

CHARTER OF THE UNIVERSITY OF PENNSYLVANIA STUDENT DISCIPLINARY SYSTEM

Preamble

In response to increasing concern about sexual assault and its consequences, the U.S. Department of Education, Office for Civil Rights (OCR) issued a new "guidance" document concerning compliance with Title IX of the Education Amendments of 1972. Title IX prohibits discrimination on the basis of sex in educational programs, including sexual misconduct. In this context, the Office of Student Conduct and the Office of the General Counsel, working closely with other University student affairs professionals, prepared amendments to the Charter of the Student Disciplinary System. As required by the Charter, the amendments have been approved by the Council of Deans, the Faculty Senate and the Provost and are in effect as of April 10, 2012.

Changes

The significant points of OCR's guidance include the following:

- Once a school knows or reasonably should know of possible sexual misconduct, it must take immediate and appropriate action to investigate or otherwise determine what occurred.
- If sexual misconduct has occurred, a school must take prompt and effective steps to end the sexual violence, prevent its recurrence, and address its effects, whether or not the sexual violence is the subject of criminal investigation.
- A school must take steps to protect the complainant as necessary, including interim steps taken prior to the final outcome of the investigation.
- A school must provide a procedure for students to file complaints of sex discrimination, including complaints of sexual misconduct. These procedures must include an equal opportunity for both parties to present witnesses and other evidence and the same appeal rights.
- A school's procedures must use the preponderance of the evidence standard to resolve complaints of sexual misconduct.¹

With the guidance in mind, we developed some special procedures for handling sexual misconduct cases and added a section in the Charter describing these. For the full text of these amendments, please refer to Section II.J. (p.) of the amended Charter. The amendments also include other minor clean-up revisions, such as correction of scrivener's errors.

¹ U.S. Department of Education, Office for Civil Rights, Dear Colleague Letter: Sexual Violence, Background, Summary and Fast Facts, April 4, 2011

The Charter of the Student Disciplinary System sets forth the procedures under which alleged violations of the University's Code of Student Conduct, Code of Academic Integrity, and other policies, rules, and regulations are resolved.

The Code of Student Conduct sets forth the responsibility of all students at the University of Pennsylvania to exhibit responsible behavior

regardless of time or place. This responsibility includes, but is not limited to, the obligation to comply with all provisions of the Code of Student Conduct; with all other policies and regulations of the University, its Schools, and its Departments; and with local, state, and federal laws.

The Code of Academic Integrity, and similar codes adopted by some of the University's Schools, set forth the standards of integrity and honesty that should be adhered to in all student academic activities at the University of Pennsylvania.

Violations of the Code of Academic Integrity or School regulations are also violations of the University's Code of Student Conduct. Further, violations of local, state, and federal laws may be violations of the Code of Student Conduct. Therefore, throughout the Charter references to violation(s) or alleged violation(s) of the Code of Student Conduct include violations of these other policies and laws.

The University disciplinary process at Penn may involve the following stages:

- Bringing a Complaint to the Office of Student Conduct
- Resolving a Complaint by Mediation
- Investigating a Complaint
- Filing Charges by the University against a Student
- Resolving Charges by Voluntary Agreement to Sanctions
- Resolving Charges by Disciplinary Hearing
- Appealing the Decision of a Hearing Panel
- Imposing Sanctions on a Student
- Fulfilling Sanctions Imposed by the University

Under the University's Student Disciplinary System, charges are brought on behalf of the University, not on behalf of the complainant(s) who brought the matter to the Office of Student Conduct (OSC) or the party(ies) who may have been directly or indirectly harmed by the alleged violation of University regulations. Therefore, complainants who wish to maintain greater control over their complaints, such as is sometimes appropriate in cases involving serious cultural or communicative differences, or those who wish merely to create a record of their complaint without necessarily beginning a formal disciplinary process, may wish to bring their complaint to other University resource offices, particularly the Office of the Ombudsman, which are equipped to handle cases in this manner. Such offices may, when appropriate and helpful in an individual case, consult with relevant campus communities or other resource offices in the process of resolving a complaint and are able to work closely with both complainants and respondents in resolving such matters. If such efforts fail to arrive at a satisfactory resolution, the complainant still has the option of bringing a complaint to the OSC.

Through the University Honor Council, students play a major role in the Student Disciplinary System by advising the Director of the Office of Student Conduct and the Provost on matters of policy and the operation of the System and by sitting as members of disciplinary hearing panels. Students also serve as advisors and mediators within the System.

The System places great emphasis on the mediation of disputes, as is appropriate in a University Community.

I. The Student Disciplinary System

A. Statement of Purpose

The purpose of the Student Disciplinary System is to further the educational mission of the University of Pennsylvania by providing a

fair and effective mechanism for investigating and resolving disputes involving students and alleged violations by students of the University's rules, regulations, and policies.

B. Jurisdiction of the Student Disciplinary System

1. Through the Office of Student Conduct (OSC), the Student Disciplinary System handles complaints from members of the University community—trustees, faculty, staff or registered students—about alleged violations of the Code of Student Conduct, the Code of Academic Integrity, or other University policies. Persons outside the University community may also bring complaints of alleged violations of the Code of Student Conduct and other University policies to OSC. The Director of OSC will make a case-by-case determination of whether it is appropriate to handle such complaints under the Student Disciplinary System. Among other factors, the Director will consider whether the alleged conduct affects a substantial University interest or whether the conduct may present a threat or danger to the community. When OSC undertakes to handle such complaints, the procedures described in this Charter will apply.
2. Except as provided below, the Student Disciplinary System has jurisdiction in all disciplinary matters arising under the regulations of the University against registered students, whether they be undergraduate, graduate or professional students, or others, including students who are on unexpired leaves of absence. Approved or unapproved absence from the University is not a bar to the conduct or completion of disciplinary proceedings under this Charter.
3. In general, a student is any individual who has been admitted, matriculated, enrolled, or registered in any academic program or other educational activity provided by the Trustees of the University of Pennsylvania.
4. The Student Disciplinary System does not handle complaints against graduate and professional students when such cases lie within the jurisdiction of a hearing board or other disciplinary body established by the School of the University in which the student is enrolled. When such a School-based disciplinary procedure exists, it should be the recourse of first resort for the resolution of an alleged violation of University or School regulations, unless the OSC decides, in consultation with the Provost, that it is appropriate in light of the circumstances for the Student Disciplinary System to handle the matter. Schools with such procedures are encouraged to refer disciplinary matters (excluding academic integrity matters) to the University Mediation Program whenever appropriate. When an alleged violation of University regulations by a graduate or professional student is not within the jurisdiction of a disciplinary system established by the student's School, the Student Disciplinary System will have jurisdiction over the matter.
5. The Student Disciplinary System does not handle alleged violations of the University's parking regulations.
6. Alleged violations of the University's Residential Living policies and contracts are ordinarily handled under the procedures of the Department of Residential Living but, if serious enough to warrant sanctions beyond those which the Department of Residential Living is authorized to impose, may be referred by the Director of Residential Living to the OSC. The fact that proceedings have been held and sanctions imposed under Residential Living policies does not preclude proceedings under this Charter.
7. The Director of the Office of Student Conduct decides all questions of jurisdiction of the Student Disciplinary System arising under this Charter, consulting with the Provost (or designee) and with the University's General Counsel when necessary. When appropriate, the

OSC may refer a complaint to another University office or disciplinary process.

C. General Principles of the Disciplinary System

1. The University's Student Disciplinary System is not a legal system, and University disciplinary proceedings are not civil or criminal litigation. Thus, they operate under different rules, standards, and procedures, and seek to achieve ends different from criminal or civil proceedings.
2. Any member of the University community may bring a complaint about student conduct or academic integrity to the attention of the Office of Student Conduct. Doing so in no way limits a complainant's rights or obligations to bring such matters to the attention of other University offices, officers, or resources, including the Office of the Ombudsman and appropriate Deans, or to seek recourse outside the University through civil or criminal legal proceedings.
3. In all cases, the University reserves the right to determine how to process a disciplinary complaint. Once a complaint is brought to the attention of the Office of Student Conduct, the OSC, on behalf of the University, will decide how the complaint will be handled, including whether disciplinary charges should be brought against a student.
4. Complainants in sexual misconduct cases have rights and responsibilities similar to respondents under this Charter. In addition, certain special procedures apply in sexual misconduct cases (see section II.J. (p.)).
5. Except as otherwise specified in this Charter, when appropriate and if all parties agree, a matter brought to the OSC may be resolved through mediation and will not result in charges or disciplinary hearings. Because of their seriousness within an academic community, alleged violations of the Code of Academic Integrity will not be referred for mediation. Thus, except in academic integrity matters and matters that warrant treatment as serious violations of the Code of Student Conduct or other University policies, the initial response by the OSC may be to refer the complainant and respondent to the University's Mediation Program. If mediation fails or is inappropriate, the OSC will begin the more formal disciplinary processes outlined in this Charter.
6. All members of the University community are required to cooperate with the Student Disciplinary System. Those individuals who may be interviewed or called as witnesses in a disciplinary matter (including respondents and complainants) are obligated to provide honest and complete statements to the OSC and to the Hearing Panel. While in some circumstances a respondent may choose not to answer questions or provide information because of pending civil claims or criminal charges arising out of the same or other events, the respondent's decision not to answer questions or provide information will not be a reason to delay or defer an investigation or proceedings under this Charter. A student who fails, without good cause, to appear for a hearing after receiving notice, or to cooperate with the investigation conducted by the OSC, may be charged with a violation of the Code of Student Conduct. Repeated disruption of disciplinary hearings or the disciplinary process by a student or the student's advisor may result in charges against the student of non-cooperation with the Student Disciplinary System or exclusion of the student or advisor from disciplinary proceedings, including disciplinary hearings. Such exclusion is not a bar to the completion of disciplinary proceedings involving that student.

D. Organization of the Disciplinary System

1. Office of Student Conduct

The Office of Student Conduct is the central office responsible for resolving alleged violations of University policies by students. The duties of the OSC include determining whether complaints warrant action by the OSC, referring complaints for mediation or resolution by other University offices, investigating complaints, determining whether to charge a student with violations of University policies, resolving complaints by voluntary agreements to sanctions, bringing charges of violations to a disciplinary hearing, presenting evidence at hearings, monitoring and enforcing the fulfillment of sanctions imposed pursuant to voluntary agreements or after disciplinary hearings, maintaining records of all disciplinary matters, providing administrative support for all aspects of the disciplinary process (including hearings), and preparing reports and compiling statistics.

2. University Mediation Program

The University Mediation Program (UMP) may use the volunteer services of faculty, students, and staff members who have been trained in mediation and dispute resolution and may also use resources available in the University's Law School, in University resource offices such as the Office of the Ombudsman, or outside the University.

3. University Honor Council

- a. The University Honor Council (UHC) provides independent advice to the Provost and the OSC regarding the operation of the Student Disciplinary System in the area of academic integrity and student conduct, the general handling of academic integrity and conduct violations, appropriate sanctions for various types of academic integrity and conduct violations, and the effectiveness and implementation of the University's Code of Student Conduct and Code of Academic Integrity. Members of the UHC also sit on Disciplinary Hearing Panels. The UHC meets regularly with the Director of the Office of Student Conduct and may also discuss academic integrity and conduct issues with appropriate administrators and student, faculty, or administrative groups or committees. In addition, the UHC initiates and participates in educational programs about academic integrity and student conduct and works to help students understand and respect the academic and behavioral standards of the University community.
- b. The UHC consists of a minimum of 13 undergraduate students, chosen by current members of the UHC. The UHC is encouraged to ensure that nominees represent a broad cross-section of the undergraduate student body. The UHC selects a chair from among its members by a majority vote of the current members. Faculty members and graduate students designated by the Faculty Senate or Graduate and Professional Students Assembly (GAPSA) to sit on Disciplinary Hearing Panels may participate in the work of the UHC if the UHC so desires.

4. Disciplinary Hearing Officer

Every two years, the Provost, after consultation with the UHC, and the chairs of the Faculty Senate, will appoint a tenured member of the Standing Faculty of the University of Pennsylvania as Disciplinary Hearing Officer (DHO), preferably from among those faculty who have experience with the Student Disciplinary System. The DHO (or designee) selects members to serve on Disciplinary Hearing Panels and determines the time, location, etc., of hearings. The DHO presides over all disciplinary hearings held under this Charter. The DHO is responsible for overseeing the procedural integrity of disciplinary hearings. The DHO will, for example: consider and resolve pre-hearing challenges to the authority or procedures of a Disciplinary Hearing Panel; rule on all disqualification requests and objections

to individual panel members; assist parties to adhere to the basic principles of fairness prior to, during, and subsequent to disciplinary proceedings; and may consult at any time with students, faculty members, the University's General Counsel or others about procedural issues. The DHO also participates in the training of prospective faculty and student members of Disciplinary Hearing Panels. The DHO serves and may be reappointed at the discretion of the Provost, but his or her removal or reappointment may not occur without prior consultation with the UHC and the chairs of the Faculty Senate.

5. Disciplinary Appellate Officer

Every two years, the Provost, after consultation with the UHC, and the chairs of the Faculty Senate, will appoint a tenured member of the Standing Faculty of the University of Pennsylvania as a Disciplinary Appellate Officer (DAO), preferably from among faculty who have experience with the Student Disciplinary System. The DAO decides appeals of findings and recommended sanctions made by Disciplinary Hearing Panels based on the record of such proceedings and written submissions from the relevant parties. The DAO serves and may be reappointed at the discretion of the Provost, but his or her removal or reappointment may not occur without prior consultation with the UHC, and the chairs of the Faculty Senate.

6. Disciplinary Hearing Panels

- a. Disciplinary matters are heard by Disciplinary Hearing Panels of five members each. The Disciplinary Hearing Officer (or designee) randomly selects the undergraduate members of Disciplinary Hearing Panels from the membership of the University Honor Council for hearings involving undergraduate respondents. For hearings involving graduate students, the Disciplinary Hearing Officer (or designee) randomly selects the graduate and professional student members of Hearing Panels from lists of 13 or more graduate and professional students provided annually to the DHO by GAPSA. The Disciplinary Hearing Officer (or designee) randomly selects the faculty members of Hearing Panels from lists of 13 or more faculty provided annually to the DHO by the Faculty Senate Executive Committee. GAPSA and the Faculty Senate Executive Committee are encouraged to ensure that nominees represent a broad cross-section of graduate and professional students and faculty, respectively.
- b. In all disciplinary matters, except those involving alleged violations of the Code of Academic Integrity, the Disciplinary Hearing Panel is composed of two faculty members and three students of the same category (undergraduate or graduate) as the respondent. If a disciplinary matter involves both undergraduate and graduate respondents, the panel will include at least one undergraduate and at least one graduate student and two faculty members; the fifth panel member will be an undergraduate or graduate student selected by the DHO.
- c. In disciplinary matters involving alleged violations of the Code of Academic Integrity, the Disciplinary Hearing Panel is composed of three faculty members and two students of the same category (undergraduate or graduate) as the respondent. If a disciplinary matter involves both undergraduate and graduate respondents, the panel will consist of one undergraduate student, one graduate student, and three faculty members.
- d. Except for participation on the University Honor Council, no one designated to serve on Disciplinary Hearing Panels may serve simultaneously in any other capacity within the Student Disciplinary System.
- e. If any nominating body chooses fewer than 13 members to serve on Disciplinary Hearing Panels or cannot make additional members available when needed, the Provost will make the

necessary appointments to fill the complement of the appropriate group. If any member is unable to serve for any reason, a replacement is selected in the same manner that the original member was chosen.

- f. Student members of Disciplinary Hearing Panels must be in good academic and disciplinary standing, as defined by their Schools. The UHC, as appropriate, by a vote of two-thirds of its members, may remove a member who fails to perform his or her duties. When a member ceases to be in good standing or is removed by the UHC, a replacement from the same category will be chosen in the same manner that the original member was chosen.

7. Advisors

- a. Advisors help students involved in disciplinary proceedings to understand the disciplinary process, respect and comply with the provisions of this Charter, and deal with all aspects of the process. Any University faculty member, staff member, or student in good academic and disciplinary standing may serve as an advisor. The OSC maintains lists of individuals who are willing to serve as advisors and who have received training in the operation of the Student Disciplinary System.
- b. Upon receiving notice of a complaint and the accompanying list of trained advisors, a respondent may select an advisor from this list or choose any other University faculty member, staff member, or student in good academic and disciplinary standing to advise the respondent during the disciplinary process. If criminal charges are pending against a respondent or, in the judgment of the Office of the University's General Counsel, are reasonably in prospect, the respondent's advisor may be an attorney who is not a member of the University community. In such instances, the attorney will be expected to observe the procedures of this Charter and comply fully and promptly with decisions of the DHO or other University officials or bodies charged with the administration of this Charter in the same manner expected of members of the University community.
- c. An advisor may accompany any complainant, witness, or respondent to, and may participate in, any meeting regarding a disciplinary complaint. Advisors also may accompany complainants, respondents, and witnesses to hearings, but generally may not participate directly in such hearings (except as provided in section II.F.4.f and g. (p.) below). Advisors may, however, quietly provide advice during the hearing and may also make a brief statement at the conclusion of the hearing, before the panel begins its deliberations.
- d. Any advisor who fails to observe the procedures of this Charter or comply fully and promptly with decisions of the DHO may, after appropriate warning, be disqualified by the DHO from continuing to serve. In the event of such disqualification, the hearing may proceed whether or not a replacement advisor is available or it may be rescheduled at the sole discretion of the DHO. Any person disqualified from serving as an advisor will be ineligible to serve as an advisor for a period of two years. Repeated disruption of disciplinary hearings or the disciplinary process by an advisor may result in charges against the advisee of non-cooperation with the Student Disciplinary System. If the advisor is a member of the student body, faculty, or staff or the University, disciplinary charges may be brought against the advisor in the appropriate forum.

II. The Disciplinary Process

A. Bringing a Complaint to the Office of Student Conduct

1. Any member of the University community, who believes that a student has violated University rules, regulations or policies may file a complaint, which must be in writing, with the OSC. Students, faculty, staff members and trustees also may consult informally with the OSC staff to determine whether they wish to file a complaint. Others should consult with the Director about whether they may file a complaint under the Student Disciplinary System. Complaints made to other University offices or personnel also may be referred to the OSC. A complaint asks the OSC to consider the matter for possible referral or investigation.
2. The OSC promptly evaluates each complaint it receives to determine whether the University's Code of Student Conduct, Code of Academic Integrity, or other applicable rules, regulations or policies may have been violated. When the OSC determines that no such violation may have occurred, it may dismiss the matter without further investigation, or it may refer the parties to the University Mediation Program or elsewhere to resolve their dispute. When the OSC determines that a violation may have occurred, it may refer the matter for mediation or undertake an investigation that may lead to the filing of formal charges against a student or students.
3. A complaint is not a charge that a student has violated University regulations. Charges against a student are only made by the University (not by complainants) following an investigation. Until there is a determination to the contrary by voluntary agreement to sanctions or by a Disciplinary Hearing Panel, there is a presumption that an accused student has not violated University rules, regulations, or policies.
4. When a complaint is filed, the OSC promptly gives written notice of the complaint and its allegations to the student(s) alleged to have violated University rules. A copy of the Charter will be included with the notice, as well as a list of potential advisors who have received training from the OSC.

B. Resolving a Complaint by Mediation

1. The University encourages informal mediation whenever practical and appropriate. If the parties agree, at any time the OSC may refer any disciplinary matter other than an alleged violation of the Code of Academic Integrity to the University Mediation Program (UMP) or other resources for mediation. Members of the University community may also contact the University Mediation Program directly.
2. It is within the sole discretion of the OSC to determine whether a disciplinary complaint is suitable for mediation. If mediation fails or new information comes to light about an unresolved matter then in mediation, the OSC may proceed with an investigation and the filing of disciplinary charges. The OSC may also set a date after which it will begin to investigate the original complaint or file charges if a matter has not been successfully mediated.
3. If the OSC refers a complaint for mediation and both parties to the dispute agree to participate, the UMP will assign a trained mediator and advise the complainant(s) and respondent(s) in advance of the date, time and place set for mediation. In order to resolve a disciplinary matter by mediation, both the complainant and the respondent must agree, first, to participate in the mediation and, second, to the proposed resolution.
4. If a student fails to comply with the terms of a mediation agreement, the OSC may take steps to enforce the agreement (including use of a Disciplinary Hold or the filing of new charges under the Code of

Student Conduct) or may investigate the original complaint and bring disciplinary charges under this Charter.

C. Investigating a Complaint

1. If, after a preliminary evaluation of a complaint, the OSC determines that a violation of the Code of Student Conduct may have occurred and if the complaint is inappropriate for mediation or mediation fails, the OSC then will investigate the complaint and determine whether to bring charges of a violation.
2. In the course of its investigation, the OSC may interview any witnesses, including the respondent(s) or potential respondent(s). The OSC will inform each witness that anything they say in such interviews may be introduced as evidence at a hearing.
3. Except in extraordinary circumstances, or if the complainant makes a request of the OSC to delay the investigation based on good cause, the OSC will make every effort to complete its investigation within 60 days of the filing of the complaint.

D. Filing Charges by the University Against a Student

In light of its investigation of a complaint, the OSC may file charges against a student(s) of a violation(s) of the University's Code of Student Conduct, Code of Academic Integrity, or other University rules, regulations, or policies. The OSC also may add charges beyond the scope of the original complaint, may add additional students as respondents, or may dismiss the original complaint as unfounded. If the OSC decides to charge a student with a violation of University regulations, the OSC must inform the respondent(s) of the charges in writing, identifying the University rules, regulations, or policies alleged to have been violated. The OSC will inform both respondent(s) and complainant(s) whether charges have been filed.

E. Resolving Charges by Voluntary Agreement to Sanctions

1. Following the notice that charges have been filed against a student, the OSC may discuss with the respondent and the respondent's advisor what disciplinary sanction(s) would be appropriate to resolve the matter by voluntary agreement to sanctions. The respondent may accept, reject, or propose an alternative to the proposed sanction(s) and may be accompanied and assisted by an advisor, who may participate in these discussions. Statements made during discussions about whether a respondent will enter into a voluntary agreement to sanctions may not be introduced as evidence at any subsequent hearing, but may provide a basis for further investigation by the OSC.
2. A resolution by voluntary agreement to sanctions may be entered into by written agreement at any time after a complaint has been filed and prior to a disciplinary hearing. All sanctions allowed under this Charter are available to the OSC as part of a resolution by voluntary agreement to sanctions. By agreeing to such a resolution, a respondent waives further proceedings under this Charter.
3. Complainants and complainants' advisors are not parties to voluntary agreements to sanctions.
4. If, in the judgment of the OSC, a voluntary agreement to sanctions is not reasonably in prospect, or if the respondent(s) reject(s) a proposed sanction, the OSC may bring the disciplinary matter to a hearing.

F. Resolving Charges by Disciplinary Hearing

1. Scheduling Disciplinary Hearings

- a. If disciplinary charges are not resolved by a voluntary agreement to sanctions, the Disciplinary Hearing Officer (or designee) promptly begins the process of scheduling the Disciplinary Hearing, with due regard for the time required for all parties to prepare for the hearing. The DHO will provide reasonable advance notice in writing to the complainant(s), respondent(s), and witnesses of the date, time, and place of the hearing and of the names of the panel members assigned to hear the disciplinary matter.
- b. Hearings normally take place as soon as possible after the filing of charges, ordinarily within 30 days of the respondent's request for a hearing or OSC's decision to bring the matter to a hearing. Upon a showing of good cause by a party, the DHO may grant a reasonable extension of any time limit relating to a disciplinary hearing set forth in the Charter.
- c. The DHO may expedite a Disciplinary Hearing in appropriate circumstances, including disciplinary matters involving students who have been placed on mandatory temporary leave of absence or conditional attendance, graduating students, or students who are about to take a leave of absence or to leave campus to study elsewhere.

2. Disqualification of Hearing Panel Members

- a. Members of the Hearing Panel selected by the DHO (or designee) should disqualify themselves from hearing a disciplinary matter if they believe in good faith that their capacity for making an objective judgment in the disciplinary matter is, or may reasonably appear to be, impaired. Members should not disqualify themselves for any other reason.
- b. The respondent(s) or the OSC may object for specific cause to any panel member selected by the DHO. The objection must be in writing and must be received by the DHO at least 48 hours in advance of the date and time set for the hearing.
- c. The DHO will rule upon all disqualification requests and objections to panel members. If the DHO decides that a challenge is valid, or if there is a voluntary disqualification, the DHO, after notifying the respondent(s) and the OSC, will replace the disqualified member with another panel member randomly selected from the same category.

3. Pre-Hearing Exchanges and Testimony

- a. Within a reasonable time before the hearing or any other time frame specified by the DHO, the OSC and the respondent(s) will exchange among themselves and with the DHO copies of all exhibits to be presented, the names of witnesses to be called, and a brief summary of the substance of testimony expected to be presented to the Hearing Panel.
- b. When the DHO believes that it will contribute to the expedition and fairness of a Disciplinary Hearing, he or she may (but need not) ask the OSC to prepare a written statement of its case against the respondent(s) and give the respondent(s) a reasonable opportunity to prepare a written response. The OSC and the respondent(s) may also submit statements at their own initiative. The statements and any accompanying exhibits may be considered by the Hearing Panel, in addition to testimony, arguments, or evidence presented at the actual hearing.
- c. In exceptional circumstances, when a witness or exhibit does not become known or available until immediately before the hearing, the DHO may, at her or his discretion, permit the evidence to be presented or may reschedule the hearing to a later time.

- d. If a respondent or the OSC anticipates that a key witness will be unavailable for a hearing, they may ask the DHO to preserve the testimony of the witness on tape and present it as evidence at the hearing. The OSC and the respondent(s) must be notified in advance of the date, time and place of the taping. All parties who would be permitted to question such a witness at a hearing may question the witness at the taping.

4. *Conduct of Hearings*

- a. Disciplinary hearings are not trials, and they are not constrained by technical rules of procedure, evidence, or judicial formality. They are designed to encourage open discussion among the participants that promotes the Hearing Panel's understanding of the facts, the individuals involved, the circumstances under which the incident occurred, the nature of the conduct, and the attitudes and experience of those involved. The rules of evidence applicable to legal proceedings do not apply to disciplinary hearings. Information, including hearsay evidence, may be considered if it is relevant, not unduly repetitious, and the sort of information on which responsible persons are accustomed to rely in the conduct of serious affairs.
- b. The DHO presides over all hearings and decides all questions about the admissibility of evidence and the conduct of hearings. While the DHO may be present for the Hearing Panel's discussions to answer procedural questions, the DHO does not deliberate or vote with the Panel regarding its findings or its recommendation of sanctions.
- c. Disciplinary hearings are held in private unless the respondent(s) and the complainant(s) agree in writing to an open hearing. The DHO may limit attendance at a hearing to ensure fair and orderly proceedings. If a hearing is opened in accord with this procedure, the DHO may, when necessary to maintain order or to protect the rights of participants, declare the hearing closed to the public. In a case involving important privacy interests, the DHO may close a hearing or part of a hearing that has been opened upon determining that the privacy rights of a participant may be jeopardized.
- d. Upon a showing that the required notice was provided, the hearing against a respondent(s) may proceed in her or his absence.
- e. At the hearing, the OSC presents the results of the OSC's investigation of the complaint, calls witnesses to testify and presents the University's evidence against the student(s). Members of the Hearing Panel may also call witnesses to testify and may question any witness appearing before it. Respondents may also call witnesses to testify and ask questions of all witnesses.
- f. A respondent is responsible for presenting his or her own case before the Hearing Panel. However, at the discretion of the DHO, the respondent's advisor may be permitted to question witnesses on behalf of a respondent or to address the Hearing Panel. The DHO's exercise of discretion in this matter will be guided by the principles that govern disciplinary hearings, specifically fairness, the need for orderly procedures, and the Hearing Panel's duty to understand the facts and parties in the disciplinary matter.
- g. Complainants may attend the hearing, testify if they wish to do so, and may be accompanied by an advisor. Except as described in section II.J. (p.) of this Charter, neither complainants nor their advisors may call witnesses or present evidence or arguments.

- h. At the conclusion of the hearing, the OSC and the respondent(s) or their advisor(s) may make brief statements. At the discretion of the Disciplinary Hearing Officer, the complainant(s) or their advisor(s) may be permitted to make a brief statement. The time allowed for such statements will be set by the DHO.
- i. The OSC will arrange for a verbatim transcript or recording to be made of all disciplinary hearings. The transcript or recording is the property of the University of Pennsylvania and becomes part of the record of the disciplinary proceedings.

5. *Findings and Recommendations of the Hearing Panel*

- a. Only evidence presented at the hearing will be considered by the Hearing Panel. The Hearing Panel will presume a respondent innocent unless proven responsible for a violation by clear and convincing evidence. All decisions of the Hearing Panel require a majority vote.
- b. Following the hearing, the members of the Hearing Panel meet to discuss in private their findings, which consist of two parts:
 - i. a determination of whether the respondent is responsible for any violation; and
 - ii. if so, a recommendation of sanction(s).
- c. The OSC may recommend to the Hearing Panel a sanction to be imposed if the Hearing Panel finds the respondent(s) responsible for a violation. The respondent(s) may respond to the OSC's proposed sanction(s). Before the Hearing Panel makes its recommendation on sanctions, it will review any previous disciplinary offenses by and sanctions against the respondent(s) and sanctions imposed in other similar cases.
- d. If the Hearing Panel determines that the respondent(s) is not responsible for a violation, no sanction may be recommended against the respondent(s) and the respondent may not be subject to further proceedings under this Charter on the same charge(s).
- e. If the Hearing Panel finds that a student is responsible for a violation of University rules or regulations, it will recommend to the Provost appropriate sanctions. Only the Provost (or designee), acting on behalf of the University, may actually impose a sanction on a student. The Provost (or designee) will not impose a sanction until after any appeal of the Hearing Panel's decision has been decided by the DAO.

6. *Notice of Hearing Panel Decision*

The Hearing Panel will promptly transmit its decision, including its findings and recommendation regarding sanctions, in writing to the DHO, the OSC, the respondent(s) and the Provost as soon as possible after the end of the hearing.

G. *Appealing a Hearing Panel's Decision*

- 1. The Disciplinary Appellate Officer (DAO) has exclusive jurisdiction to decide appeals. Appeals are based solely on the record of the disciplinary hearing and the written submissions and responses of the respondent(s) and the OSC.
- 2. Only respondent(s) may appeal the Hearing Panel's findings of responsibility except where applicable laws or regulations may extend this right to complainants. Both the respondent(s) and the OSC may appeal the Hearing Panel's recommendation of sanction(s). An appellant must submit any appeal to the DAO in writing within 10 days after the Hearing Panel has rendered its opinion. The appeal must state in detail the specific grounds upon which it is based and must be sent to the OSC and respondent(s), as appropriate.
- 3. When the appeal is received, the OSC provides the DAO with a copy of the respondent's charge letter, a copy of the Hearing Panel's findings, a verbatim transcript or tape recording of the Disciplinary

Hearing, and any exhibits considered by the panel in reaching its recommendations. A response to an appeal must be in writing and must be submitted to the DAO within 10 days from the date the appeal is filed.

4. Appellate review is limited to allegations of material and prejudicial procedural error in the conduct of hearings, error in the interpretation or application of relevant University regulations, consideration of new evidence sufficient to alter the Hearing Panel's findings or severity of the recommended sanctions. If the DAO finds sufficient basis, he or she may reverse or modify the Hearing Panel's findings or proposed sanctions, or may remand the disciplinary matter for further investigation by the OSC or a new hearing before a new Hearing Panel. However, the DAO may not recommend a more severe sanction(s) unless the OSC has appealed the sanction(s) recommended by the Hearing Panel.
5. After considering an appeal, the Disciplinary Appellate Officer will promptly issue his or her decision in writing and will provide copies to the OSC, the DHO, the Provost, the respondent(s) and other appropriate parties.

H. Imposing Sanctions on a Student

1. Sanctions recommended against a respondent by a Hearing Panel or the DAO are imposed by the Provost (or designee) and may include any reasonable sanction, including, but not limited to, the following:
 - **Warning:** A Warning is a written admonition given by the OSC on behalf of the University in instances of minor misconduct.
 - **Reprimand:** A Reprimand is written censure for violation of the University's rules, regulations, or policies, given by the OSC on behalf of the University, which includes notice to the student that continued or repeated conduct violations will result in the imposition of more serious sanctions.
 - **Fine:** A monetary Fine may be levied as a disciplinary sanction and is payable to the Trustees of the University of Pennsylvania. (Not appropriate in cases of academic integrity violations.)
 - **Restitution:** Restitution is reimbursement for the damage, loss, or misappropriation of University, private or public property or compensation for injury to individuals. Restitution may take the form of monetary payment, property, or appropriate service. (Not appropriate in cases of academic integrity violations.)
 - **Disciplinary Probation:** Disciplinary Probation may be imposed for a specified period or indefinitely (i.e., for as long as and whenever a student is a full- or part-time student at the University of Pennsylvania). Probation may be imposed for a single instance of misconduct or for repeated minor misconduct. Any future conduct or academic integrity violation by a student on Disciplinary Probation, found to have occurred during the probationary period, may be grounds for suspension or, in especially serious instances, expulsion from the University.
 - **Withdrawal of Privileges:** Withdrawal of Privileges is the denial of specified privileges or the ability to participate in specified activities for a designated period of time.
 - **Suspension:** Suspension is the termination of student status and separation from the University until a specified date. Suspension means the loss of all rights and privileges normally accompanying student status. While on disciplinary suspension, students may not obtain academic credit at the University or elsewhere toward completion of a University of Pennsylvania degree. Students are eligible to return to the University after the specified suspension term has elapsed. Suspension is imposed in instances of serious misconduct; it is generally the minimum

sanction imposed for a violation of the Code of Academic Integrity.

- **Indefinite Suspension:** An Indefinite Suspension is termination of student status and separation from the University for an unspecified period, without an automatic right of return to the University as a student (though specific conditions for return as a student may be specified). When the conditions of an Indefinite Suspension have been fulfilled, the student must make a formal request, as specified in the conditions, to return to student status. Indefinite suspension is imposed in instances of extremely serious misconduct or in instances of continued serious misconduct following the imposition of probation or suspension for a specified period.
 - **Expulsion:** Expulsion is a permanent termination of student status and permanent separation from the University of Pennsylvania. Expulsion is imposed in instances of the most serious misconduct or in instances of continued serious misconduct following the imposition of probation or suspension.
2. In addition to the sanctions defined above, students may be required to perform a designated number of hours of University or other community service or to utilize University or other educational or counseling services related to the nature of the misconduct.
 3. Sanctions may be imposed alone or in combination with other sanctions. The Disciplinary Hearing Panel or the DAO may recommend whether the sanctions should appear on the transcript of a respondent and if so, for how long.
 4. After the imposition of sanctions, a faculty member involved in an academic integrity matter will be informed of the outcome of the disciplinary proceedings. If the student has been found not to be responsible for an academic integrity violation, the instructor should assign a grade (which may differ from the grade originally assigned) based on the student's academic performance in the course. If the student has been found responsible for an academic integrity violation, the instructor may assign any grade the instructor deems appropriate. In the event that the student believes the final grade is unfair or fails to take account of the outcome of the disciplinary proceeding, the student may appeal the grade through the existing academic grievance procedure for the evaluation of academic work established by each School and academic department.

I. Fulfilling Sanctions Imposed by the University

1. Under the Code of Student Conduct, students are required to comply with all disciplinary sanctions. Failure to do so constitutes a violation of the Code and is itself subject to disciplinary proceedings by the OSC.
2. The OSC monitors the implementation and fulfillment of sanctions. In performing this duty, the OSC will have the cooperation of the Division of University Life, the respondent's Dean, and other appropriate University offices. No sanction will be enforced while an appeal is pending.

J. Special Procedures for Sexual Misconduct Cases

In sexual misconduct and other sex discrimination cases, the OSC will follow applicable federal law, including Title IX of the Higher Education Amendments of 1972, as amended.

The complainants in sexual misconduct cases have rights and responsibilities similar to the respondents under this Charter. The time frames set for respondents also apply to complainants and when

notice is required to be provided to the respondent, similar notice will be provided to the complainant.

1. Specified Rights of Complainants in Sexual Misconduct Cases

The complainant will have an opportunity to participate in the entire disciplinary process, including the opportunity to provide information and witnesses during the investigation to participate in the preliminary exchange of information, to attend the disciplinary hearing, and to present evidence and witnesses at the hearing. The complainant will have an opportunity equal to the respondent to have others present during meetings and at the disciplinary hearing. The complainant will be informed of the outcome of his or her complaint and any appeal.

2. Investigation and Pre-Hearing Stages

- a. An OSC staff member will ordinarily meet with the complainant to hear or clarify his or her account of the incident and to review the disciplinary process. To initiate a formal complaint, the complainant must submit a written complaint.
- b. OSC will make every effort to complete its investigation within 60 days from the filing of a formal complaint. In extraordinary cases, such as when the gathering of information is completely under the control of law enforcement, OSC's investigation may be delayed. In the event of such delay, OSC will advise the complainant of the reason for the delay. An investigation may also be delayed upon the complainant's request based on good cause.
- c. During the investigation, and until resolution of the matter, interim restrictions, including restrictions on contact between the complainant and the respondent, may be imposed by OSC. Nothing in this Charter precludes other University officials from taking appropriate interim measures before a disciplinary matter is resolved.
- d. The complainant will be notified of the outcome of the investigation. Further, if there is a voluntary agreement to sanctions, the complainant will be informed of the provisions of the agreement that directly relate to the complainant.
- e. Subject to any Family Educational Rights and Privacy Act (FERPA) limitations, the complainant will have a similar opportunity as the respondent to review evidence to be presented at the hearing.

3. Disciplinary Hearings

- a. The complainant will have a similar opportunity as the respondent to object to panel members for cause. In addition, the complainant will have an equal opportunity to prepare a written statement in advance of the hearing and to respond to any written statement prepared by the respondent or OSC before the hearing.
- b. The complainant's advisor (who must be a member of the University community) may participate in a hearing to the same extent as the respondent's advisor. At the discretion of the DHO, a complainant's advisor may be permitted to question witnesses.
- c. Alternative testimony options will be offered to complainants, such as placing a privacy screen in the hearing room or allowing the complainant to testify from another room via closed circuit television. Generally, questions between the complainant and the respondent will be relayed through the DHO, but if both agree, they can address each other directly. The DHO reserves the right to exclude questions he/she deems irrelevant or duplicative.

- d. The complainant may call witnesses (including character witnesses) at the hearing, ask questions of all witnesses, and present evidence.
- e. The hearing panel will presume the respondent not responsible unless proven responsible by a preponderance of the evidence.
- f. The complainant may respond to the proposed sanctions OSC submits to the hearing panel.

4. Appeal of a Hearing Panel Decision

- a. The complainant may appeal the hearing panel's findings and/or recommended sanctions. In addition, the complainant may respond to an appeal by the respondent or OSC.
- b. The complainant will be provided with written notice of the outcome of the appeal at the same time as the respondent.

III. Additional Matters

A. Administration of the Disciplinary System

1. The Provost is responsible for implementation of this Charter, administrative oversight of the Student Disciplinary System, including the OSC, and ensuring that the Student Disciplinary System functions fairly and in furtherance of the educational mission of the University. The Provost may instruct the OSC regarding the handling of specific cases, but he or she may not so instruct the DHO, the DAO, or the members of Disciplinary Hearing Panels.
2. When circumstances warrant, the OSC may take such administrative steps as may be necessary and feasible to effect the prompt resolution of a disciplinary matter, including, but not limited to, tape recording the testimony of witnesses who may be unavailable at the time of hearing, making special arrangements to ensure the attendance of complainants, respondents, witnesses, or other participants at a hearing and scheduling hearings outside of the normal academic year.
3. In any disciplinary matter in which a member of the Student Disciplinary System cannot perform her or his duties under this Charter, an alternate may be designated by the Provost using the procedures appropriate to that individual's position in the system. In addition, when the Provost determines that circumstances warrant, such as (but not limited to) when a conflict of interest or a particularly complex or controversial disciplinary matter arises, the Provost may appoint a special OSC staff member, a special Disciplinary Hearing Officer, or a special Disciplinary Appellate Officer using the procedures appropriate to the position.

B. Reports to the University Community

1. Subject to the limitations imposed by law and the University's policies on the confidentiality of student records and information, the OSC and the University Honor Council, in consultation with the Provost, will make periodic reports to inform the University community about the character and extent of the work of the Disciplinary System, including the nature of violations of University rules and regulations and the sanctions imposed. The reports of the OSC will deal both with disciplinary matters that go to hearing and with disciplinary matters that are resolved before hearing, and will include such information as the total number of disciplinary matters handled during the preceding year broken down by type of resolution (e.g., mediation, voluntary agreement to sanctions, hearing, etc.), by type of violation, by type of sanction(s) imposed, by whether or not the respondent(s) were found responsible for a violation, and so forth.
2. With the approval of the Provost, the OSC may also make extraordinary reports to the University community concerning the

outcome of certain exceptional disciplinary matters, subject to the limitations imposed by law and the University's policies on the confidentiality of student records and information.

C. Disciplinary Holds

At any time after the filing of a complaint, the OSC, after consulting with the student's academic dean, may place a "Disciplinary Hold" on the academic and/or financial records of any student for the purpose of preserving the status quo pending the outcome of proceedings, enforcing a disciplinary sanction, or ensuring cooperation with the Student Disciplinary System. A Disciplinary Hold may prevent, among other things, registration, the release of transcripts, and the awarding of a degree.

D. Mandatory Leave of Absence and Conditional Attendance

In extraordinary circumstances, when a student's presence on campus is deemed by the University to be a threat to order, health, safety, or the conduct of the University's educational mission, the Provost (or designee), in consultation with the student's Dean or Associate Dean, may place the student on a mandatory temporary leave of absence or impose conditions upon the student's continued attendance, pending a hearing of disciplinary charges. When reasonably possible, the student will be provided with an opportunity to be heard before a decision is made by the Provost (or designee) to impose a mandatory temporary leave of absence or conditions on the student's attendance. At the respondent's request, and where feasible, the OSC may expedite the investigation of a complaint and the disciplinary hearing against a student placed on a mandatory temporary leave of absence or conditional attendance.

E. Civil or Criminal Proceedings

The University may proceed with disciplinary proceedings against a student under this Charter regardless of possible or pending civil claims or criminal charges arising out of the same or other events. The OSC, with the concurrence of the Provost and after consultation with the University's General Counsel, will determine whether to proceed with charges against a student who also faces related charges in a civil or criminal tribunal. If the University defers proceeding with disciplinary charges against a student in light of related charges in a civil or criminal tribunal, the University may at any subsequent time proceed with disciplinary proceedings against that student under this Charter irrespective of the time provisions set forth in this Charter.

F. Disciplinary Records

1. Maintenance of Records

Except as may be otherwise provided by applicable law, records of all complaints, disciplinary proceedings, mediations, and voluntary agreements to sanctions are maintained by the OSC in accordance with the University's Protocols for the University Archives and Records Center and University policies on the confidentiality and maintenance of student records.

2. Confidentiality

Except as may be otherwise provided by applicable law, all disciplinary proceedings, the identity of individuals involved in particular disciplinary matters, and all disciplinary files, testimony, and findings are confidential, in accordance with University policies and federal law concerning the confidentiality of student records. However, no provision of this Charter or the University's policies on confidentiality shall be interpreted as preventing a student from seeking legal advice.

3. Policy Violation of Confidentiality

Failure to observe the requirement of confidentiality of a disciplinary hearing by any member of the University community, other than the respondent, constitutes a violation of University rules and may subject the individual to the appropriate procedures for dealing with such violations. The respondent may disclose confidential information pertaining to him- or herself but may not violate the confidentiality of others. If the respondent discloses, causes to be disclosed, or participates in the disclosure of information that is confidential, any person whose character or integrity might reasonably be questioned as a result of such disclosure shall have the right to respond in an appropriate forum, limited to the subject matter of the initial disclosure.

G. Release of Information on Disciplinary Proceedings

1. To provide students involved in disciplinary matters with appropriate liaison with their School offices in regard to their academic work, the Dean or appropriate Associate Dean of the School(s) of the respondent(s) will be confidentially informed when a complaint is filed, when a sanction is imposed, or when a disciplinary complaint is otherwise resolved by the Student Disciplinary System. When a sanction is imposed, the Director of Career Planning and Placement may be informed by the OSC if the sanction(s) is reportable outside the University. When a transcript notation is required as part of a sanction, the University Registrar is also informed and required to implement the sanction as directed by the OSC on behalf of the Provost.
2. As required by law, in disciplinary matters involving allegations of sexual offenses, the complainant(s) will be informed of the outcome of the proceeding, including voluntary agreement to sanctions.

H. Reportability of Sanctions

1. Subject to applicable law and the University's policies on the confidentiality of student records and information, any disciplinary sanction may be reportable outside the University of Pennsylvania, subject to specific policies governing the reporting of sanctions adopted by the Council of Undergraduate Deans for undergraduate students and the Council of Graduate Deans for graduate and professional students.
2. Resolution of disciplinary charges by voluntary agreement to sanctions is treated like a finding of responsibility and is reportable in the same manner as sanctions imposed following a Disciplinary Hearing.

I. Amendment of the Charter

Amendments to this Charter may be recommended by the UHC, OSC, University Council, Faculty Senate Executive Committee, or other appropriate members of the University community and proposed by the Provost. Amendments take effect upon the approval of the Council of Deans, except that the Council of Deans may at its discretion refer proposed amendments to the Deans and faculties of the individual Schools for approval.

(Source: Almanac, April 10, 2012, Volume 58, No. 12 (<http://www.upenn.edu/almanac/volumes/v58/n29/discipline.html>))