent agrees, settlement discussions shall then commence. There should be a clear delineation between discussions that are part of the JIO's investigation and discussions about settlement. If the two discussions are part of the same meeting, a short recess of 15 minutes or so, during which time the respondent has time for private conversations with his/her advisor, may be appropriate.

3. During all settlement discussions with the JIO the respondent has the right to have an advisor present.

4. Statements made by the respondent during settlement discussions shall not be introduced as evidence at any subsequent hearing of any kind, but may provide a basis for further investigation.

5. During a subsequent hearing the JIO shall not reveal any aspects of an unsuccessful settlement conference.

6. The JIO shall make reasonable efforts to consult with a complainant about terms of settlement before the proposed terms are made final; however failure to consult with the complainant does not invalidate the settlement.

7. The JA shall approve the terms of all proposed settlements before they take effect.

8. All sanctions allowed under Section VI. A. of this Charter are available to the JIO as part of a settlement.

9. Settlement may occur at any time after a complaint has been filed but prior to the disposition of a final appeal, if any. Settlements shall be recorded in writing, signed by the JIO, the JA, and the respondent, who shall waive further proceedings under the Charter.

10. Data on the pattern of sanctions imposed in any prior similar cases which were settled or decided within the past three years shall be made available by the JIO to the respondent during the settlement discussions. The identities of the respondents in these prior cases shall be scrupulously protected.

## C. Procedures for Hearings

### 1. Preliminary Procedures

a. The two panels that hear cases shall meet regularly at set times and places, scheduled well in advance, to hear cases brought before them. It is expected that these panels will each meet in alternate months. Emergency hearings will come before the third panel as scheduled by the JA.

b. The JA shall notify the complainant, respondent, and witnesses by hand delivery or certified mail, return-receipt requested, of the hearing place, time and date, at least ten days before the hearing date. This notice shall 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. The JA shall promptly provide members of the panel with the names of the complainant, the respondent, and witnesses.

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.

e. Upon receiving a written request by any party, the JA may expedite proceedings involving graduating students or students who are about to take a leave of absence or study elsewhere.

### 2. Disqualification of Board Members

a. Members of a Hearing Board panel shall disqualify themselves from hearing a case if they believe in good faith that, as a result of information previously acquired about the case or individuals involved in it, the nature of the alleged violation, or any other cause, their capacity for making an impartial judgment upon the evidence is, or to reasonable members of the community may appear to be, impaired. Members should not disqualify themselves for any other reason. Mere service on another panel involving the same respondent is not grounds for disqualification.

b. A respondent or complainant may object for specific cause to any Board member scheduled to hear the case; any existing objection must be written and received by the JA at least five days before the hearing. The conduct of a Board member during a case shall not be grounds for disqualification but may be considered on appeal. Upon ruling that a challenge is valid, the JA, after notifying the respondent, complainant, and the JIO, shall replace the challenged member with another from the same category. A faculty member shall be replaced by an alternate faculty member, and a student member shall be replaced by a student member from another panel.

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.

d. Rulings denying objections for specific cause by the JA may be appealed in writing, within forty-eight hours of the ruling, to the appellate panel. The panel, or as many members as are available, shall review the written objection and statement of appeal, any writ-

ten ruling of the JA, and shall issue a prompt decision. The decision on appeal shall be final.

### 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 shall 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 evidence against a respondent in her or his absence, upon proof by the JA that the required notice was provided.

### 4. Advisors

a. At each stage of the procedures provided by this Charter, a respondent and complainant may be assisted by an advisor who is a member of the University community (student, faculty or staff). If criminal charges are pending or in the judgment of the JIO are reasonably in prospect 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. Such an advisor may not, however, question witnesses or address a panel except as provided below with respect to advisors generally.

b. During the hearing, the advisor may consult with her or his advisee, but, unless granted permission to do so by the JA, may not question witnesses or address the panel, except that an advisor may make a summary statement to the panel before it begins private deliberations. The time allowed for such summary shall be set by the JA. Permission to an advisor to question witnesses or to address the panel may be withdrawn.

c. Any advisor who refuses, or repeatedly fails, to abide by the procedures of this Charter or rulings in the case may, after due warning, be disqualified from continuing to serve by vote of a majority of the panel, which decision shall be subject to immediate review by the JA. In the event the disqualification is upheld by the JA, the panel may (but need not) proceed in the absence of a replacement advisor. Any person who is disqualified from serving as an advisor, whether or not a member of the University community, shall be ineligible again to serve as an advisor for a period of two years.

### 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 to the VPUL.

b. The Panel shall presume a respondent innocent until proven guilty by a preponderance of the evidence.

c. All decisions shall require a majority vote of the Panel.

d. As soon as possible after conclusion of the hearing, and in all events within ten days, the Board shall present its written opinion, including findings of fact, and the Board'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, the respondent, complainant or JIO 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 other parties, who may respond in writing.

b. If the JA concludes that it is reasonably possible that the new evidence would alter the original Board's judgments, then the original Board, or as many members as are available, shall rule on the petition, considering (among other relevant factors) the reason for the respondent's, complainant's or JIO'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 before the original Board and shall be limited to the new and material evidence.

**7. 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 Board 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.

**D. Calculation of Time Intervals**

For the purpose of calculating days, only the Fall and Spring academic terms 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.

Unless otherwise provided, days shall be counted on a calendar basis, including Saturdays, Sundays, but not University holidays.

**V. Temporary Leave Pending Hearing**

In extraordinary circumstances, when a student's presence on campus is deemed to be a potential threat to order, health or safety, the VPUL may place the student on temporary leave of absence pending a hearing of charges. The VPUL shall consult with persons of appropriate expertise and, when reasonably possible, provide the student with an opportunity to be heard, before making a decision to place that student on temporary leave of absence. Such a decision shall in all cases be subject to prompt review by the Provost at the student's request. Any student placed on temporary leave of absence shall not be liable for tuition or fees attributable to the period of leave.

At the student's request, and if adequate information is available upon investigation by the JIO, the JIO and the JA shall expedite the hearing of charges against a student placed on temporary leave of absence.

**VI. Sanctions**

If the Panel finds that a student has violated University rules and regulations, it shall recommend to the VPUL an appropriate sanction. Before the Panel considers a sanction, the Judicial Inquiry Officer shall inform the Panel of any previous offenses committed by the respondent and the sanctions, if any, that were imposed in those cases. This includes cases that were decided by Hearing Boards and settlements with the JIO. Data on the pattern of sanctions imposed in any prior similar cases which were settled or decided in the past three years shall also be made available to the Panel at this time.

**A. Available Sanctions**

1. The panel, acting under Part IV may recommend to the VPUL and the VPUL acting on behalf of the Provost, after receiving such recommendation, 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, a period of mandatory service to the University community, 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.

**B. Enforcement**

1. 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.

2. The JIO, with the approval of the JA, may take any action necessary to enforce a sanction.

**VII. Appeals**

**A. Jurisdiction**

The Appellate Panel shall have exclusive jurisdiction to decide appeals from decisions by a Panel.

**B. Procedures**

1. A respondent, complainant or JIO must submit any appeal to the Appellate Panel, in writing, with a copy to the other parties and the JA, within fourteen days of the sending of the Panel's decision or the VPUL's decision; the appeal shall state in detail the specific ground upon which it is based, and shall attach a copy of the charge and the decision.

2. Upon receipt of an appeal, the JA shall provide the Appellate Panel with any exhibits considered by the Panel in reaching its decision.

3. The Appellate Panel shall review the appeal within ten working days of their receipt of it. Upon request of the JIO, the complainant or the respondent, or upon their own motion, the Appellate Panel may hear oral argument.

4. The Appellate Panel shall issue its 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 material and prejudicial procedural error, error in the interpretation or application of the Charter, and the severity of sanctions. Findings of fact may be reversed only if those findings are unsupported by substantial evidence.

2. Upon finding error, or that the facts were not supported by substantial evidence, the Appellate Panel may vacate or reverse the decision, or return the case for a new hearing to a Panel that did not originally hear the case.

**VIII. Confidentiality of Records and Proceedings**

The identity of individuals in particular cases before the JIO, the University Hearing Board, the VPUL, or the Appellate Panel, 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. All members of the University community shall respect the confidentiality of judicial records and proceedings, mindful of the unfairness that can result from selective disclosures, partisan representations, and the inability to respond to such disclosures and representations. Failure to observe the requirement of confidentiality by a member of the University community, other than a respondent, who is involved in a case in whatever capacity, shall constitute a violation of University rules and subject the individual to the appropriate procedures for dealing with such violations. If a respondent discloses, causes to be disclosed, or participates in the disclosure of, information that is otherwise confidential, any person whose character or integrity might reasonably be questioned as a result of such disclosure, shall have a right to respond in an appropriate forum, limited to the subject matter of the initial disclosure.

When guilt is finally 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.

**IX. Reports**

Subject to the requirements of Part VIII above, the JIO, in consultation with the JA, shall make public reports at the beginning of each year and periodic reports as may be appropriate. The purposes of such reports are to inform the University community about the character and extent of the work of the Judicial System, including the nature of the violations of University Rules and Regulations and the sanctions imposed.

The reports of the JIO shall deal both with cases that go to hearing and with cases that are settled before hearing, including cases settled with the help of the Ombudsman, 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 Hearing 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. Periodic reports shall inform the University community about recurring or, as determined by the JA, extraordinary violations of University Rules and Regulations and the sanctions imposed for such violations.

**X. Periodic Review of This Charter**

The provisions of this Charter and experience under it shall be reviewed on a periodic basis, no less than every five years, by a committee of faculty and students appointed by the Provost.

# University of Pennsylvania Code of Academic Integrity

*Proposed Revisions Completed May 7, 1991*

Since the most fundamental value of any academic community is intellectual honesty, all academic communities rely upon the integrity of each and every member. Faculty and students alike, then, are responsible not only for adhering to the highest standards of truth and honesty but also for upholding the principles and spirit of the following Code.

## I. Academic Dishonesty<sup>1</sup>

Any of the following acts shall be considered violations of this Code.

A. Cheating: using or attempting to use unauthorized assistance, material or study aids in examinations or any other academic work, or preventing, or attempting to prevent, another from using authorized assistance, material, or study aids.

B. Plagiarism: using the ideas, data or language of another without specific and proper acknowledgement.

C. Fabrication: submitting contrived or altered information in any academic exercise.

D. Multiple Submission: submitting, without prior permission, any work submitted to fulfill another academic requirement.

E. Misrepresentation of Academic Records: misrepresenting or tampering with or attempting to tamper with any portion of one's own transcripts or academic record, either before or after coming to the University of Pennsylvania.

F. Facilitating Academic Dishonesty: knowingly helping or attempting to help another violate provisions of this Code.

## II. Promoting Academic Honesty

Since the maintenance of academic honesty is crucial to the educational mission of the University, this Code has both educational and judicial goals. These goals are to ensure:

a) that the Code and its provisions are known and understood throughout the community,

b) that all members of the community are involved in the process of updating and improving the Code,

c) that the judicial procedures are carried out by representatives of all members of the community,

d) that the judicial and educational processes are closely linked.

### A. Standing Committee on Academic Integrity

A University-wide Standing Committee on Academic Integrity shall be formed which has both educational and judicial duties. The Committee shall consist of three panels of five members each. During any given year two of the three panels will be primarily judicial in nature and one will be primarily educational in nature.

### B. Educational Duties of the Standing Committee

The educational duties of the Standing Committee on Academic Integrity, which will be primarily the responsibility of the third, non-judicial, panel, are:

1. Develop an education program for both faculty and students. This program shall take place continuously throughout the year but especially in September when new students and faculty first arrive on campus. The programs shall take place in Departmental and School faculty meetings, in classrooms, in the residences, in New Student Week Programs, and anywhere else the SCAI considers appropriate. The SCAI shall enlist the help of all appropriate personnel in this endeavor, e.g., Peer Advisors, Residential Advisors, and members of the Faculty and University Administration.

2. Promote debate and discussion about the Code.

The Code, and most particularly its means of administration, should not be static. The Committee shall serve as the main source of

ideas for improvement of the Code and the main catalyst for discussions regarding the Code.

### 3. Publication of the Code.

At the beginning of the academic year the SCAI shall have the Code or a synopsis of the Code published in a readily accessible University publication. In the same publication there shall appear a list of Academic Support Services available at Penn to students. The SCAI shall also see that the following statement is printed in all University examination books:

*In the performance of this work I have complied with  
the Code of Academic Integrity.*

At the instructor's discretion, students shall be asked to sign their names to this statement before submitting their examination books. The SCAI shall also encourage the inclusion of this same statement on all other academic exercises.

4. Education is an important responsibility of all 15 members of SCAI, although the nonjudicial members will take a leadership role in these activities.

### C. Judicial Duties of the Standing Committee

All hearings involving violations of the Code of Academic Integrity shall come before the Honor Boards except when the school in which the respondent is enrolled has its own separate procedures. In cases where violations of both the Code of Academic Integrity and the Charter of the University Student Judicial System are involved, the proceedings under the Code of Academic Integrity shall normally take place before other proceedings.

### D. Composition of the Standing Committee on

#### Academic Integrity (SCAI)

1. The SCAI shall consist of three panels of five members each, three faculty, one undergraduate and one graduate or professional student on each panel.

2. Faculty members shall serve for two-year terms with overlapping appointments. Students shall serve for one-year terms. If any member is unable to serve for any reason, a replacement shall be selected in the same manner as the original member was selected.

3. Student members shall be in good academic and disciplinary standing.

4. The members of judicial and educational panels shall be chosen for the specific panels by the Provost from slates submitted by the Senate Executive Committee (faculty), the Graduate and Professional Students Assembly (graduate/professional), and the Nominations and Elections Committee of the Undergraduate Assembly (undergraduates). The slates submitted to the Provost from each group shall contain twice as many names as there are positions to be filled from that slate. The Provost may appoint a given member to different panels during that member's two-year appointment. The chair of the SCAI shall be chosen by the Provost from the membership of the Committee.

5. If a member of a panel is unable to hear a case by reason of death, illness, or any other condition that cannot be accommodated by postponement for a reasonable time, and hearings have not commenced or substantially progressed, the JA shall designate a replacement member from alternates or other panels. If such disability occurs after hearings have substantially progressed, the remaining members of the panel shall proceed to hear the case. In the event the panel cannot reach a decision by the required majority of remaining members, the case shall be reassigned to another panel. Decisions as to whether postponement for a reasonable time is possible and whether hearings have substantially progressed shall be made by agreement of the JIO, the respondent, and remaining members of the panel, and failing agreement, by the JA. The JA's decision shall be final and not subject to appeal.

6. The Council of Undergraduate Deans, the Graduate Dean of the University and the Vice Provost for University Life shall each name a liaison to the Committee. Staff support shall be provided by the Provost.

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\* The language in Sections I and IV of this Code is partially based on Sections 1 and 15, respectively, of the Code of Academic Integrity, University of Maryland at College Park.—D.P.P.

### III. Procedures Relating to Violations of the Code

In all cases, when an instructor suspects a student may have violated this Code, the instructor should discuss the matter with the student privately before taking any other action. If an informal discussion does not resolve the question then the instructor and the student have the following options. (At any stage of this process before coming before the Honor Board, the complainant and/or the respondent may make use of the office of the Ombudsman, as described in Section III.E.)

#### A. Instructor's Options

1. *The Grading Option.* An instructor who concludes that a student has violated the Code may assign the student whatever grade he or she considers appropriate either for the work in question or for the entire course, including a course grade of F. Within thirty days of detecting the alleged violation or no more than ten days after the due date for grades in the relevant course, the instructor must notify the student of the grade and the reasons for it. The instructor must also send a letter outlining the infraction and its resolution to the Judicial Inquiry Officer for purposes of keeping complete records, with a copy to the student.

2. *Non-Grading Option.* An instructor who believes that a student has violated the Code may elect to assign no grade at all but rather to make a formal written complaint about the student to the Judicial Inquiry Officer. In this case, within thirty days of the violation or no more than ten days after the due date for grades in the relevant course, the instructor must notify the student in writing of his or her action and the reasons for it.

#### B. Respondent's Options

1. *Resolution with the Instructor.* The student may accept the instructor's decision communicated as described in A.1., in which case there shall be no further proceedings.

2. *Appeal to the Honor Board.* If the student does not accept the instructor's decision as communicated according to A.1., then within thirty days of receiving the instructor's notice of a grade, the student may file a petition with the Judicial Inquiry Officer asking that judicial proceedings be initiated. If the Honor Board finds a violation, all sanctions authorized by this Code are available.

3. *Settlement with the Judicial Inquiry Officer.* After judicial proceedings have been initiated, the student may make an informal settlement with the Judicial Inquiry Officer who shall consult with the instructor before making the settlement. All sanctions authorized by this Code are available in informal settlements. If this negotiation fails, the case shall then go to the Honor Board.

#### C. Complaints of People Other Than the Instructor to the Judicial Administrator.

A person other than the instructor in a course may file a complaint with the Judicial Inquiry Officer alleging that a student has violated the Code. If the complaint involves a course, the Judicial Inquiry Officer shall notify the instructor of it. Unless the Judicial Inquiry Officer can settle the complaint informally, the case shall proceed to a hearing.

#### D. Consolidation of Cases

If a student's petition and a complaint against the student concerning the same matter are before the Honor Board at the same time, the Judicial Inquiry Officer shall consolidate both cases into one.

#### E. Ombudsman

If both the complainant and respondent agree, the case may be brought to the Ombudsman to achieve reconciliation to the satisfaction of the complainant and respondent. If reconciliation is achieved through the Ombudsman, the Ombudsman shall notify the JIO of the settlement so that records may be kept according to Section VIII of this Code.

### IV. Judicial Procedures Relating to Violations of the Code<sup>1</sup>

The Honor Board serves a special function in the Academic Life of the University and is therefore not modelled after adversarial civil or criminal legal systems. It is not a court in the civil or criminal sense, and therefore the rules applicable to those systems do not necessarily apply to the proceedings of an Honor Board. The resolution of a complaint shall take place in separate, distinct stages, as outlined in this section. These stages are: The Complaint and Subsequent Investigation by the JIO, see IV.A.; The Settlement Stage, see IV.B.; and, The Hearing Stage, see IV.C. Since settlement between the JIO and the Respondent without going to a formal hearing is preferred, every attempt should be made to accomplish such a settlement.

#### A. The Complaint and Investigation

1. Any student, faculty member or staff member who believes that a student has violated this Code may file a written complaint with the JIO. Complaints made to others may be referred to the JIO. If the complaint is made by a person other than the instructor of the course involved in the complaint, the JIO shall inform the instructor of it. Within a reasonably prompt time after the filing of a complaint, the JIO shall inform the JA, the respondent and the complainant in writing of the complaint. The written notice shall also enclose a copy of this Code, a copy of the regulations, rules, or policies alleged to have been violated, and a summary of the rights and responsibilities of those involved in the process (complainant, respondent, witnesses and advisors), including the right of the respondent to be assisted by an advisor and the means for obtaining such an advisor, as defined in this Code, at each stage of the procedures, and the responsibility to observe confidentiality. Where a respondent is a graduate student the JIO shall verify that individual's current address with her or his department or school before providing written notice.

2. The JIO shall investigate complaints within the jurisdiction of the Honor 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, but shall not do so until the witness has been furnished with a summary of the rights and responsibilities of those involved in the process. All witnesses have the right to consult with an advisor, as defined in this Code, while being interviewed, and the JIO shall inform them that anything they say during this investigatory stage may be introduced as evidence at a formal hearing. During those interviews with the respondent, the JIO shall allow reasonable recesses of short (15 minutes, or so) duration to allow private conversations between the respondent and advisor. If the respondent has no advisor and at some point in the interview decides to obtain one, then the interview shall be recessed for a period not to exceed four working days.

3. In light of 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. If, having dismissed charges as unfounded, the JIO concludes that there is reasonable cause to believe that the complainant knew the complaint was false, the JIO may initiate a complaint against that individual under this Code or, with respect to those not students, other available procedures.

4. The University may proceed under this Code 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 the Code irrespective of the time provisions set forth in the Code.

5. At any time after the filing of a complaint, the JIO, with the written approval of the JA, may place a "Judicial Hold" on the academic records of a respondent for the purpose of preserving the status quo pending the outcome of proceedings under this Code. When reasonably possible a respondent shall be given an opportunity to comment on a proposed Judicial Hold prior to its institution and otherwise shall be given that opportunity promptly thereafter. In addition, the VPUL shall promptly review the propriety of a Judicial Hold at the request of a respondent. The JIO and the JA shall expedite the hearing of charges against a respondent whose academic records have been placed on Judicial Hold if the respondent so requests. A Judicial Hold may prevent, among other things, registration, the release of transcripts, and the awarding of a diploma.

#### B. Settlement

Informal settlement between the JIO and the respondent is the preferred way to resolve a complaint. It is expected that most complaints will be handled in this way. Settlement negotiations shall proceed expeditiously, and if settlement is not reasonably in prospect the case shall go to a hearing.

1. At some point in the investigation the JIO shall inform the respondent that he/she is interested in entering the "settlement phase" of the process.

2. If the respondent agrees, the settlement discussions will then commence. There should be a clear delineation between discussions about "investigation" and discussions about "settlement". If the two discussions are part of the same meeting, a short recess of 15 minutes or so, during which time the respondent has time for private conversations with his/her advisor, may be appropriate.

3. During all settlement discussions with the JIO the respondent has

\* The language in Sections I and IV of this Code is partially based on Sections 1 and 15, respectively, of the Code of Academic Integrity, University of Maryland at College Park. — D.P.P.

the right to have an advisor present.

4. Statements made by the respondent during settlement discussions shall not be introduced as evidence at any subsequent hearing of any kind, but may provide the basis for further investigation.

5. During a subsequent hearing the JIO shall not reveal any aspects of an unsuccessful settlement conference.

6. The JIO shall make reasonable efforts to consult with a complainant and the instructor about terms of settlement before the proposed terms are made final; however failure to consult with them does not invalidate the settlement.

7. The JA shall approve the terms of all proposed settlements before they take effect.

8. All sanctions allowed under this Code are available to the JIO during settlement.

9. Settlement may occur at any time after a complaint has been filed but prior to the disposition of a final appeal, if any. Settlements shall be recorded in writing, signed by the JIO, the JA and the respondent, who shall waive further proceedings under the Code.

10. Data on the pattern of sanctions imposed in any prior similar cases which were settled or decided within the past three years shall be made available by the JIO to the respondent during the settlement discussions. The identities of the respondents in these prior cases shall be scrupulously protected.

## C. Procedures for Hearings

### 1. Preliminary Procedures

a. The two Honor Boards shall meet regularly, at set times and a set place to hear cases brought before them. It is expected that each Board will meet in alternate months, but additional emergency meetings may be called by the JA.

b. The JA shall notify the complainant, respondent, and witnesses by hand delivery or certified mail, return-receipt requested, of the hearing place, time and date, at least ten days before the hearing date. This notice shall 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. The JA shall promptly provide members of the panel with the names of the complainant, the respondent, and witnesses.

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.

e. Upon receiving a written request by any party, the JA may expedite proceedings involving graduating students or students who are about to take a leave of absence or study elsewhere.

### 2. Disqualification of Board Members

a. Members of an Honor Board panel shall disqualify themselves from hearing a case if they believe in good faith that, as a result of information previously acquired about the case or individuals involved in it, the nature of the alleged violation, or any other cause, their capacity for making an impartial judgment upon the evidence is, or to reasonable members of the community may appear to be, impaired. Members should not disqualify themselves for any other reason. Mere service on another panel involving the same respondent is not grounds for disqualification.

b. A respondent or complainant may object for specific cause to any Board member scheduled to hear the case; any existing objection must be written and received by the JA at least five days before the hearing. The conduct of a Board member during a case shall not be grounds for disqualification but may be considered on appeal. Upon ruling that a challenge is valid, the JA, after notifying the respondent, complainant, and the JIO, shall replace the challenged member with another from the same category. This replacement member shall come from the third, primarily educational, panel.

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 shall 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 evidence against a respondent in her or his absence, upon proof by the JA that the required notice was provided.

### 4. Advisors

a. At each stage of the procedures provided by this Code, a respondent and complainant may be assisted by an advisor who is a member of the University community (student, faculty or staff). If criminal charges are pending or in the judgment of the JIO are reasonably in prospect 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. Such an advisor may not, however, question witnesses or address a panel except as provided below with respect to advisors generally.

b. During the hearing, the advisor may consult with her or his advisee, but, unless granted permission to do so by the JA, may not question witnesses or address the panel, except that an advisor may make a summary statement to the panel before it begins private deliberations. The time allowed for such summary shall be set by the JA. Permission to an advisor to question witnesses or to address the panel may be withdrawn.

c. Any advisor who refuses, or repeatedly fails, to abide by the procedures of this Code or rulings in the case may, after due warning, be disqualified from continuing to serve by vote of a majority of the panel, which decision shall be subject to immediate review by the JA. In the event the disqualification is upheld by the JA, the panel may (but need not) proceed in the absence of a replacement advisor. Any person who is disqualified from serving as an advisor, whether or not a member of the University community, shall be ineligible again to serve as an advisor for a period of two years.

### 5. Decisions of the Board

a. The Board's deliberations shall be divided into two separate stages:

- (i) determination of guilt or innocence; and, if guilt is determined,
- (ii) determination of a sanction.

b. The Board shall presume a respondent innocent until proven guilty by a preponderance of the evidence.

c. All decisions shall require a majority vote of the Board.

d. As soon as possible after conclusion of the hearing, and in all events within ten days, the Board shall present its written opinion, including findings of fact, and the Board'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, the respondent, complainant or JIO may petition the Honor 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 other parties, who may respond in writing.

b. If the JA concludes that it is reasonably possible that the new evidence would alter the original Board's judgments, then the original Board, or as many members as are available, shall rule on the petition, considering (among other relevant factors) the reason for the respondent's, complainant's or JIO'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 before the original Board and shall be limited to the new and material evidence.

## 7. Failure to Appear or Cooperate

a. A fair, conclusive adjudication of a dispute under this Code 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 Honor Board in order that disputes may be equitably resolved as quickly as possible.

### b. Sanctions

- (i) The Board may recommend that any sanction authorized by this Code 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 Code 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.

## D. Calculation of Time Intervals

For the purpose of calculating days, only the Fall and Spring academic terms 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.

Unless otherwise provided, days shall be counted on a calendar basis, including Saturdays, Sundays, but not University holidays.

## V. Sanctions

If the Honor Board finds that a student has violated the Code, it shall impose or recommend to the Dean of the student's school an appropriate sanction. Before the Board considers a sanction, the Judicial Inquiry Officer shall inform the Board whether the student has previously violated the Code and the sanctions, if any, that were imposed or recommended in those cases. This includes cases that were decided by Honor Boards, settlements with the instructor, and settlements with the JIO. Data on the pattern of sanctions imposed in any prior similar cases which were settled or decided in the past three years shall also be made available to the Panel at this time.

### A. Available Sanctions

The sanctions that the Board may impose by its own authority are the following: warning, reprimand, withdrawal of certain privileges, a period of mandatory service to the University community, and probation for a fixed or indefinite period of time. The sanctions that can only be imposed by the Dean of a student's school and therefore must be recommended by the Board to the Dean are the following: suspension for not longer than two years, indefinite suspension without the automatic right to readmission, expulsion, and notation on transcript. If the Dean of the student's school is a complainant, or if there are other kinds of conflict, the Dean shall name a designee for the sanction phase of the case at the beginning of the case, or at such time that the conflict appears.

### B. Appropriate Sanctions

The sanction for a violation of the Code usually will be a one- or two-semester suspension from the University in the case of a first violation or an expulsion in the case of a second violation. In egregious cases the Board may recommend a disciplinary notation on the student's transcript. The Board, however, may weigh such factors as the extent of the misconduct, the degree to which the student premeditated the misconduct, the student's awareness of the seriousness of the violation, the student's prior disciplinary record, and any special circumstances relating to the case.

### C. Notation on Transcript

As stated above, in especially serious cases, the Honor Board may recommend that a student's Dean place a notation on a student's transcript, either for a fixed or indefinite term, stating that the Board has found the student guilty of violating the Code and citing the charge and the sanction.

### D. Instructor's Grade in Cases Involving the Honor Board

After the Honor Board has decided upon a complaint, the Judicial Administrator shall inform the instructor or the person who initiated the

complaint of its decision. If the Board has found the student not guilty of violating the Code, the instructor should then assign a grade--which may differ from the grade he or she first assigned--based on the student's academic performance in the course. If the Board has found the student guilty of violating the Code, the instructor may assign any grade he or she wishes. In either case, the instructor should inform the student in writing within ten days of the grade that he or she has assigned.

## VI. Appeals

A complainant or respondent may file an appeal with the Executive Committee or equivalent of the relevant school.

### A. Procedures

1. A respondent, complainant or JIO must submit any appeal to the Executive Committee, in writing, with a copy to the other parties and the JA, within fourteen days of the sending of the Board's or the Dean's decision; the appeal shall state in detail the specific ground upon which it is based, and shall attach a copy of the charge and the decision.

2. Upon receipt of an appeal, the JA shall provide the Executive Committee with any exhibits considered by the Board in reaching its decision.

3. The Executive Committee shall review the appeal within ten working days of their receipt of it. Upon request of the JIO, the complainant or the respondent, or upon their own motion, the Executive Committee may hear oral argument.

4. The Executive Committee shall issue its decision reasonably promptly, but no later than thirty days after receipt of the notice of appeal.

### B. Scope of Review

1. Appellate review shall be limited to material and prejudicial procedural error, error in the interpretation or application of the Code, and the severity of sanctions. Findings of fact may be reversed only if those findings are unsupported by substantial evidence.

2. Upon finding error, or that the facts were not supported by substantial evidence, the Executive Committee may vacate or reverse the decision, or return the case to the Honor Board which did not originally hear the case for a new hearing.

3. When considering the severity of the sanctions, the Executive Committee may not increase the sanctions as a result of an appeal.

## VII. Confidentiality of Records and Proceedings

The identity of individuals in particular cases before the JIO, the Honor Board, or the Executive Committee, 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. All members of the University community shall respect the confidentiality of judicial records and proceedings, mindful of the unfairness that can result from selective disclosures, partisan representations, and the inability to respond to such disclosures and representations. Failure to observe the requirement of confidentiality by a member of the University community, other than a respondent, who is involved in a case in whatever capacity, shall constitute a violation of University rules and subject the individual to the appropriate procedures for dealing with such violations. If a respondent discloses, causes to be disclosed, or participates in the disclosure of, information that is otherwise confidential, any person whose character or integrity might reasonably be questioned as a result of such disclosure, shall have a right to respond in an appropriate forum, limited to the subject matter of the initial disclosure.

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.

## VIII. Reports

Subject to the requirements of Part VII above, the JIO, in consultation with the JA, shall make public reports at the beginning of each year and periodic reports as may be appropriate. The purpose of such reports is to inform the University community about the character and extent of the work of the Judicial System, including the nature of the violations of the Code and the sanctions imposed.

The reports of the JIO shall deal both with cases that go to hearing and with cases that are settled before hearing, including cases settled with the instructor and/or with the help of the Ombudsman, 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 Boards, 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. Periodic reports shall inform the University community about recurring or, as determined by the JA, extraordinary violations of the Code and the sanctions imposed for such violations.

## University of Pennsylvania Guidelines on Open Expression

*Proposed Revisions Completed May 8, 1991*

### I. Principles

A. The University of Pennsylvania, as a community of scholars, affirms, supports and cherishes the concepts of freedom of thought, inquiry, speech, and lawful assembly. The freedom to experiment, to present and examine alternative data and theories; the freedom to hear, express, and debate various views; and the freedom to voice criticism of existing practices and values are fundamental rights that must be upheld and practiced by the University in a free society.

B. Recognizing that the educational processes can include meetings, demonstrations, and other forms of collective expression, the University affirms the right of members of the University community to assemble and demonstrate peaceably in University locations within the limits of these Guidelines and undertakes to ensure that such rights shall not be infringed. In keeping with the rights outlined in I.A. above, the University affirms that the substance or the nature of the views expressed is not an appropriate basis for any restriction upon or encouragement of an assembly or a demonstration. The University also affirms the right of others to pursue their normal activities within the University and to be protected from physical injury or property damage. The University shall attempt to ensure that, at any meeting, event or demonstration likely to be attended by non-University law enforcement authorities, the rights provided by these Guidelines are not infringed.

C. The University shall be vigilant to ensure the continuing openness and effectiveness of channels of communication among members of the University community on questions of common interest. To further this purpose, a Committee on Open Expression has been established as a standing Committee of the University Council. The Committee on Open Expression has as its major tasks: participating in the resolution of conflicts that may arise from incidents or disturbances implicating these Guidelines; mediating among the parties to prevent conflicts and violations of these Guidelines; interpreting these Guidelines; advising administrative officers when appropriate; and recommending policies and procedures for the improvement of all levels of communication.

D. In case of conflict between the principles of the Guidelines on Open Expression and other University policies, the principles of the Guidelines shall take precedence.

### II. Definitions

A. For the purposes of these guidelines, the "University community" shall mean the following individuals:

1. Persons who are registered as students or who are on an unexpired official leave of absence.
2. All persons who are employed by the University.
3. Trustees and associate trustees of the University and members of Boards of Overseers or other bodies advisory to the University.

B. For the purposes of these Guidelines, "meeting" and "event" designate a gathering of persons in a University location previously reserved for that purpose. Unless designated as public, meetings are considered to be private. Events are considered to be public. "Demonstration" designates the presence of one or more persons in a University location with the intent to express a particular point of view in a manner that attracts attention, as in protest, rallies, sit-ins, vigils, or similar forms of expression. "University location" designates:

1. The campus of the University;
2. Any location owned, leased or used by the University, when used by members of the University community; and
3. Areas immediately adjacent thereto.

### III. Standards

A. The University, through the President, the Provost, and the Vice Provost for University Life, shall act to encourage and facilitate free and open expression within these Guidelines.

1. The University shall publish these Guidelines at least once each academic year in a manner that brings them to the attention of members of the University community. The University shall publish the rules adopted

pursuant to IV.B.1 by the Committee on Open Expression at least once each academic year in a manner that brings them to the attention of members of the University community.

2. The University shall establish standards for the scheduling of meetings and events. This shall involve:

a. Publishing policies and procedures whereby members of the University community, upon suitable request, can reserve and use designated spaces within University buildings for public or private meetings or events;

b. Publishing policies and procedures whereby members of the University community, upon suitable request, can reserve and use designated outdoor spaces on the University campus for public meetings or events;

c. Publishing policies and procedures that specifically address requests involving groups composed entirely or predominantly of persons who are not members of the University community (see Section VI);

d. Consulting with the Committee on Open Expression with regard to the substance of the policies and procedures and the manner of their publication; and, if practicable, consulting with the Committee on Open Expression before denying a request for use of a room, facility, or space by an organization recognized by the University for a reason other than prior assignment of the room, facility, or space. In any event, any such denial must be reported promptly to the Committee.

B. Each member of the University community is expected to know and follow the Guidelines on Open Expression. A person whose conduct violates the following Standards may be held accountable for that conduct, whether or not the Vice Provost or delegate has given an instruction regarding the conduct in question. Any member of the University community who is in doubt as to the propriety of planned conduct may obtain an advisory opinion from the Committee on Open Expression in advance of the event.

1. Individuals or groups violate these Guidelines if:

a. They interfere unreasonably with the activities of other persons. The time of day, size, noise level, and general tenor of a meeting, event or demonstration are factors that may be considered in determining whether conduct is reasonable;

b. They cause injury to persons or property or threaten to cause such injury;

c. They hold meetings, events or demonstrations under circumstances where health or safety is endangered; or

d. They knowingly interfere with unimpeded movement in a University location.

2. Individuals or groups violate these Guidelines if they hold a demonstration in the following locations:

a. Private offices, research laboratories and associated facilities, and computer centers;

b. Offices, museums, libraries, and other facilities that normally contain valuable or sensitive materials, collections, equipment, records protected by law or by existing University policy such as educational records, student-related or personnel-related records, or financial records; or

c. Classrooms, seminar rooms, auditoriums or meeting rooms in which classes or private meetings are being held or are immediately scheduled; or

d. Hospitals, emergency facilities, communication systems, utilities, or other facilities or services vital to the continued functioning of the University.

3. a. Individuals or groups violate these Guidelines if they continue to engage in conduct after the Vice Provost for University Life or delegate has declared that the conduct is in violation of the Guidelines and has instructed the participants to modify or terminate their behavior. Prompt compliance with the instructions shall be a mitigating factor in any disciplinary proceedings based upon the

immediate conduct to which the instructions refer, unless the violators are found to have caused or intended to cause injury to person or property or to have demonstrated willfully in an impermissible location.

b. If the individuals or groups refuse to comply with the Vice Provost's or delegate's order, they may challenge the appropriateness of the order to the judicial system. If the judiciary finds that the conduct was protected by the Guidelines, all charges shall be dismissed.

c. Individuals or groups complying with the Vice Provost's or delegate's order may request that the Committee on Open Expression determine if the Guidelines were properly interpreted and applied to their conduct.

## **IV. Committee on Open Expression**

### **A. Composition**

1. The Committee on Open Expression consists of thirteen members: five students, five faculty members, two representatives of the administration, and one A3 representative.

2. Members of the Committee are appointed by the steering committee in the following manner:

a. Student members shall be nominated from undergraduate students, graduate students, and graduate professional students through existing mechanisms for each student body. Undergraduate and graduate and professional students shall rotate majority representation each year. Three undergraduate and two graduate and professional student members shall alternate with two undergraduate and three graduate and professional students every other year.

b. Faculty members shall be nominated by the Senate Executive Committee.

c. The administration members shall be nominated by the President.

d. The A3 representative shall be nominated by the A3 Assembly.

e. Each member shall be selected for a term of one year beginning the day after Labor Day each year. Any individual may not serve for more than two consecutive terms. Before Commencement, the Committee shall inform the Vice Provost and the University community which of its members will be available during the summer for mediation and advising.

f. Vacancies shall be filled for the unexpired term by the appropriate nominating body or persons.

3. The chair of the Committee shall be selected by the steering committee from among the members of the Committee on Open Expression.

### **B. Jurisdiction**

The Committee has competence to act in issues and controversies involving open expression in accordance with these Guidelines. The Committee's responsibilities are the following:

1. Issuing rules to interpret or give more specific meaning to the Guidelines. Before adopting a rule, the Committee must hold an open hearing on the proposed rule and receive the views of individuals or groups. An affirmative vote of eight members is required for adoption, modification or rescission of a rule to be effective.

2. Recommending to the University Council proposals to amend or repeal the Guidelines. An affirmative vote of seven members is required to make such recommendations.

3. Giving advisory opinions interpreting the Guidelines at the request of a member of the University community for the purpose of advising that person or the University community. Such advice is provided to guide future action. If the Committee does not give a requested opinion, it must indicate its reasons for not doing so. The Committee must respond to such requests as soon as feasible but in any event not later than within one month of the receipt by the Chair of the Committee.

4. Giving advisory opinions interpreting the Guidelines at the request of administrative officials with responsibilities affecting freedom of expression and communication. Such advice is provided for the purpose of guiding future action.

5. Mediating in situations that involve possible violations of the Guidelines. Those Committee members available at the time may act on behalf of the Committee. In carrying out the mediation function, the Committee or those members present may advise the responsible administrative officials and any other person with respect to the implementation of the Guidelines. Those Committee members who have acted on behalf of the Committee must report on their activities to the full Committee.

6. Reviewing the following administrative decisions for the purpose of providing advice on future actions.

a. At the discretion of the Committee, administrative decisions involving these Guidelines made without consultation with the full

Committee.

b. All instructions by the Vice Provost or delegate to modify or terminate behavior under Section III.B.3 of these Guidelines.

7. Investigating incidents involving the application of these Guidelines to aid the Committee in its functions of rulemaking, recommending changes in the Guidelines or issuing advisory opinions. Such functions provide guidance to the University community for future action. The results of Committee investigations for these purposes shall not be a part of the initiation, consideration or disposition of disciplinary proceedings, if any, arising from the incidents.

8. Adopting procedures for the functions of the Committee, varied to suit its several functions, consistent with these Guidelines. Procedures that are not wholly matters of internal Committee practice must be made public in advance of implementation. Except as otherwise provided, the Committee may determine its own voting procedures.

9. Submitting an annual report to the Council and the University on the status of the Committee's work in the University journal of record.

### **C. Procedures**

1. Except as provided with respect to the mediation function in Section IV.B.5, seven members of the Committee constitute a quorum.

2. The Committee can authorize subcommittees, selected from its own members, to act for the Committee in any matter except the issuance of rules interpreting or implementing the Guidelines or the making of recommendations to amend or repeal the Guidelines.

3. The Committee shall respect the privacy of individuals as its general policy and shall maintain the right to declare the confidentiality of its proceedings.

a. If a person appearing before the Committee requests that his or her testimony or information be kept confidential, the Committee shall consider such a request. The Committee then shall determine whether to honor that request and shall inform that person of its decision before testimony is given.

b. Minutes of particular Committee meetings may be declared confidential by the Committee or be so declared at the discretion of the chair subject to review by the Committee.

c. All Committee documents containing confidential material, as determined by the chair, shall be clearly marked "confidential" and shall carry a warning against unauthorized disclosure.

## **V. Responsibilities for Enforcement**

A. It is the responsibility of the Vice Provost for University Life (hereafter referred to simply as the "Vice Provost") to protect and maintain the right of open expression under these Guidelines.

B. Observation of meetings, events or demonstrations, when deemed necessary by the Vice Provost to protect and maintain open expression, shall be the responsibility of the Vice Provost, who may delegate such responsibility. This delegate shall have full authority to act in the name of the Vice Provost under these Guidelines.

1. The observer (Vice Provost or delegate) shall identify himself or herself to those responsible for the meeting or event or to the leaders of the demonstration.

2. The Vice Provost shall attempt to inform the chair of the Committee on Open Expression of meetings, events or demonstrations to which an observer will be sent. The chair may designate a member or members of the Committee to accompany and advise the observer. Such a Committee representative shall also be identified to those responsible for the meeting or event or to the leaders of the demonstration.

3. Except in emergencies, the Vice Provost's authority under these Guidelines shall not be delegated to employees of the University's Department of Public Safety. The role of public safety personnel at a meeting, event or demonstration is defined below, in Section V.C.3.

4. Any observer or Committee representative who attends a meeting, event or demonstration shall respect the privacy of those involved. If there has been no violation of these Guidelines, other University regulations, or applicable laws, an observer, committee representative, or public safety employee who attends a meeting, event or demonstration shall not report on the presence of any person at such meeting, event or demonstration.

C. The Vice Provost or delegate is responsible for enforcing Section III.B. and may instruct anyone whose behavior is violating or threatens to violate these Guidelines to modify or terminate such behavior. The instruction shall include notice that failure or refusal to comply is a further violation according to Section III.B. of these Guidelines. However, an instruction or warning by the Vice Provost or delegate is not a prerequisite for a finding that a violation has occurred.

1. When the Vice Provost or delegate declares that an individual or a group has violated the Guidelines, he or she may request to examine their University identification.

a. Failure to comply with this request is in violation of the Guidelines.

b. If an individual declared to have committed a violation refuses the request of the Vice Provost or delegate to show University identification, the Vice Provost or delegate may direct a University employee other than a member of the University of Pennsylvania Police Department, to photograph or videotape the individual. The Vice Provost or delegate must warn the individual that this will occur unless identification is presented. Photographs and videotapes obtained without such warning may not be used as evidence in disciplinary proceedings. The Vice Provost must obtain and hold such photographs and videotapes, share them with others only for purposes related to the Guidelines, and assure their destruction after the purpose for which they have been taken has been accomplished.

2. In carrying out this responsibility for safeguarding the right of open expression, the Vice Provost shall obtain the advice and recommendation of the representatives of the Committee on Open Expression whenever feasible.

3. The Vice Provost or delegate may request members of the Department of Public Safety to attend meetings, events or demonstrations to help protect the open expression of those involved.

a. Any person acting as an agent of the Department of Public Safety who attends a meeting, event or demonstration in a University location shall be clearly identifiable as such and in normal duty uniform. (Arms may be carried if they are part of "normal duty uniform.")

b. Public safety personnel also may attend meetings, events or demonstrations when requested to do so by the person or group responsible for the event, when prominent public figures are involved, or when the Director of Public Safety or delegate determines that there exists an imminent danger of violence at the event.

4. Terminating a meeting, event or demonstration by force is a most serious step, as this action may exacerbate existing tensions and may lead to personal injury and property damage.

a. Avoidance of injury to persons by the continuation of a meeting, event or demonstration is a key factor in determining whether it should be forcibly terminated. Property damage and significant interference with educational processes are also factors to be considered and may be of sufficient magnitude to warrant forcible termination.

b. Whenever possible, the Vice Provost or delegate should consult with the Committee on Open Expression before seeking a court injunction against those involved in a meeting, event or demonstration or calling for police action.

c. The Vice Provost or delegate shall inform those involved that he or she intends to seek an injunction or call for police intervention before he or she does so.

d. When a meeting, event or demonstration is forcibly terminated, a full statement of the circumstances leading to the incident shall be publicized by the Vice Provost within the University.

D. 1. Cases involving undergraduate students are referred to the Judicial Inquiry Officer who investigates the event and decides what disciplinary proceedings, if any, to pursue.

2. Cases involving graduate or professional students are referred to the Judicial Inquiry officer or to the established disciplinary body of the school in which the student is enrolled.

3. Cases involving faculty are referred to the appropriate Dean or to the Provost.

4. Cases involving University staff or administrators are referred to that individual's supervisor or any other person with supervisory responsibility over that individual.

5. Cases involving trustees and associate trustees of the University and members of the Boards of Overseers or other bodies advisory to the University are referred to the Executive Committee of the Trustees.

E. The Department of Public Safety shall not collect or maintain information about members of the University community, except in connection with alleged crimes, violations of University regulations, or as specifically authorized in writing by the President. This regulation shall not affect personnel information concerning current, past or prospective employees of the Department of Public Safety.

## VI. Non-University Persons

These Guidelines address themselves explicitly to forms of individual and collective expression in a University location by members of the University community. The extent to which the privileges and obligations of these Guidelines may be made applicable in particular circumstances to individuals who are not members of the University community shall be determined by the Vice Provost or delegate. Participants in meetings, events and demonstrations in a University location are required to comply with the instructions of the Vice Provost or delegate. (See III.A.2.c.)

### Oversight Committee

*David Pope, Mechanical Engineering, chair*

*Steven Burbank, Law*

*Howard Brody, Physics*

*Andrew Cohen, Wharton '91*

*Lloyd Frank, Music/GAS*

*Susan Garfinkel, American Civilization/GAS*

*Larry Gross, Annenberg*

*Barbara Lowery, Nursing*

*Robert F. Lucid, English*

*Ann Matter, Religious Studies*

*Eli Pringle, International Relations/GAS*

*Curtis Reitz, Law*

*Leonard Rico, Management*

*Lisa Schiffman, College '91*

*Ken Tercyak, College '92*

*Staff Support: Therese Conn, Assistant to the VPUL*

## Membership of Committees Issuing the Reports Examined by the Oversight Committee

### Committee to Review the University Student Judicial System Charter

*(Reported Almanac April 3, 1990)*

*Chair: Stephen Burbank, Law*

*Faculty: Howard Brody, Physics  
Stephen Gale, Regional Science  
Robert F. Lucid, English  
Louise Shoemaker, Social Work  
English Willis, Pediatrics*

*Undergraduate Students:*

*John Hughes, CGS '92*

*Ken Tercyak, Col. '92*

*Graduate Students:*

*Elizabeth Hunt, History &*

*Sociology of Science*

*Eli Pringle, International Relations*

*Staff: Jane Combrinck-Graham,  
Risk Management*

*Carolynne Martin, VPUL Office*

### Committee to Review the Code of Academic Integrity

*(Reported Almanac May 22, 1990)*

*Chair: David Pope, Mech'l Engineering*

*Faculty: Howard Arnold, Social Work  
Barbara Lowery, Nursing  
Ann Matter, Religious Studies  
Howard Perlmutter, Management  
Scott Weinstein, Philosophy*

*Undergraduate Students:*

*Sara M. Falkinham, Col. '90*

*Lisa Schiffman, Col. '91*

*Graduate Students:*

*Lloyd Joseph Frank, Music*

*Teresa Goddu, English*

*Staff: Therese Conn, VPUL Office*

*Christopher Dennis, College  
House Programs*

### Committee to Review the Guidelines on Open Expression

*(Reported Almanac March 20, 1990)*

*Chair: Larry Gross, Annenberg*

*Faculty: Adelaide Delluva, Animal Biology  
Ira Harkavy, Vice Dean/  
Adjunct Professor, SAS  
Sorab Rabii, Electr'l Engineering  
Curtis Reitz, Law  
Leonard Rico, Management*

*Undergraduate Students:*

*Andrew S. Cohen, Wharton '91*

*Brett Parker, Col. '90*

*Graduate Students:*

*Susan Garfinkel, American*

*Civilization*

*Staff: Ivy Barsky, History of Art*

*Bob Schoenberg, Student Life*