

Almanac

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Pullout: Final Report of the Commission on Strengthening the Community

'Water Buffalo' Inquiry Report

The report of the Board of Inquiry, established last fall to look into procedural aspects of what became known as the 'Water Buffalo' case, is published in full on pages 3 and 4 of this issue. It cites irregularities in the handling of the case and concludes that "serious deviations from the required procedures occurred." The faculty-student panel was chaired by Dr. Jacob Abel, with Dr. Anna Marie Chirico and Dr. Rosalyn Watts as faculty members, and M.J. Warrender and Michael Treisman as student members.

For Comment: Judicial Revisions

Issued independently of the Board of Inquiry report is a set of three documents on pages 5 through 11. Scheduled for discussion at Council on April 6—and open to comment by the University community—are a document that spells out as a Code of Student Conduct what has been the general conduct code; a revised Code of Academic Integrity, and a revised Student Judicial System. Co-chairs of the oversight committee on revisions are Dr. David Hackney of the faculty and Beth Hirschfelder, a student in the College.

Commission's Final Report

In a self-contained *Almanac Supplement*, the Commission on Strengthening the Community issues its final report, also scheduled for discussion at Council tomorrow. On page 2 of the *Supplement*, a letter by the Commission's chair, Dr. Gloria Twine Chisum, gives an overview of the final report and of some consultations that took place after the preliminary document was published (*Almanac* February 1).

Changes are extensive in D.1 (residential living), and there are three new recommendations: C.6 and C.7, on graduate student issues, and E.8 on ROTC.

Acting VPUL: Extending Term

Dr. Valarie Swain-Cade McCoullum, named last December to a six-month assignment as Acting Vice Provost for University Life, will remain in office through June 30, 1995, Interim Provost Marvin Lazerson has announced.

The extra year "adds stability to the VPUL's office during a period of transition while a new University president takes office," Dr. Lazerson explained.

To Wesleyan as Dean: Dr. Green

Dr. Allen J. Green, director of African American Resource Center and assistant to the Provost, has been named dean of the college at Wesleyan University. Starting July 1, he will have responsibility for student life, student services and academic policy for the private institution in Middletown, Conn. Dr. Green, former master of Du Bois College House and associate director of the Commission on Strengthening the Community, has been a "wise and thoughtful counselor whose understanding of students has strengthened our own," said Interim Provost Marvin Lazerson.



Dr. Allen Green

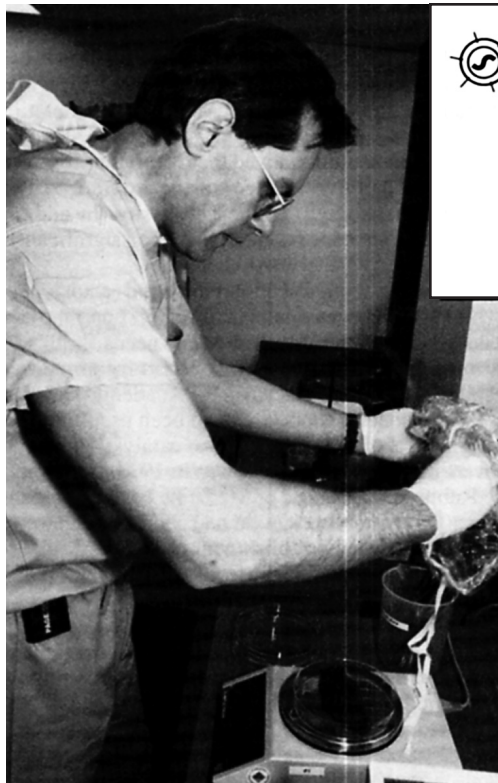
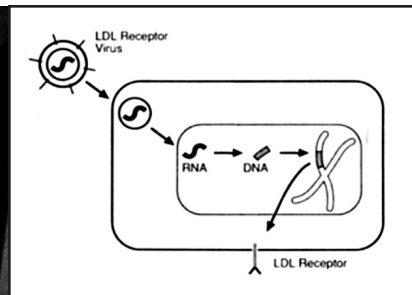


Photo by Tommy Leonardi



Dr. James Wilson, director of the Institute for Human Gene Therapy, (left) uses a Mettler balance to weigh a liver segment from a patient who was treated with gene therapy for a lethal inherited disorder.

Gene Therapy: A PennMed Breakthrough

In the first scientifically published account of a successful gene therapy treatment, Dr. James M. Wilson, at Penn's Medical Center, has reported a safe and effective strategy for treating familial hypercholesterolemia in a 30-year-old French Canadian woman. Dr. Wilson's account appeared in the April 1 issue of *Nature Genetics*.

Familial hypercholesterolemia (FH) is a lethal inherited disorder that is caused by a defective liver-cell receptor responsible for clearing low-density lipoprotein (LDL) cholesterol from the blood. When that receptor is absent, patients accumulate too much LDL ("bad") cholesterol which, in turn, leads to hardening or narrowing of the arteries and premature heart attacks and strokes.

The gene therapy treatment, which began in 1992, resulted in "an immediate and significant decrease in cholesterol levels, and those levels have remained low for the past 21 months with no unexpected or adverse side effects," said Dr. Wilson. The *ex vivo* (outside the body) gene therapy involved surgically removing approximately 10 percent of the patient's liver. [See drawing above.] Two days later, cells from the liver tissue were given the LDL receptor gene with aid of a retrovirus. The "corrected" liver cells were then reinfused back in the patient via a catheter that had been placed in a vein leading to the liver.

The genetically corrected cells immediately began to produce the life-saving LDL protein that removes lipid from the blood. The patient's cholesterol level decreased by 20 percent without the use of cholesterol-lowering drugs, within the first four months of therapy. By November of 1992, five months after the therapy, her level had been reduced by 25 to 30 percent with the aid of lipid-lowering drugs.

The researchers have learned that no immune response was generated against the genetically corrected cells. The body's acceptance of the genetically corrected genes suggests that some gene therapy patients will not experience the types of biochemical rejection found frequently in other forms of therapies, such as organ transplantation.

The research team included Mariann Grossman, Dr. Steven E. Raper, David Muller, and Dr. Paul J. Lupien. According to Dr. Wilson, four more patients have subsequently undergone gene therapy treatment for FH, and all are doing well. Their work, approved by the NIH and FDA, is supported by the National Institute for Diabetes, Digestive and Kidney Diseases and the National Center for Research Resources—both of the NIH.—M.F.M.

An Academic Development Center

"Periodically during its long history the University has found it necessary to debate its purposes, its organization and its intellectual and financial needs." Thus began the 1973 report, *Pennsylvania: One University* (Almanac January 29, 1973). That report concluded that "our greatest potential strength and uniqueness lies both in our historic linkage of professional education and the liberal arts and sciences, and in our contemporary advantage of the close physical proximity of our schools on one campus."

We now stand at the dawn of a new administration and once again we should consider the purposes, the organization and the intellectual and financial needs of the University. Today, as was true twenty-one years ago, the greatest potential strength and uniqueness of the University is the presence of our professional and liberal arts programs on the same campus. Penn will prosper, not by imitating another school no matter how prestigious the other school may be, but by building on those strengths that are unique to Penn.

Cooperation between individuals in different schools occurs with great regularity. Collegiality is strong and all one really needs to do is pick up the phone or send e-mail to communicate with a colleague. Despite the fact that individual collaboration occurs on a regular basis, that collaboration is seldom institutionalized in a manner that includes other faculty and provides a basis for undergraduate and graduate study. Among the Centers that have been institutionalized the Laboratory for Research on the Structure of Matter, the Institute for Research in Cognitive Science and the program on The Biological Basis of Behavior contribute significantly to the strength of the University. In addition, the new programs in Environmental Science and Bioethics have the potential to make a significant contribution to intraschool activities.

The 1973 report called for the creation of an Academic Development Fund (envisioned at that time at \$2.5 million per year), two thirds of which would be used to plan, initiate, support, or test programs with particular emphasis on projects that strengthen One University. The needs for this fund were so critical for "the future growth and planning of the University" that the report recommended taxing the individual schools to raise the funds. Despite the emphasis placed on the Academic Development Fund it has disappeared from view and the funds intended to support it have been used for other purposes.

The need for an Academic Development Fund to serve as a catalyst for intraschool and intradepartmental programs is perhaps even stronger today than it was in 1973. An *ad hoc* committee of the Faculty Senate chaired by Harvey Rubin of the School of Medicine has been meeting this year and discussing ways of fostering disciplines that transcend individual schools or departments. One of the proposals being considered by that committee is the establishment of an Interdisciplinary Center. This Center would allow the University to explore the possibility of creating new centers and enhancing disciplines that transcend the individual schools and departments.

The Center would be an environment in which faculty from throughout the University interested in a common theme could be brought together to explore the possibility of creating a Center or Institute around that theme. Each theme or program would last several years during which distinguished faculty from outside the University would be invited to be resident scholars. The program would be linked to a series of public lectures as well as seminars and special courses open to students from all schools. During the last year of the program it will be evaluated and a decision will be made on the need for the creation of a new administrative unit and on its ability to continue as part of one or more schools. Examples of candidates for this program include public policy and certain fields in the molecular basis of medicine.

I call upon the new administration to appoint a faculty committee representative of the academic community to explore plans for the creation and funding of such a center.



Gerald J. Porter, gjporter@math.upenn.edu

Under the Faculty Senate Rules, formal notification to members may be accomplished by publication in Almanac. The following is published under that rule.

To: Members of the Faculty Senate
From: Gerald J. Porter, Chair
Subject: Senate SCAFR Nomination

The Senate Nominating Committee was reconvened to fill a vacancy for a 2-year term beginning May 1, 1994 on the Senate Committee on Academic Freedom and Responsibility. The following nomination is the result.

1. In accordance with the Faculty Senate Rules, official notice is given of the Senate Nominating Committee's slate of nominees for the incoming Senate Officers. The nominee, who has indicated her willingness to serve, is:

Constance E. Helfat, assistant professor of management

2. Again in accordance with the Senate Rules you are invited to submit "additional nominations, which shall be accomplished via petitions containing at least twenty-five valid names and the signed approval of the candidate. All such petitions must be received no later than fourteen days subsequent to the circulation of the nominees of the Nominating Committee. Nominations will automatically be closed fourteen days after circulation of the slate of the Nominating Committee." Pursuant to this provision, petitions must be received at the Faculty Senate Office, 15 College Hall/6303, by 5 p.m., Tuesday, April 19, 1994.

3. Under the same provision of the Senate Rules, if no additional nominations are received, the slate nominated by the Nominating Committee will be declared elected. Should additional nominations be received, an election will thereafter be held by mail ballot.

Response to PFSNI: April 13

At a lunchtime meeting April 13, Penn's Vice President and Director of University Planning, Dr. John Wells Gould, will respond to the Report of Penn Faculty and Staff for Neighborhood Issues (Almanac October 26, 1993) and the group's recommendations on public safety, mortgage programs, trash, abandoned buildings and other topics. Also available for Q & A will be Dr. Ira Harkavy, director of the Center for Community Partnerships, and Glenn Bryan, director of Community Relations. The meeting, from noon to 1 p.m. in Stiteler Hall, is open to all faculty and staff living near campus.

COUNCIL

Report of the 1992-93 University Council Library Committee February 15, 1994

The Council Committee on Libraries met three times in 1992-93. Its first tasks were the orientation of new members and the evaluation of the report of the Director, Paul Mosher. In particular, the Committee was concerned that while the overall use of the library is increasing, the library staff is decreasing in size; further, it found that in terms of comparative expenditures per standing faculty member and students, Penn ranks lower than it should in relation to its peer institutions.

The Committee identified as its top priorities for the year two items: the fostering of a more vocal constituency for the University libraries, and the consideration of problems related to the library's space needs and plans for off-site storage. The Committee explored different ways to reach out to student and faculty groups; it proposed that in the following year the Council Committee should advocate the libraries' needs by visiting departmental library committees, the Physical Sciences Association and the Humanities Council, as well as student groups such as SCUE

and the Philomathean Society. The Committee wants to be sure that the new Provost is made aware of the libraries' centrality to the University's educational mission. On the question of using off-site storage to redress the approaching crisis of lack of storage space, the Committee discussed the issues raised by the possible use of an off-site annex. Several members expressed their preference for a site next to Van Pelt-Dietrich Library.

Secondary issues that the Council Committee considered included the status of Special Collections and the library's integration of electronic information. Michael Ryan, Visiting Director of Special Collections, reported on the efforts being made to strengthen Special Collections by improving their accessibility and linking them to academic programs. The Committee also reviewed the status of the library's increasing access to electronic information systems, and financial and legal problems that go along with such progress.

— Rebecca Bushnell, Chair

ALMANAC April 5, 1994

The following is the report from the independent Board of Inquiry that was formed in August 1993 to review how the student judicial process operated in the case last spring involving an allegation of racial harassment. This faculty-student panel was chaired by Professor Jacob Abel of the School of Engineering and Applied Sciences and was independent of the Student Judicial System and the University administration. Their report, below, offers the Committee's own judgments and recommendations based on their independent investigation.

In creating this inquiry panel, we hoped that an independent view might illuminate what took place and help us learn from the past. We hope everyone in the Penn community will read the panel's report in that light and will contribute to our efforts to strengthen the community.

— Marvin Lazerson, Interim Provost

Inquiry into the Procedural Aspects of A Case of Alleged Racial Harassment in the Spring of 1993

Summary

This report contains the findings of a Board of Inquiry empaneled to investigate the procedural aspects of the case of alleged racial harassment which was the subject of University judicial procedures during the spring of 1993. The board, in response to the charge from the Provost and the Vice Provost for University Life, interviewed the persons who had official involvement with the matter: complainants, respondent, their advisors, University officials, as well as members of the judicial panel convened to hear the case. In addition, some persons who offered additional information or advice met with the board. The board acknowledges with thanks the full cooperation of everyone with whom it met during its work.

This inquiry was conducted in response to a request from the complainants made when they withdrew their complaint. At that time, the complainants asserted that they had not received fair treatment in the judicial process and that they despaired of receiving justice in any continuation of the proceedings. The board finds that they had ample justification for that assertion and for their loss of confidence in the University's judicial process. The complainants alleged, in particular, that significant actions had been taken which violated the letter and spirit of the judicial procedures and that these actions had so tainted the process that it could not result in justice. The evidence that the board has gathered supports that conclusion. The respondent was also affected adversely by procedural error, although not as seriously as were the complainants.

Remarkably, there was no conflict among the accounts of what took place last spring with respect to procedure but, of course, there were profound differences in the interpretations of and weight attached to specific events and in the motivations imputed to various actors by those interviewed.

The board concerns itself exclusively with the procedural aspects of what took place and makes no statement with respect to either the issue of guilt or innocence of the respondent, or the underlying codes upon which charges were based.

The review exposed weaknesses in what was in 1993 a new judicial code and this report contains some recommendations on how to remedy those deficiencies.

Charge to the Board of Inquiry

The charge to the board is appended. Two student representatives were appointed: Ms. M.J. Warrender of the Graduate School of Education, nominated by the Graduate and Professional Student Assembly, and Mr. Michael Treisman of the School of Arts and Sciences, nominated by the undergraduate Nominations and Elections Committee.

Synopsis of the Judicial Procedures

The analysis of what took place in the spring of 1993 is essentially a comparison of what was done with what was required or permitted by the "Charter of the University Student Judicial System" which is recorded in the manual "University Policy and Procedures 1992-1994" published in September of 1992. Pages 9-14 of that manual contain the entire charter which defines the judicial procedures to be followed in response to an allegation of violation of any of the University's codes with the exception of the Code of Academic Integrity. The charter defines the position and duties

of the Judicial Inquiry Officer (JIO), the Judicial Administrator (JA), the composition of the Hearing Board, and the procedures for investigation, settlement, hearings and appeals.

Some features of the charter which are particularly relevant to the matter covered by this report are summarized here.

1) Upon receipt of a written complaint, the JIO conducts a preliminary investigation of the allegations. If the JIO concludes that what is alleged is a violation of one of the University's codes, the accused respondent is so informed and the JA is notified. If after further investigation, the JIO concludes that the respondent is guilty of the charges, the JIO may enter settlement discussions with the respondent in which a proposed punishment and related acts of contrition or restitution may be prescribed by the JIO. If the respondent agrees to what is proposed, the case is settled. If there is no agreement, the case goes to hearing before a board of faculty and students. At such a hearing, the JIO presents evidence and examines witnesses. Accordingly, the JIO may at times function as investigator, judge or prosecutor depending upon the trajectory of a given case.

2) The Judicial Administrator is a faculty member appointed by the Provost with the advice of the Steering Committee of University Council. The JA is responsible for the administration of the judicial process including the scheduling of hearings, and the JA presides at hearings. The charter charges the JA with overseeing the procedural integrity of the judicial system and the decorum of the hearings. Prehearing challenges to jurisdiction or procedures are to be considered and resolved by the JA.

3) The Vice Provost for University Life has no role in the judicial process until there has been a finding of guilt whereupon it is her/his responsibility to impose sanctions in accordance with the recommendations made by the JIO in the case of settlement or by the Hearing Board following a hearing. The VPUL decides whether and for how long sanctions may be noted on a respondent's transcript.

4) There is no role for or significant mention of the President of the University, the Provost, the General Counsel or any other official in the charter. The charter does state that the JA serves at the pleasure of the Provost and that Deans are to be notified of sanctions. The JIO reports administratively to the Assistant Vice Provost for University Life who reports to the Provost and s/he works with the JA in the conduct of a prosecution. Thus, while the JIO as a matter of practice consults with the Assistant VPUL and the General Counsel's office s/he has no statutory obligation to submit her/his judgments to the scrutiny of any authority. The duties of the JIO were delegated to an Assistant JIO in the subject matter and her role and reporting relationships were effectively those of the JIO.

Analysis

Preliminaries

The lodging of a complaint and the conduct of the investigation pursuant to the complaint were completely in accord with the charter and were carried out competently. The formulation of formal charges by the Assistant JIO, Ms. Robin Read, was carried out in consultation with the Assistant VPUL, Dr. Larry Moneta, and the JIO, Ms. Catherine Schifter, with advice from the Office of the General Counsel. All of this was consistent with past practice.

(continued next page)

Settlement Negotiations

At the conclusion of her investigation, the Assistant JIO reached the conclusion that the respondent, Mr. Eden Jacobowitz, by verbally abusing the complainants, was guilty of violating the policy on General Conduct and the Racial Harassment Policy and proposed a settlement to him. It was at this juncture that the respondent was subjected to treatment which he regarded as unfair. In the process of negotiating a settlement, a set of sanctions was described to the respondent orally by the Assistant JIO. Subsequently, the respondent received a written proposed settlement which included a harsher sanction than had been discussed earlier. He and his advisor, characterize that change as "upping the ante." The board agrees that this increase in the severity of the proposed penalties was unfair for the following reason. The concept of the negotiated settlement requires action in good faith by both parties and is fundamentally based on mutual trust. The escalation of proposed penalties at any point in the process is intimidatory since it raises the specter in the mind of the respondent of ever-worsening terms if he hesitates for any reason. Thus, the act of elevating the proposed penalties, at any point, is coercive, erodes the good faith required for success of the negotiation and undermines the confidence of the respondent in the fairness of the process.

Hearing Arrangements

The rejection of the proposed settlement by the respondent set in motion the effort by the JA, Dr. John Brobeck, to arrange a hearing. In one instance, the hearing date was postponed because of the unavailability of the respondent's advisor, Professor Alan Kors, and in another because of the complainants' need to find a new advisor. Both of these delays were justified but regrettably were costly in terms of time and inconvenience to the students.

Hearing Issues

The area in which the most serious deviations from the spirit and letter of the charter were encountered was that involving the agenda of the hearing and the conduct of the communications between the JA and the several parties prior to the hearing which was finally scheduled for May 14, 1993.

The respondent through his advisor wanted to move for dismissal of the charges on the basis of evidence that had been assembled and interpretations of the underlying code. The charter does not contemplate the consideration of dismissal of charges once the charges have been made and validated by the JIO. In the face of this deficiency in the code, the JA entered into an agreement with the respondent, through his advisor, to allow argument at the hearing on dismissal of charges and to restrict the considerations at the hearing to that question. The respondent was informed of this agreement which was reached in a conversation at the home of Professor Kors. The initiative for this extraordinary and ill-conceived meeting lay entirely with the JA and its certain impact on the perceived fairness of the process was not appreciated by him. A motion for dismissal of charges could not be heard by the Hearing Board under the charter. Moreover, the complainants and their advisor were not informed that the agenda of the hearing had been converted to "Dismissal of Charges" and they and their witnesses appeared at the hearing prepared to argue on the charges, not on dismissal. The Assistant JIO was not informed of this development until the night before the hearing.

The JA might have considered the argument for dismissal as a jurisdictional challenge which he is empowered to consider under the charter (III. A.1.). That consideration would have to have involved the JIO and the complainants, who naturally would have opposed the challenge.

The outcome of these events was that the respondent and complainants had not been equally informed about the hearing agenda which was altered in violation of the charter and in circumstances that, despite intentions to the contrary, could only be seen as prejudicial by the complainants. The complainants had not had equitable access to the JA in these proceedings and this disparity in access did much to foster their loss of confidence in the process.

External Interventions

The respondent initiated communication with the press and the case became the focus of perhaps the most intense publicity the campus has ever experienced. Outside organizations such as the American Civil Liberties Union became concerned with the case and the general tenor of the proceedings was enormously affected by this external interest and involvement. This set of developments subjected all of the participants to intense pressure and exposed all of them to expressions of the most extreme hostility with predictable emotional consequences. At the same time, the concern of the University's administration which, as noted, has no role in the formal judicial process was aroused. This concern was expressed by intervention in the process to the extent of the administration's urging the JA to expedite the hearing. The President met with the complainants to urge closure and the JA received advice from the General Counsel that the consideration of dismissal of charges at the hearing

was proper under the charter. The JA was responsive to these urgings and accepted the advice. It should be noted that the revision of the agenda of the hearing was the subject of a negotiation between the General Counsel and counsel for the ACLU which was threatening action in the courts. Neither of these parties had any standing in the matter before the panel. The intrusion of threatened action by an outside organization into the University's procedures was improper and it should not have been abetted.

Recommendations

The Board offers a number of suggestions for the improvement of the Charter of the University Student Judicial System while noting that any *ad hoc* deviation from the Charter in the course of a prosecution will be viewed as prejudicial by one of the parties no matter what the putative motivation.

The code needs explicitly to provide for the formal consideration of a motion for dismissal of charges. The question should be heard by the hearing board, and provision must be made for that consideration.

The process of forming hearing panels needs to be sped up, with appointment taking place in the spring preceding service. This step will allow education or orientation of panelists with respect to the system. Similarly, the development of a list of potential advisors who are also educated would be highly desirable. Both of these steps would permit a much quicker and more just response to a charge. Inordinate delays in the conduct of a case deprive all of the parties of justice.

The system should place much greater emphasis on mediation as a means of resolving issues. While compulsory mediation would not be workable, the posture of the system should be that mediated settlements are the expected mode. The office of the Ombudsman could serve a larger role in these matters and it is noted with regret that that office was not contacted by any party in the subject case between January and May.

The potential for the JIO to appear in multiple roles in a major case is troubling. There is no place where review of charges is conducted other than the informal consultation between the JIO and the Assistant VPUL and others. The review of charges by an established group in serious cases would give the University a needed check on the power of the JIO.

The JA must have the authority to compel the appearance of witnesses or other participants in the hearing process in order to prevent inordinate and unfair delays. Participation in this process must be seen as an overriding duty. The independence of the JA from the central administration needs to be codified despite the origins of the appointment.

Conclusions

The review of this matter convinced the Board of Inquiry that serious deviations from the required procedures occurred during the course of this case. They were of a character to justify the complainants' condemnation of the process and their withdrawal from it. The new code contained flaws which could not withstand the stress of intense publicity and international attention. Efforts to accommodate the unanticipated issue of dismissal of charges were mishandled and the intervention of University officers in a process from which they were statutorily excluded, inherently, could not bring about a just and acceptable resolution.

Jacob Abel, professor of mechanical engineering and applied mechanics
Anna Marie Chirico, professor emeritus of medicine
Rosalyn Watts, associate professor of nursing
M. J. Warrender, Graduate School of Education
Michael Treisman, College '94

Appendix

Charge to the Board of Inquiry (9/14/93)

As promised at the end of the spring, we have asked a faculty Board of Inquiry, composed of Professor Jacob Abel (chair), Professor Anna Marie Chirico, and Professor Rosalyn Watts to examine how the judicial process operated in the recent case involving an allegation of racial harassment. We have asked the Board to consult with the individuals involved, to review the procedures, and in its report to us, to present its findings as to how the procedures were or were not applied.

We anticipate that the Board's report will be completed by October 15, 1993, that its findings will be made public and that they will be available to inform a review of the University's student judicial procedures which will begin later this year.

Through this careful review, we hope to improve our adjudicatory procedures so that all members of the University community can be assured of fair and equitable treatment.

—Marvin Lazerson, Interim Provost
—Kim M. Morrisson, Vice Provost for University Life

To the University Community

In response to a variety of problems at the University, the Provost has charged a committee of students, with the help of faculty and staff, to propose new standards of student conduct and a new student judicial system. A dedicated group has researched judicial codes at other institutions and discussed the culture here at Penn, in order to design a system we believe would be successful here. Printed below are the preliminary fruits of our labors.

It is important to stress that the Code of Student Conduct, Code of Academic Integrity, and Judicial Charter *are* preliminary. We invite all members of the University community to participate in an ongoing discussion with our committee. We are eager both to gather opinions and advice about possible changes and to answer any questions regarding our proposal. Issues on which we are most interested in your comments include the reach of the Code of Conduct beyond the University's bounds, the conflict between freedom of expression and the right of citizens of the University to be free from harassment, composition and selection of the Judicial Committee, the responsibility of faculty members to involve the judicial system in academic integrity cases, and the question of whether students may have an attorney represent them before a hearing board.

In many ways, this phase in the creation of a new system is the most important one. We are all well aware of the problems that can arise when belief in the judicial system erodes. Without the involvement of all members of the University in the drafting process and widespread faith in the final product, the system will fail.

These proposals will be presented at the April 6 meeting of University Council. We invite all interested parties to attend. Due to time limitations at that forum, the meeting will be only the start of a longer process of reflection, comment, and revision. To that end, please e-mail suggestions to the committee at the addresses below, or send written comments in care of the Provost's Office (110 College Hall), with the subject of the contents clearly marked on the envelope.

— Beth Hirschfelder, College '95, and David Hackney, Associate Professor of Radiology/Med, Committee Co-Chairs

The names of committee members are listed on page 11. To comment on any of the three documents:

Comments on the Code of Student Conduct should be directed to: *Walter Mancing [e-mail: wmancing@mail.sas.upenn.edu]*

Comments on the Code of Academic Integrity should be directed to: *Carolyn Choi [e-mail: cnchoi@mail.sas.upenn.edu]*

Comments on the Student Judicial Charter should be directed to: *Kirsten Bartok [e-mail: kbartok@mail.sas.upenn.edu]*

Draft for Discussion 1: A Code of Student Conduct

I. Preamble

When Benjamin Franklin founded the Pennsylvania Academy in 1743, he defined its mission as "education for citizenship." In pursuit of this mission, the University of Pennsylvania is committed to the goals of academic excellence; to the creation of a world-class environment for learning; and to responsible citizenship in the larger society.

The University of Pennsylvania is a community where intellectual growth, association with others, mutual tolerance, and respect for the freedom of thought and expression of others are principles of paramount importance. In an environment which promotes the free interchange of ideas, cultural and intellectual diversity, and a wealth of social opportunities, Penn students take advantage of the academic and non-academic opportunities available to them, expanding their educational experience beyond their academic programs. Members of the Penn community participate actively in the greater Philadelphia, national, and international communities in which they reside.

Accepting membership into the University of Pennsylvania community entails an obligation to promote its welfare by assuming the rights and responsibilities listed below. Each individual member of this community is responsible for his or her own actions and no individual or group may engage in any activity which interferes with the goals of the University or the rights of its citizens.

II. Rights of Citizenship

Membership in the University of Pennsylvania community affords every student certain rights:

- (a) the right to participate in the academic and non-academic opportunities of the University;
- (b) the right to freedom of thought and expression;
- (c) the right to have access to the educational, social and extracurricular resources of the University;
- (d) the right to equal educational opportunity;
- (e) the right to be free from discrimination on the basis of race, color, gender, sexual orientation, religion, national or ethnic origin, age, disability or status as a disabled or Vietnam Era veteran; and
- (f) the right to clearly defined and fair process in the determination of their status as students and their accountability for their conduct as members of the University community.

III. Responsibilities of Citizenship

Members of the University community are expected to exhibit responsible behavior regardless of time or place, while at or away from the University.

Responsible behavior is a standard of conduct which imposes higher expectations than may be present outside the University community. Responsible behavior includes but is not limited to the following obligations:

- (a) To obey all Federal, State and local laws.
- (b) To obey all policies and regulations of the University and its departments.
- (c) To uphold the highest standards of academic integrity and honesty in academic work and to abide by all provisions of the University's Code of Academic Integrity and academic integrity codes adopted by the faculties of individual schools.
- (d) To abide by the University's drug and alcohol policies.
- (e) To abide by all contracts made with the University, such as Residential Living Occupancy Agreements and Dining Services contracts.
- (f) To cooperate fully and honestly in the student judicial system of the University, including the obligation to abide by all judicial sanctions.
- (g) To be honest and truthful in all official dealings with the University; about one's own identity (e.g., name or Social Security number) at all times; and in the use of University identification.
- (h) To maintain and use the facilities and properties of the University and its citizens in an appropriate, fair, and non-destructive manner. This precludes students from stealing, damaging, or destroying property belonging to the University or another person, and from disrupting University computing services or interfering with the rights of others to use computer resources.
- (i) To refrain from interference with the rights of University citizens to engage in the normal activities of the University and to participate in the academic and non-academic opportunities afforded by the University. This precludes students from engaging in activities such as disruption of classes or other violations of the Guidelines on Open Expression.
- (j) To refrain from repeated conduct towards an identifiable individual or individuals that knowingly or intentionally creates a hostile environment which deprives that individual(s) of or infringes upon their rights as a University citizen(s).
- (k) To respect the right of fellow students to be free from the fear, threat or act of hazing in their affiliations with University organizations or their relationships with other students.
- (l) To respect the health and safety of others. This precludes acts or threats of physical violence against another person (including sexual violence), disorderly conduct, and the possession of dangerous articles (such as firearms, explosive materials, etc.).

proposed Code of Academic Integrity begins next page

Draft for Discussion 2: A Revised Code of Academic Integrity

Preface

Following is the working draft of a new Code of Academic Integrity. The Code defines academic honesty and explains the structure of the new honor system. In addition, a flowchart [see page 7] is included to illustrate this structure; this chart will not be included in the *Policies and Procedures* handbook as part of the Code.

A primary goal of our committee has been to devise a system which will be as simple as possible for students, faculty, and staff to follow. The Code itself provides the most basic facts underlying the system. However, in revising the Code and in creating a new judicial process to deal with violations of the Code, we highly recommend and hope to begin, in the near future, the writing of a separate handbook devoted solely to academic integrity. We believe that such a handbook not only will emphasize the importance and seriousness of the honor system at Penn, but also will delineate more specific recommendations to the Honor Council. Many of our recommendations in the Code rest on the detailed suggestions which will be provided in this handbook. Two reasons we did not want to include some of these more specific recommendations in the Code itself are because we believe that the Code should be kept as simple as possible and because the procedures in the supplemental handbook would be able to be changed as necessary by the Council without entering into a tedious amendment process. This handbook also will include a section of “commonly asked questions and answers.” Since many students complain that they are unfamiliar with the present Code and with the entire judicial process, we hope that the handbook will assist in the dissemination of such information. This will be one of a number of educational measures undertaken by the Council.

Although we are extremely anxious to obtain input on the entire proposal, there are several key issues which we grappled with internally; we would especially like input on these controversial issues. These include:

- whether there should be any type of settlement process and how it would differ from the hearing process;
- the role of advisors, whether advisors should only be students, and whether advisors should be allowed to speak or to be present at hearings;
- whether a student should be assigned an advisor, given a list of qualified advisors from which he/she may choose, or allowed to choose whomever he/she pleases;
- who should be permitted to attend the hearing (the complainant—should he/she be allowed to attend, forced to attend, allowed to speak?) . . . ;
- whether allegations of violations and results of hearings should be public information including the name of the accused;
- whether someone should be allowed to file a complaint without the accused learning who filed it;
- whether the Provost should be required to meet with any student filing an appeal (Appeals may be filed only on the basis of procedural error or bias.);
- whether the Honor Council can decide grades as part of a sanction, whether faculty can give whatever grade he/she chooses regardless of other sanctions given by the Council.

Thank you for your comments.

Proposed Code of Academic Integrity

Since the University is an academic community, its fundamental purpose is the pursuit of knowledge. Essential to the success of this educational mission is a commitment to the principles of academic integrity. Every member of the University community is responsible for upholding the highest standards of honesty at all times. Students, as members of this community, are also responsible for adhering to the principles and spirit of the following Code of Academic Integrity.

I. Academic Dishonesty Definitions

Activities, that have the effect or intention of interfering with education, pursuit of knowledge, or fair evaluation of a student's performance are prohibited. Examples of such activities include but are not limited to the following definitions:

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

Example: using a cheat sheet in a quiz or exam, altering a graded exam and resubmitting it for a better grade, etc.

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

Example: copying another person's paper, article, or computer work and submitting it for an assignment; cloning someone else's ideas without attribution, failing to use quotation marks where appropriate, etc.

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

Example: making up data for an experiment, fudging data, citing non-existent or irrelevant articles, etc.

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 a student's transcripts or academic record, either before or after coming to the University of Pennsylvania.

Example: forging a change of grade slip, tampering with computer records, etc.

F. Facilitating academic dishonesty: knowingly helping or attempting to help another violate any provision of this Code.

Example: working together on a take-home exam, etc.

G. Unfair advantage: attempting to gain unauthorized advantage over fellow students in an academic exercise.

Example: gaining or providing unauthorized access to examination materials, obstructing or interfering with another student's efforts in an academic exercise, lying about a need for an extension for an exam or paper, continuing to write even when time is up during an exam, destroying or keeping library materials for one's own use, etc.

II. Promoting Academic Integrity

A. The Honor Council

1. A University-wide Honor Council shall have both judicial and educational responsibilities. The entire committee shall consist of 16 individuals: 8 undergraduates, 4 graduate students, and 4 standing faculty members. Individual hearing panels consisting of 4 students and 1 faculty member shall be chosen from this pool of individuals.

2. Membership as an undergraduate or graduate/professional student can be obtained through direct application process to the Honor Council. The Honor Council shall determine standards for membership and appointment. Faculty members shall be chosen from the Faculty Senate.

3. The chair of the Honor Council will be an undergraduate chosen from the 8 undergraduates. The chair has several duties including convening honor council meetings, assigning necessary tasks to its members, serving as a link between the committee and the University community, and overseeing all the work of the committee, both judicial and educational. Members of the Honor Council will choose their chair yearly.

4. The vice chair's duties may include serving as the acting chair in the chair's absence for meetings and functions, assisting the chair in any necessary duties, and maintaining and developing educational programs related to academic integrity (such as during New Student Orientation). Members of the Honor Council will choose their vice chair yearly.

5. The Honor Council shall meet weekly to ensure awareness of all committee work. Hearing panels will meet as often as necessary.

proposed code continued past insert

Proposed Code of Academic Integrity from page 6

B. Educational Duties

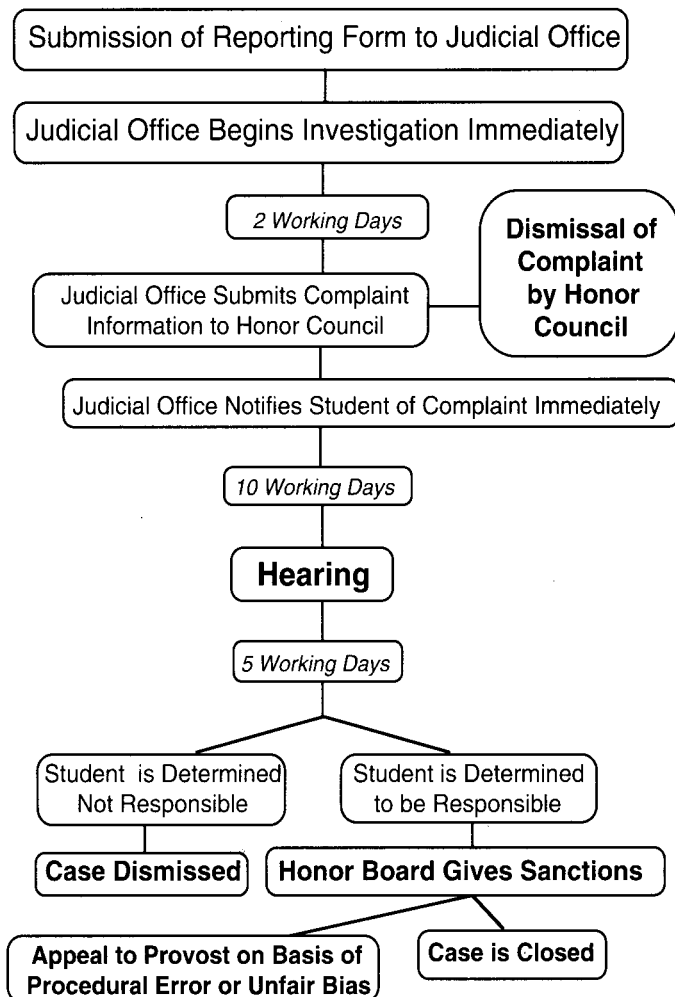
1. The Honor Council will be responsible for promoting (throughout the campus) awareness and an understanding of the principles and regulations which the Code entails.
2. The Honor Council will advise faculty in educating the students of the importance of academic honesty in and out of the classroom; direct the publication of materials which explain and promote academic integrity in all campus orientation activities, and prepare reports to the community which will summarize the Council's activities and further encourage a climate of honesty and integrity.

III. Procedures Relating to Violations of the Code

A. Complaint and Investigation

1. Anyone can bring forward information concerning a question of academic integrity to the Judicial Office as an official complaint by filing a reporting form.
2. Upon receiving the complaint, the Judicial Office for academic integrity will begin an investigation. Within two working days, the Judicial Office will notify the accused student of the complaint as well as the Chair of the Honor Council and submit all pertinent information concerning the investigation's findings. The Honor Council may dismiss complaints when the evidence so warrants. Individual hearing panels will convene to hear a case within ten working days of the notice of the complaint.

The Process for an Alleged Violation of Academic Integrity



B. Hearing

1. Should a case proceed to a hearing, the Judicial Office will prepare the case to be brought before a hearing panel.
2. The Judicial Office will present facts of the case to the hearing panel. S/he will present relevant evidence, statements, e.g. the paper or exam in question, external evidence, statements, initial complaint, etc.
3. The accused student will have the opportunity to refute allegations and present additional evidence on his or her behalf.
4. Should a student admit responsibility when accused of a violation of the Code, s/he will still have a hearing to present any relevant statements that might assist the Honor Council in determining the appropriate sanctions. If the student does not admit responsibility initially but is found responsible for the alleged violation by the hearing panel, appropriate sanctions will be given accordingly. The hearing panel will have five working days to determine sanctions and, in the case of no initial plea of responsibility by the accused student, to determine responsibility.
5. Advisors may not address the hearing panel unless requested to do so by the panel. Students are to speak for themselves, but may refer to their advisor for assistance.

IV. Sanctions

A. Faculty members and instructors are strongly encouraged to report all incidents of violations regardless of how s/he chooses to grade the student. A student's grade is always left to the discretion of the faculty member and the dean of the appropriate school, when necessary. However, if the student is responsible for the violation, s/he will receive an "X-grade" (e.g. XF, XC, etc.) on his or her transcript for that class, denoting that the student was found responsible for violating the Code of Academic Integrity. This will be a standard judicial action, and the individual hearing panels can choose to give additional sanctions as noted below.

B. Sanctions can range anywhere from probation to expulsion, particularly in the case of repeat offenders of the Code. The Honor Council and hearing panels may weigh factors as the extent of misconduct, the degree to which the student premeditated the misconduct, the student's prior disciplinary record, and any special circumstances relating to the case. It is to be noted that if a student admits to responsibility, s/he will not receive lesser sanctions for a similar violation as another student who is found responsible.

- **Probation:** This sanction can be defined as a period of time in which the student has the obligation to follow through on a set of recommendations by the hearing panel. For example, some things which a student may be required to do include: attending a seminar on academic integrity, preparing research on the area in question, and presenting written and/or oral reports to appropriate individuals or groups.
- **Suspensions:** This sanction can be defined as a recommendation to the appropriate Dean that a student be asked to leave the University for one or two semesters. During the time of the suspension, the student may be obligated to follow through on a set of recommendations by the Honor Council. (See above examples under "Probation" of required activities).
- **Expulsion:** This sanction can be defined as a recommendation to the appropriate Dean that the University permanently terminate its relationship with a particular student.

V. Student Rights

A. Advisors

1. Students, faculty, and staff representing all members of the community may apply to the Honor Council to be listed as a trained academic integrity advisor. The Council will conduct training sessions for the prospective advisors. This advisor will be available for consultation and guidance during all official meetings and hearings.
2. The accused student will be given a list of trained, academic integrity advisors from which s/he is encouraged to choose an advisor. If the student opts to waive that right, s/he can either choose an advisor of his or her choice from the University community, or no advisor at all.

B. Appeals

A student may appeal to the Provost in cases of procedural error or harmful bias.

C. Confidentiality

A student will maintain rights of access to all materials relating to his or her case, which should not be available for public disclosure.

draft of Student Judicial Charter begins next page

Draft for Discussion 3: A New Student Judicial Charter

I. Preamble

The intent of the Student Judiciary system is to insure fair and efficient determinations on questions of possible student misconduct as defined under the University of Pennsylvania Code of Student Conduct.

The University of Pennsylvania is a private enclave, dedicated to a purpose that imposes additional and special obligations while granting certain privileges to its members. As such, the University's Student Judicial System is separate and distinct from the legal processes of the municipal, state, and federal governments. A judicial inquiry under the Student Judicial Code therefore does not infringe upon the right of any party to pursue legal action under the appropriate criminal or civil law.

The University's disciplinary procedures are therefore not to be equated to the processes of law. The University's regulations are applied to incidents, not "cases;" the bodies that hear and dispose of incidents are not "courts;" individuals who may accompany a student in the course of a disciplinary proceeding are not "counsel;" and requests for review of disciplinary decisions are not "appeals." All in all, the Student Judicial System presents a judicial process geared specifically towards the needs of the University community, and therefore exists in a very different form from the legal or judicial processes of the government or other institutions.

It should be understood that the relation of collegiality and trust that binds all members of the University community entails an obligation of candor on the part of any student who is involved in a disciplinary proceeding.¹

Acceptance of admission to the University carries with it the responsibility for the welfare of the community. Freedom to learn can be preserved only through respect for the rights of others, for the free expression of ideas, and for the law. By accepting admission to the University of Pennsylvania, the student accepts its regulations and acknowledges the right of the University to take disciplinary action, including suspension or expulsion, for conduct judged unsatisfactory or disruptive or in violation of any University Codes or policies.

II. Jurisdiction

The Student Judicial System and specifically the Student Judicial Council is responsible for the investigation and resolution of 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 the University community members, and right for review, thus ensuring fundamental fairness to all parties involved.

III. Sanctions and Penalties

Upon determination that a student has committed an offense, the judicial body having jurisdiction shall impose a penalty in accordance with the nature and seriousness of the offense underlying motivation of the student. The following penalties, and only the following penalties, may be imposed:

1. Expulsion from the University.
2. Indefinite suspension from the University.
3. Suspension from the University until a specified date.
4. Payment of a monetary fine.
5. A period of mandatory service to the University community.
6. Loss for a specified period of the right or privilege:
 - a. To take part in intercollegiate activities, such as athletic contests, debating contests, or any similar activities as a representative of the University;
 - b. To serve in a non-committee position of trust and responsibility, such as resident assistant, sponsor, or any other position requiring appointment by the University administration, faculty, or student group;
 - c. To enjoy any other specific right of privilege on campus or to use University facilities.
7. Probation for a specified period of time.
8. Formal censure.
9. Warning.
10. Combination of penalties.

The Student Hearing Board or Settlement Officer (Student Presenter) shall decide whether the sanction should appear on the transcript of any individual respondent, and, if so, for how long.

IV. The Student Judicial Council

A. Student Judicial Council (SJC)

This is a council of students who oversee the judicial process. It shall consist of 21 members—13 undergraduate students, 4 graduate students, 4 faculty and a chair. The chair shall be a senior member familiar with the entire process. The council will provide personnel for hearings, advising, and student presenting, and Major Level case settlements. The council will be self-perpetuating and will have a biannual evaluation process. Members not fulfilling the required duties will be asked by the chair to leave the committee with a 2/3 vote of the committee. Students desiring to join the Student Judicial Council will apply to the Chair and will be selected by the entire Student Judicial Council. Each year, the new members will take over in January and work with the previous members in order to fully learn the system.

B. Student Judicial Council Chair

This will be the presiding member of the Student Judicial Council and shall be a member of the largest constituency served by the Student Judicial System. This person must obtain the list of allegations daily from the SJC office manager, send a letter immediately to the respondent alerting him/her to the allegation and process that will occur, determine if cases are Minor Level or Major Level, evaluate members of the Student Judicial Council biannually, and work closely with the JA.

V. The Student Hearing Board

A. Hearing Board

This is a 5-member board (4 students and 1 faculty). This Hearing Board will make decisions on all cases that go to hearings, except Minor Level (ML) cases that have a hearing with the JA. The decision of the hearing board is final, unless a written application for review is given to the Provost within 10 days of the hearing. A member of the hearing board will chair the board for the duration of the hearing, and will be appointed when the hearing panel is chosen. This person will direct the hearing and will be responsible for contacting members of the Hearing Board, the respondent, and the Student Presenter about the time and date of the hearing.

VI. Staff

A. The staff of the Student Judicial Office will consist of: 1) director of the Student Judicial Office; 2) an assistant director of Student Judicial Office; 3) an assistant director of the Mediation Center; and 4) other staff deemed necessary by the SJC to assist the office.

B. The staff shall serve at the pleasure of the Vice Provost for University Life, but will be hired upon the consent of the Student Judicial Council.

VII. Procedures for Reviewing Charges of Alleged Student Misconduct

A. The Complaint

1. Should a violation of Penn's Code of Conduct occur, this Violation shall be brought to the Student Judicial Office (SJO) by the person(s) knowing of it, be that person student, faculty, staff, or administrator.

2. A list of such reported violations shall be compiled by the SJC office manager and placed daily in the Honor Committee Chair's mailbox in the SJO.

3. Upon receiving the list of allegations, the chair will attempt to determine the severity of the potential Violation and decide if it is mediatable, making sure that the offenses are explicitly delineated.

4. If it is mediatable, the chair will set a mediation date with the Mediation Center (MC) and immediately send a letter to the respondent alerting him/her to the allegation and the mediation time and location. Also, a name and phone number for questions will be provided for the respondent.

5. If mediation is successful, the case is closed.

6. In the situation where the case is not mediatable or the mediation was not successful, the chair will determine if the case is minor level or major level, based on precedents, and the case will proceed on the appropriate track. A letter will be sent to the respondent alerting him/her to the allegations as well as the ensuing procedure.

continued next page

B. Mediation Section to come.

C. Investigation

Minor Level Track

After Referral from Honor Committee Chair:

1. Judicial Officer Collects Paperwork

A. The Judicial Officer is responsible for securing any paperwork he/she deems appropriate. This paperwork may include police reports, write-ups from Residential Advisors, etc. The Judicial Officer also has authority to interview witnesses or investigate the alleged offense further at any time prior to a hearing.

Major Level Track

1. Judicial Officer Collects Paperwork

A. The Judicial Officer is responsible for securing any paperwork he/she deems appropriate. This paperwork may include police reports, write-ups from Residential Advisors, etc. The Judicial Officer and the Student Presenter have the authority to interview witnesses or investigate the alleged offense. The Student Advisor/Advocate will have access to all records pertaining to the case and may interview any and all witnesses.

B. The Judicial Officer recommends to the SJC whether or not the case should continue through the judicial system. The SJC will vote whether or not to continue with the case or dismiss it. The vote will be by simple majority. If the case is dismissed, the student will be notified by mail. If the case continues the chair of the SJC will choose a Student Presenter. The chair will then compile a list of potential Student Advisor/Advocates for the case to be chosen by the respondent. The chair will then designate the specific members of the SJC who will serve on the hearing board should a hearing become necessary. The decision of the chair can be overturned by a 2/3 majority vote.

D. Settlement

Minor Level Track

The Judicial Officer shall contact the respondent and set up a settlement conference. Only the respondent and the Judicial Officer will be present at this time. The Judicial Officer can use his/her discretion in settling a case, although appropriate precedent should be followed. If both the student and Judicial Officer agree on a settlement decision, the proper paperwork will be submitted and the case will be closed.

Major Level Track

The Student Presenter must contact the respondent and set up a settlement conference. The respondent, the SA and the SP will be present at this time. The SP can use his/her discretion in settling a case, although appropriate precedent should be followed. If both the student and SP agree on a settlement decision, the proper paperwork will be submitted and the case will be closed. The SA may advise the respondent and speak during the proceedings.

E. Hearing

Minor Level Track

A. Should the case fail to be resolved through settlement, a hearing will be held promptly. This hearing will be an administrative hearing with the Judicial Administrator. If the respondent desires to be heard by the Hearing Board, he/she must petition the Chair of the Student Judicial Council within 5 business days of notification of the administrative hearing. The chair may, at his/her discretion, grant or refuse this alternate hearing.

B. With the Administrative Hearing option, the JA will obtain the appropriate evidence or statements from the Judicial Officer and will schedule the hearing with the respondent. After the JA hears the response to the accusation, he/she will make a decision as to whether there has been a violation. If so, the JA may prescribe any sanction he/she deems appropriate based on precedent.

C. In the Hearing Board option, the Board will stand in place of the JA. [There will be no presenter or advisor as in the Major Level track.] OR [The Hearing procedure for the Major Level offense will then be followed, including the appointment of a presenter and advisor].**

D. If there is no written application with 10 business days for review to the Provost, the case is closed.

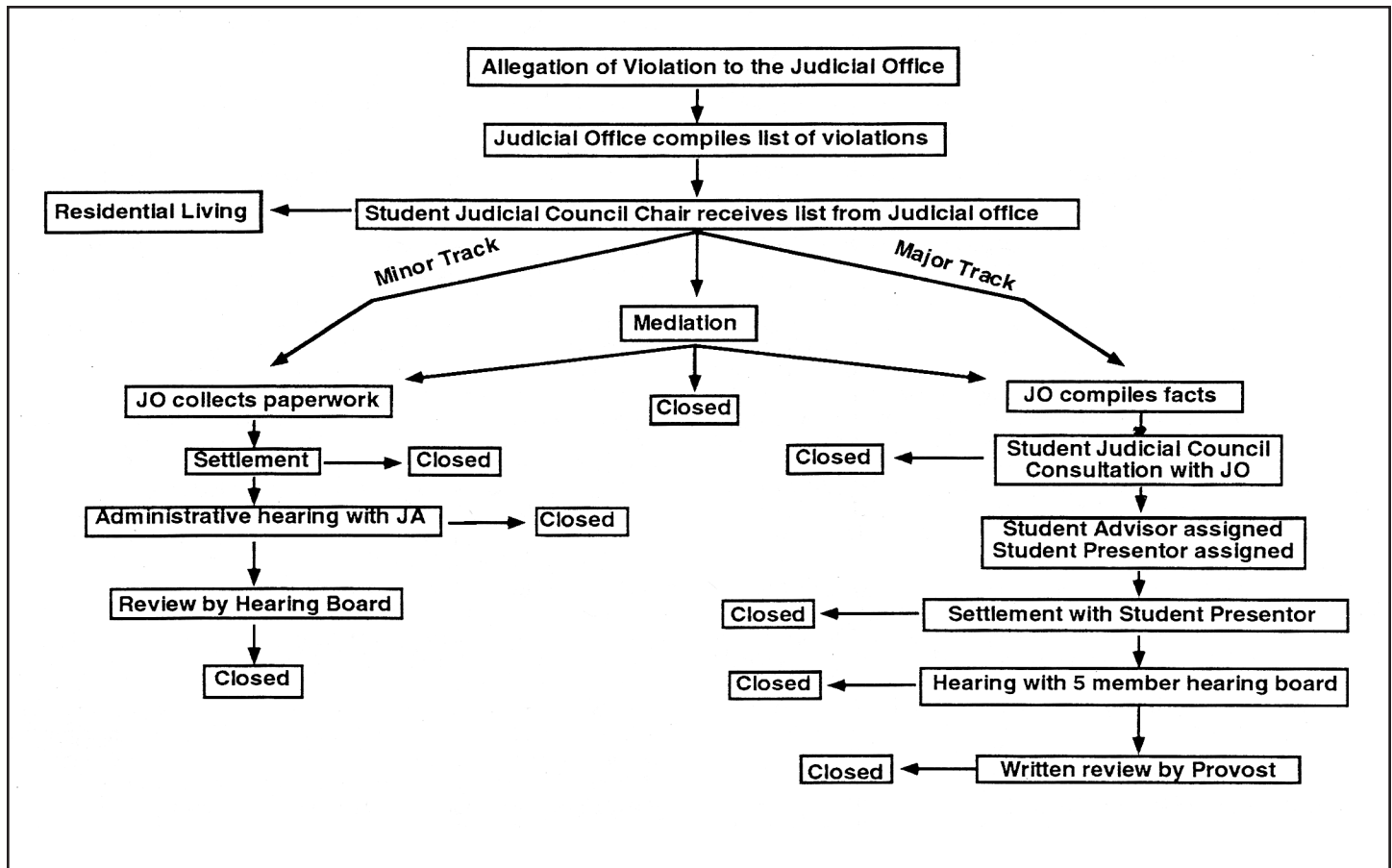
Major Level Track

A. Should the case fail to be resolved through settlement, a hearing will be held.

B. The chair of the hearing board will be designated prior to the hearing by the chair of the SJC.

C. The hearing board shall determine two issues: 1) The guilt or innocence; and, if guilt is determined, 2) the sanctions to be imposed.

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D. The Hearing board shall presume a respondent innocent until proven guilty by a preponderance of evidence.

E. All decisions require a majority vote of the Hearing Board.

VIII. Review

A. A written review may be made to the Provost of the University within 10 business days of the Hearing Board's decision. Appropriate grounds for review are bias, procedural error, or new evidence. If the Provost agrees that proper grounds exist to hear the appeal, he/she then reviews the written appeal and transcript of the original hearing. The Provost's decision is then final and the case is closed.

IX. Confidentiality *Section to come.*

X. Reports *Section to come.*

XI. Amendment to the Charter *Section to come.*

Interpretations and Applications of the Judicial Charter: Personnel, Roles, and Terminology

JUDICIAL ADVISOR (JA): This person is a resource to the honor committee. He/she is a person with legal knowledge and background. In a sense, the JA is the advisor for the judicial process. The JA is also the SJC's liaison to the administration.

JUDICIAL OFFICER (Judicial Officer): This is an administrative person who works in the Student Judicial Office (SJO). This person collects facts about cases and is the settlement officer in Minor Level cases.

STUDENT PRESENTER: This is a member of the Student Judicial Committee (SJC) who will present and be responsible for a Major Level (ML) case. This person will be the settlement officer in his/her specific ML case and in hearings will present facts and witness to the Hearing Board (HB). It will be the duty of the Student Presenter to contact witnesses about the hearing time and obtain written, signed statements for each witness involved in the case. This person will provide the Hearing Board with written briefs about each witness and how he/she fits into the case. This person will not ask questions during the hearing. This position will be appointed by the Student Judicial Committee Chair. Should the committee object to the appointee, the chair's decision can be overruled by a 2/3 vote.

STUDENT ADVISOR: This person will be a member of the Student Judicial Committee appointed to the respondent to guide him/her through the ML case track. The respondent will be given a list of possible SAs and will either choose one or if the respondent declines this choice one will be assigned. This person will accompany the accused to the settlement hearing and may speak on behalf of the accused if the accused desires. The major role of this position is a guide and aide to the accused. This person will not speak during the hearings unless questioned by the Hearing Board (see below). Also, this person should follow the investigation work done by the student presenter in order to protect the accused and to make sure that all necessary witnesses are questioned. All information that the student presenter obtains shall be made available to the student advocate.

STUDENT JUDICIAL COUNCIL (SJC): This is a council of students who oversee the judicial process. It shall consist of 21 members—13 undergraduate students, 4 graduate students, and 4 faculty. The chair shall be a senior member familiar with the entire process. The council will provide personnel for hearings, advising, and student presenting, and *major level* case settlements. The council will be self-perpetuating and will have a biannual evaluation process. Members not fulfilling the required duties will be asked by the chair to leave the committee with a 2/3 vote of the committee. Students desiring to join the Student Judicial Council will apply to the Chair and will be selected by the existing Student Judicial Council. Each year, the new members will take over in January and work with the previous members in order to fully learn the system.

HEARING BOARD: This is a 5 member board (4 students and 1 faculty). This Hearing Board will make decisions on all cases that go to hearings, except Minor Level cases that have a hearing with the JA. The decision of the hearing board is final. A member of the hearing board will chair the board for the duration of the hearing, and will be appointed when the hearing panel is chosen. This person will direct the hearing and will be

responsible for contacting members of the Hearing Board, the respondent, and the Student Presenter about the time and date of the hearing. The hearing board designated for each case will be appointed by the chair of the SJC. This decision can be overturned by a 2/3 vote of the SJC.

STUDENT JUDICIAL COMMITTEE CHAIR: This will be the presiding member of the Student Judicial Committee elected by simple majority of the SJC. This person must obtain the list of allegations daily from the SJO office manager, send a letter immediately to the accused alerting him/her to the allegation and process that will occur, determine if cases are Minor Level or Major Level, evaluate members of the Student Judicial Council biannually, and work closely with the JA.

Addendum: A Proposed Mediation Center

To: The Student Judicial Charter Committee
From: David Cohen, Scott Deutchman, Paul Gagnier, Jeff Weissman
CC: Professor Douglas Frenkel, Law School
Re: Proposal for a Mediation Center at the University of Pennsylvania
Date: March 30, 1994

I. Introduction

This recommendation has been prepared at the behest of the Student Judicial Charter Committee. It briefly sets forth, in outline form, the most important features of the potential mediation center which the Committee envisions. A number of details of the structure and operation of such a program are deliberately left to future campus discussion.

II. Summary of Proposal

The proposed mediation center will function as a resource for any new disciplinary system. The goal of the Center will be to facilitate the settling of disciplinary cases by the parties involved before University-imposed disciplinary process becomes necessary.

III. What is mediation?

Mediation is a structured negotiation process in which a neutral individual attempts to facilitate communication between the parties to a dispute in order to promote understanding, reconciliation, and settlement. The mediator has no authority to impose a resolution on the parties; rather, any solution reached is the product of the mutual consent of the parties involved.

IV. Several advantages of mediation

A. Conflict is an inevitable part of human interaction. An important goal of the University should be to turn conflict into a positive learning experience for the parties involved. The Preliminary Report of the Commission on Strengthening the University Community emphasized that the University "ha[s] the responsibility to teach our students how to work and live together." Mediation can contribute to the achievement of that goal by teaching students to resolve disputes through discussion and mutual respect and by converting potentially destructive tensions into constructive dialogue.

B. Mediation can often address the underlying problem that gave rise to the dispute at issue. Traditional dispute resolution systems, which look backward to determine (often imperfectly) the factual history of an incident, are ill-equipped to address the core of the problem because they are geared to finding fault. While assessing blame and meting out punishment may end the immediate dispute, a focus on the future that stresses solutions to the needs of all disputants can yield more satisfactory long-term solutions for the students involved and the University community.

C. In many cases, a simpler, less formal judicial procedure like mediation can expedite the resolution of disputes and make the process more understandable to students. This, in turn, should improve the popular perception of the entire disciplinary system.

D. A mediated settlement often provides the best solution to a problem because the result is ultimately fashioned by those who know the dispute rather than by an outsider/judicial administrator. As a result, the rate of compliance with mediated agreements is likely to be higher than with judicially-imposed resolutions.

E. Mediation helps promote a sense of community, which is a major goal of the University. By bringing parties together to work out their problems, students gain an understanding of each others' positions. As opposed to adversarial disciplinary processes, which can be particularly ill-suited to the goal of education and further divide the parties, mediation often can bring the parties closer together.

continued next page

¹ Stanford University Judicial Procedures.

^{**} The reason for two options for part VII. E, Minor Level, C, is because the committee still remains undecided on this issue.

V. A Model¹ for a Mediation Center at Penn

A. Ways in which disputes enter the system

1. The complaining party (the "complainant") is referred to the Center by another University department (e.g. Judicial Office, Residential Life, Interfraternity/Panhellenic Council, Dean of Students).

2. The complainant initiates a mediation by bringing a dispute directly to the Center.

B. Mediation of a dispute

1. If the dispute is of a type suitable for mediation², the Center contacts the "respondent," informs him/her of the complaint, and ascertains his/her willingness to take part in mediation. The mediation cannot proceed without the respondent's participation. It is anticipated that both parties will appear without counsel, advisors, or witnesses present.

2. A trained mediator³ shall convene the parties, usually face-to-face,⁴ and will preside over the discussion in an attempt to facilitate an agreement unless he/she determines, in light of the face-to-face confrontation, that the dispute is of a type unsuitable for mediation. The parties and the mediator may terminate the process at any time.

3. If the parties reach an agreement, its terms will be drafted by the mediator and read and signed by both parties. Each party is provided with a copy of the agreement.⁵

4. If the parties fail to reach an agreement, the case is closed or sent back to the department which made the initial referral.

VI. Conclusion

If there is consensus that a mediation phase should be an integral part of Penn's disciplinary process, the above model should provide the basis for the discussion regarding the implementation of such a program. Please contact us should you need any amplification concerning the issues discussed above.

¹ This memorandum recommends one of several possible structures for the operation of such a program. Such a Center could be available for intra-University disputes outside the disciplinary system. Alternative concepts and details concerning the mechanics of the process should be the subject of careful planning.

² At this stage, the dispute must fall into a category appropriate for mediation. It is envisioned that a person with mediation training and experience will make that determination based on the allegations of the complainant. Categories of cases which will be excluded from the process, if any, must be considered.

³ The background and qualifications of the mediator(s) are important and need to be determined in future discussions.

⁴ In certain cases, a resolution might be reached by telephone discussions.

⁵ Ordinarily, the mediation process and its result are protected by a confidentiality agreement. This is primarily designed to encourage open discussions aimed at finding a solution. The system here would need to balance this interest against, in appropriate cases, the University's interest in having access to the records to monitor settlements and guard against recidivism.

Membership of the Judicial Committees

Student Judicial Reform Oversight Committee

David Hackney, Associate Professor of Radiology, *co-chair*

Beth Hirschfelder, C '95, *co-chair*

Kirsten Bartok, C '94

Sam Chandan, C '95

Jeremy Chiappetta, C '95

Carolyn Choi, C '95

Lynne Edwards, ASC '95G

Jesse Goldstine, C '96

Wilton Levine, C '96

Amy Ludvigson, C '97

Ashley Magids, C '96

Walter Mancing C '95

Dan Pariser, C '95

Maureen Quilligan, Professor of English

Gino Segre, Professor of Physics

Bindi Shah, SEAS '94

Kate Smith, GSE '94G

Rhonda Williams, SAS History

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Staff/Consultants:

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Committee on the Code of Academic Integrity

Carolyn Choi, *chair*

Jeremy Chiappetta

Ashley Magids

Bindi Shah

Kate Smith

Staff/Consultant:

Larry Moneta

Committee on Student Judicial Charter

Kirsten Bartok, *chair*

Dan Pariser

Wilton Levine

Amy Ludvigson

Lynne Edwards

Staff/Consultants:

Steven Blum and Professor Douglas Frenkel

About the Crime Report for March 28 through April 3

To accommodate the full texts of documents on proposed judicial revisions, this week's campus and 18th District crime statistics have been posted to PennInfo only. For those who do not have PennInfo, campus kiosks are available; call 8-5274 for a list of locations.

This week's summary of campus incidents shows 13 Crimes Against

Persons, including 2 robberies, 9 cases of threats and harassment, 1 case of indecent exposure/lewdness, and 1 attempted rape. Among Crimes Against Property there were 37 thefts—including 4 of auto, 4 from auto, and 4 of bicycles—and 8 cases of criminal mischief and vandalism. Four Crimes Against Society were reported, including 1 alcohol offense and 3 cases of disorderly conduct.

Update

MARCH AT PENN

TALKS

7 *Costa Rica: Reorganizing for Sustainable Development and Biodiversity Management*; Daniel H. Janzen, biology, 4 p.m.; Room 109, Leidy Laboratories (Institute for Environmental Studies; Biology).

The Ambiguity of the Sacred: Reflections on Margarethe von Trotta's Film "Die bleierne Zeit"; Renate Voris, University of Virginia; 8 p.m.; Max Kade German Center, 3905 Spruce Street (Germanic Languages & Literatures, Germanic Association).

Foundations of Jewish Criminal Law; Arnold Enker, law; 4:30 p.m.; Gittis Room; Tanenbaum Hall (Law School).

11 *Self Defense and Abortion in Jewish Law*; Arnold Enker, law; 4:30 p.m.; Gittis Room; Tanenbaum Hall (Law School).

12 *Problématique de la Critique Génétique*; Pierre-Marc de Biasi, CNRS; Anne Herschberg-Pierrot, Paris VIII; Jacques Neefs, Paris VIII; 4 p.m.; Room 543, Williams Hall (French Institute).

Deadlines: For May at Penn: *April 12*. For the weekly update: every Monday, one week prior to the week of publication. Information can be sent via e-mail, campus mail, via fax or hand carried.



Almanac

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Student Health Insurance: Two Models and the Current Choice

More than 6,000 Penn students, mostly graduate and professional students, annually subscribe to a health insurance program authorized by the Office of the Vice Provost for University Life and administered by Student Health Service. Over the last decade, we have struggled to find a program which balances benefit levels, enrollment flexibility and claims responsiveness with the most important factor to our students, *cost*. As a result of this struggle, we have contracted with three different vendors in the last five years. In the fall of 1992, University Life convened a Student Health Insurance Review Team co-chaired by the Associate Vice Provost and the Director of Student Health Service. The Team consists of graduate and undergraduate student representatives, staff from the Managed Care department of HUP, Risk Management, Computer Support, and International Programs staff, Student Health Service staff and representatives from the Schools and Colleges.

At its inception, the Team decided that stability was an essential component to an insurance program which would provide healthcare security and cost effectiveness to students. It was decided that we would develop a Request for Proposals which detailed specifications unique to the insurance needs of Penn students and go to the "open market" to solicit bids. Further, the Team agreed that the RFP would offer a three-year contract with annual reviews to assure continuing approval with the relationship. Thus, the University would develop a three-year cycle of stability with an insurer followed by solicitation to the open market for new bids. This is consistent with recommendations made by a GAPSA-directed review group as well as most of our peer institutions.

In the fall of 1993, the RFP was released and although 12 vendors indicated their intent to submit bids, only six vendors actually did so. Of the six, only two bids were considered by the Team to be competitive fiscally and/or administratively. In addition, the single HMO bidder offered a potentially unique alternative which required that our Student Health Service be recognized as a certified Primary Care provider agency.

After careful review, the Team unanimously recommended that a three-year contract be offered to Student Insurance Division, which has been our insurer for the last two years. The reasons are complex but essentially result from our analysis of cost-benefit issues, quality of services and confidence in claims and enrollment responsiveness.

The Team further recommended that we retain the prerogative to cancel the contract at the end of each year and continue our exploration of HMO alternatives to the indemnity structure we currently follow. The Vice Provost for University Life has accepted these recommendations and informational mailings regarding the 1994-95 academic year soon will be distributed.

Frequently, we are asked a number of questions regarding the insurance program which suggests some misconceptions or misinformation on the part of faculty, students and staff. Listed below are some of the most common questions with our responses.

Q1. Why is Penn's insurance so expensive, especially for children, spouses and partners?

A1. Unfortunately, Penn is located in one of the most expensive health care environments in the nation. In addition, the State of Pennsylvania is one of the few which prohibits the exclusion of pre-existing conditions in student group policies. This means that even if a student has been previously diagnosed with a very expensive illness, the insurer must accept the enrollment. This provides great protection to our students but at a price. It is also worth noting that Penn students have extremely high utilization rates which further drives up the premium. Finally, we have been asked by students, through GAPSA, *not* to subsidize family insurance rates through increased cost to single students. This has substantially driven up the cost for families, who are too few in number to provide a significant dollar pool by themselves.

Q2. What's the difference between an indemnity plan (like the one we currently offer) and an HMO?

A2. An indemnity plan uses a pooled set of dollars (premiums paid less insurer's operating costs and profit) to pay claims for services at a benefit level negotiated with the insurer. Typical indemnity plans cover sickness and injury and do not cover routine primary care, elective procedures or varsity sports. The level of benefit is directly associated with the level of premiums and is usually paid on an 80/20 basis. That means that for a covered claim, the insurer will pay 80% of the hospital or doctor's charge and the insured pays the balance. With an indemnity plan, the insured student can generally choose whatever practitioner or hospital he/she prefers. An HMO is a managed care model where the insured pays a fixed price to join a network of providers. The covered services usually include routine medical services as well as sickness and injury care. Some plans require minimal co-payments for first appointments (per procedure) with no additional costs charged to the insured. HMO's actively "manage" the insured's care and limit treatment to the HMO network of providers and hospitals.

Q3. Wouldn't an HMO be better for Penn students?

A3. Maybe. However, currently, Penn students have the equivalent of an HMO system. The University has made arrangements with HUP so that students with the Penn insurance plan who use the Student Health Service for routine medical care and the Hospital of the University of Pennsylvania for services not provided by Student Health, are not billed for any co-insurance costs. That is, with the exception of a small co-payment (\$10.00) in very limited circumstances, HUP will accept as payment in full whatever the insurer (Penn's contracted insurer *only*) pays for an approved procedure, outpatient or inpatient. So a Penn student who gets primary care from Student Health Service and specialty and tertiary care from HUP has the same level of service and financial protection as someone in an HMO—coverage in full. In addition, with the indemnity approach, students can continue to choose to go to any provider they prefer although they will likely incur some supplemental costs. In the future, as managed care continues to grow either a national or local health care initiative, the HMO option may likely to become more attractive. Penn Student Health Service and VPUL staff will continue to monitor these changes.

We invite the Penn community to contact any of us if you have any questions, concerns or suggestions which would improve the insurance options available to students.



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