

# FRATERNITY / SORORITY ADVISORY BOARD DISCIPLINARY CHARTER

## Statement of Purpose

To acknowledge and strengthen the contributions of fraternities and sororities to the University of Pennsylvania, the following Fraternity and Sorority Advisory Board Disciplinary Charter was established. This Charter is intended to establish a framework for fraternity/sorority governance, and to hold fraternities and sororities accountable to standards of conduct. There is a fundamental difference between the proceedings detailed herein and those of a court of law. This judicial charter is within the University community and is part of the educational process. To the greatest degree possible, the process detailed herein should remain informal, non-adversarial, and directed towards achieving fundamental fairness for all parties involved.

As outlined in the Charter, the Fraternity and Sorority Advisory Board is to be a fair and impartial board which will recommend to the Vice Provost for University Life actions necessary to ensure the commitments and obligations of both the fraternities/sororities and the University are being maintained (as outlined in the policy on "Recognition and Governance of Undergraduate Social Fraternities and Sororities" (Recognition Policy)). Each recognized fraternity or sorority, and its associated sponsoring body, agrees to abide by the basic principles applied to any University affiliation with an externally incorporated organization, including commonality of goals and standards, disclosure of principals, mechanisms for accountability, and provisions for the discontinuation of the affiliation should goals diverge or standards decline in ways that would expose the University to liability or loss of reputation. To accomplish this, each fraternity and sorority will be held collectively responsible for the well being of its members, the chapter's performance, as well as the reputation of the organizations within the University community.

The University recognizes that fraternities and sororities are associations of students, operated to enhance the educational experience. It is appropriate that the University provide support services that will help the chapters function effectively and will protect their stability given the inherent turnover of membership and leadership.

The following document defines the judicial system for cases involving collective responsibility of fraternities and sororities. This document details the required procedures for the resolution of violations of the Recognition and Governance of Undergraduate Social Fraternities and Sororities at the University of Pennsylvania (the "Recognition Policy") within the fraternity and sorority system and between these Organizations and the Community. In addition, should a conflict come to the attention of OFSA, the Director has the authority to mediate conflicts prior to engaging in any formal judicial process.

## I. Fraternity/Sorority Advisory Board

### A. Jurisdiction

1. There shall be a University-wide board of original jurisdiction to be known as the Fraternity/Sorority Advisory Board (the "Advisory Board"). The Advisory Board shall have exclusive original jurisdiction in all cases arising under the policy entitled Recognition and Governance of Undergraduate Social Fraternities and Sororities at the

University of Pennsylvania (the "Recognition Policy"), as amended from time to time, involving University recognized fraternities and sororities as defined by the Recognition Policy. The Advisory Board shall have no jurisdiction over complaints brought against individual students under the Charter of the University Student Disciplinary System except to the extent a complaint arising out of the same activity or event is also brought against a fraternity or sorority.

2. The Advisory Board will also hear appeals regarding sanctions levied by the Interfraternity and Panhellenic Judicial Inquiry Boards (JIB). Such appeals shall be made to the Advisory Board in accordance with the IFC or Panhellenic JIB Charters. (As used in this Judicial Charter for the Advisory Board, the term "respondent" or respondent chapter" shall mean a University-recognized fraternity or sorority as more fully described in Section B of the Recognition Policy entitled "Framework for Recognition – Applicability of Recognition Policy.")

## B. Composition

1. The Advisory Board will be composed of:
  - 4 faculty (one of whom shall serve as chair)
  - 3 Greek students (one from Panhellenic, BIG-C and IFC each)
  - 1 non-Greek student
  - 2 members from the Greek Alumni Council
  - 2 non-voting administrators
    - a. Faculty members will be selected by the Faculty Senate Executive Committee. The communication to the faculty selected should be clear that we need their participation in this role.
    - b. The three Greek students will be selected by each organization's respective president with the approval of their Executive Board. Interested students will apply in writing and be interviewed by the Interfraternity, Panhellenic, and Biocultural InterGreek Councils.
    - c. The non-Greek student will be appointed by the Nominations and Election Committee of the Undergraduate Assembly.
    - d. The Greek Alumni Council (GAC) members will be selected from the general membership of the GAC. The appointee must have been an active member of the GAC for the year preceding his/her appointment.
    - e. The two non-voting administrators (one being the Director of Fraternity and Sorority Affairs) will be appointed by the Vice Provost for University Life.

## C. Responsibility

1. Monitor the efforts of the IFC/Panhellenic/BIG-C in achieving the goals and objectives of their strategic plans.
2. Audit each chapter at least once annually based on the required paperwork that each chapter submits annually to the Office of Fraternity and Sorority Affairs (OFSA). Assign specific goals for quality improvement of each chapter based on these annual reviews.
3. Support the offices of OFSA to improve compliance of chapters with University policies.
4. Meet with all chapters that are in violation of established University rules that are non-compliant with expected performance standards, or that are sub-optimal in achieving their target goals of performance.
5. Address, as outlined in this charter, any incidents of misconduct related to fraternities and sororities, especially those that result in injury, illness, psychological harm, or property damage.
6. Meet at least seven times during the academic year to conduct the audit review and attend to hearing of misconduct, and to monitor progress on probationary agreements.

This committee should report on an annual basis to the Provost, the President, the Chair of the Faculty Senate, and the Undergraduate Assembly.

## D. Conflict of Interest

### 1. Definition

On occasion, the presence and/or participation of a particular Advisory Board member may be deemed as representing a conflict of interest with the role of the Advisory Board. Such "conflict of interest" shall be defined as either

- a. membership in a fraternity or sorority involved in a disciplinary incident under Advisory Board review, or
- b. involvement or affiliation with a particular incident or its participants which may impair his or her ability to consider objectively and impartially the facts of any situations or any Advisory Board review.

### 2. Procedures

Alleged conflicts of interest must be brought to the director of Fraternity and Sorority Affairs by any member of the Advisory Board, any member of the University community, or any representative of the fraternity or sorority under review at least forty-eight hours prior to the review proceedings. In instances of conflict of interest, it is an Advisory Board member's obligation to withdraw from the Advisory Board prior to the convening of the review. In addition, at the beginning of any review the Chair shall ask all Advisory Board members if there are any conflicts of interest involved in the review. The Chair shall then conduct discussion. Final determination of conflict of interest shall be made by a majority vote of the Advisory Board members present for the review (excluding ex-officio members and the advisory Board member who is the subject of the conflict of interest vote). The chair (as defined in Section II. A.1. below) shall vote only to break a tie vote. To facilitate such determinations, the fraternity or sorority under review shall present to the Director a full list of all participating fraternity or sorority representatives and witnesses and their roles and affiliations at least five calendar days prior to the date of the Advisory Board's review; information concerning the composition of the Advisory Board shall be given to the fraternity/sorority at least ten calendar days prior to the review. The minutes shall reflect any withdrawal due to conflict of interest.

### 3. Implementation

Any Advisory Board member who is deemed to have a conflict of interest by the Advisory Board shall not be present at internal Advisory Board discussions, shall not vote on any issue relating to the review in question, and shall not receive Advisory Board minutes or other confidential written materials pertaining to the review in question. The individual shall be permitted to participate in the review on behalf of the fraternity/sorority or on behalf of the Administration.

### 4. Disqualification of Advisory Board Members

Members of the Advisory Board may disqualify themselves from hearing the case if they believe, in good faith, that their capacity for making an objective judgment in the case is or may appear to be impaired.

## E. Quorum

1. The quorum required to start a meeting/review will consist of at least one GAC member, three faculty members, and two student members (excluding any ex-officio member or any individual disqualified because of conflict of interest). The members attending the first meeting of any review shall be termed the "original quorum."
2. The quorum required for continuing the review is five members, including at least two members who have been present at all

preceding reviews and constituted part of the "original quorum". The Chair (as defined in Section II.A.1, below) shall vote only to break a tie vote. All decisions require a majority vote of those present and eligible to vote.

## F. Operation of the System

1. The Office of Fraternity and Sorority Affairs (OFSA) shall provide administrative support for the Advisory Board: verify student standing, schedule hearings, taken and prepare minutes, and process all other paperwork for the Advisory Board.
2. To calculate days as required in this charter, only the fall and spring semesters shall be considered. Days shall be counted on a calendar basis, including Saturdays, Sundays, and holidays when the University is in session. No days will be counted when the University is not in session, except with agreement from the complainant.

## G. Confidentiality of Judicial Records and Process

1. The identify of individuals in particular cases before the Director of OFSA, the Director of the Office of Student Conduct, the FSAB, or the VPUL, and all files and testimony as to individuals, are confidential, in accordance with University guidelines concerning the confidentiality of student records pursuant to the Family Educational Rights and Privacy Act of 1974, as amended.
2. Sanctions against chapters are not confidential.

## II. Staff

### A. Chair

1. The Faculty member with the most experience with the FSAB shall serve as Chair. The Chair shall administer this Chapter and preside at all meetings and reviews. The Chair is responsible for overseeing the procedural integrity of this Advisory Board. The Chair will, for example, consider and resolve pre-review challenges to procedures. Such decisions by the Chair will be affirmed by the Advisory Board at the beginning of each review (see Section III.D.6.b.). The Chair will also alert Advisory Board of inconsistencies between the demands of fairness and its actions at any point procedural issues and convey their advice, together with his or her own recommendations, to the Advisory Board.
2. In cases where a "conflict of interest" (as previously defined) arises that disqualifies the Chair, or when the Chair is otherwise absent, the Faculty member present who is next most senior with respect to continuous tenure of service on the Advisory Board shall act as Chair.
3. The Chair will advise respondents, complainants, and their advisors, of procedural matters.
4. The Chair may confer with appropriate University officials regarding the provisions of this Charter.
5. In the event the appointed Chair cannot be present at a meeting of the Advisory Board, an Acting Chair shall assume the responsibilities of the Chair. The Faculty member present who is most senior with respect to continuous tenure of service on the Advisory Board shall serve as Acting Chair.

### B. Director of Fraternity and Sorority Affairs (Director)

The Director shall be a University employee and shall be appointed by the VPUL. The duties of the Director of Fraternity and Sorority Affairs under this Charter will be to resolve by agreement changes against the chapters; to present history and information about the chapter in reviews before the Advisory Board after a determination of collective

responsibility; to ensure that agreements and sanctions are enforced; to perform all other responsibilities specified in this Chapter.

### C. Director, Office of Student Conduct (OSC)

The duties of the Director of OSC under this Charter will be to investigate complaints against chapters under the regulations of the University and the Recognition Policy; to help determine whether charges involve a chapter's collective responsibility and subject the chapter to the jurisdiction of this charter and whether such charges should be brought before the Advisory Board; to present at the review relevant evidence concerning the charges. The Director of OSC can testify; call witnesses, present documents before the Advisory Board, and recommend appropriate sanctions.

## III. Procedures

### A. The Complaint and Investigation

1. Any person who believes that a fraternity or sorority chapter has violated University rules or regulations may file a complaint with the Office of Fraternity and Sorority Affairs (OFSA). OFSA may conduct preliminary fact-finding before a case is forwarded to the OSC for in-depth investigation. The complaint may also be filed with a University office other than OFSA (e.g. Public Safety, OSC, VPUL). The OSC may also bring charges against a chapter on behalf of a complainant who requests anonymity or on behalf of the University in general. Office of Fraternity and Sorority Affairs should be notified of these complaints.
2. The OSC will investigate complaints within the jurisdiction of the Advisory Board and shall decide, after consultation with the Director, if there is reasonable cause to believe that a chapter has violated the Recognition Policy. The OSC shall make the determination of reasonable cause ordinarily after conducting a preliminary investigation. The OSC may interview any appropriate witnesses, including members of a potential respondent chapter. All witnesses have the right to consult with a University advisory, as defined elsewhere in this Chapter, while being interviewed, and the OSC shall inform them that anything they say may later be introduced as evidence at a review.
3. The Director and/or the Advisory Board may proceed under this Charter regardless of possible or pending civil, criminal, or individual Student Disciplinary proceedings arising out of the same or other events. The Director, with concurrence of the VPUL, and other appropriate University officials, shall determine whether the Advisory Board shall, in fact, proceed with the hearing of the charges against a respondent whose members also may face related charges in OSC/ Student Disciplinary, civil or criminal proceedings. If the Director defers proceeding with the charges against a respondent in light of related charges, the Director, with concurrence of the VPUL, after consultation with the General Council, may subsequently proceed under this Charter at any time before or after resolution of the other charges.

### B. Procedures for Judicial Reviews

1. Notice of Investigation  
Within a reasonable time after the OSC receives a complaint and determines that there is reasonable cause that a chapter may be held collectively responsible, s/he will inform the Director of OFSA. The Director will then promptly notify the chapter, and the chapter advisory of record, that an investigation is in progress involving allegations of collective responsibility. At this time and at the Director's discretion, a letter of Administrative Warning may be issued

to the respondent chapter or is consistent with the Recognition Policy.

#### 2. Issuing of charges

At the investigation's conclusion, the OSC, after consultation with the Director of OFSA, will make a preliminary determination of whether an incident or event involves collective responsibility. If such a determination is made, then the Office of Fraternity and Sorority Affairs will send to the respondent chapter, the chapter advisory of record, as well as the chapter's national office, a statement of the charges against the respondent and a copy of the chapter status report.

- a. The statement will cite the regulation, rules or policies alleged to have been violated and will describe the alleged acts, or failures to act, constituting the violations(s). The statement will also enclose a copy of this Charter and a copy of the regulations, rules or policies alleged to have been violated. The cover letter for the charges should outline the time line for settlement.
- b. Additionally, if the Director anticipates that there will be a formal review of the chapter and the violations by the FSAB, the Director of 9OFSA will prepare and include a copy of the chapter status report. The Chapter States Report will be a summary of both positive and negative chapter activity within the fraternal and University communities: financial health, scholarship, IFC/ PANHEL/BIGC involvement and support, leadership, alumni(ae) involvement within the chapter and University (GAC/Advisory Board), membership data, faculty affiliation, community development program, and the comprehensiveness of the pledge/ membership education program, and may cite any laws, which might have been violated. The report will not be given to the Advisory Board until the sanctioning portion of their deliberations. (The Chapter will have the ability to respond to this report, See Section III.D.3.b.).

### C. Agreement of Responsibility

1. The Director, in consultation with the OSC, the National Headquarters, the alumni advisory (whenever possible) and the respondent, may resolve (settle) the complaint by way of an Agreement of Responsibility at any time after the charges have been served and before final disposition by a review of charges by the Advisory Board.
2. After the charges are served, the respondent chapter must promptly schedule a conference with the Director of OFSA to discuss a potential Agreement of Responsibility, otherwise a review will be scheduled in accordance with Section III.D.3 of this Charter. If an Agreement of Responsibility has not been reached within a reasonable amount of time from the date the charges were served, or the Director of OFSA determines an impasse in the resolution has occurred, a review may be scheduled in accordance with Section III.D.3 of this Charter.
3. If the respondent chapter chooses to schedule a conference with the Director of OFSA, the Director will notify appropriate officers from the appropriate JIB (Interfraternity or Panhellenic) that charges have been served against a chapter. A meeting will be scheduled with JIB officers within a reasonable time after the charges have been served to discuss options for resolution. Any JIB Officer who is a member of a respondent chapter, is a complainant, or is in any other way involved or affiliated with a particular incident or its participants so that it would impair his or her ability to consider resolution options objectively and impartially, shall be excluded to avoid a conflict.
4. Agreement of Responsibility will be written and signed by the Director, the respondent's President, the respondent's chapter advisor of record, a representative of the respondent's national office, and all

members of the respondent chapter. Upon receipt of the signed agreement, the Chair of the FSAB will be notified that an agreement has been reached.

5. When a determination of collective responsibility has been found and a previous agreement of responsibility exist which includes provisions for further violations, the Advisory Board must uphold the agreement of responsibility and may impose further sanctions, extend the probation or other elements of the previous agreement of responsibility with an amendment to that original agreement.

## D. Review

### 1. Scheduling Disciplinary Hearings

- a. If disciplinary charges are not resolved by an agreement of responsibility, the Director of OFSA in coordination with the Chair of the FSAB promptly begins the process of scheduling an FSAB review, with due regard for the time required for all parties to prepare for the hearing. The Director of OFSA 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. Reviews normally take place as soon as possible after the filing of charges. Upon a showing of good cause by the FSAB, OSC or the respondent(s), the Director of OFSA may grant a reasonable extension of any time limit set forth in the Charter.

### 2. Pre-Hearing Exchanges and Testimony

- a. Before the review and through the Director of OFSA and the FSAB, the OSC and the respondent(s) will exchange 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 at the Hearing Panel.
- b. When the Director of OFSA and Chair of the FSAB believe 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 respondent(s) and give the respondent(s) a reasonable opportunity to prepare a written response. The OSC and respondent(s) also may submit statements at their own initiative. The statements and any accompanying exhibits may be considered by the FSAB, 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 Chair of the FSAB 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 Director of OFSA and/or Chair of the FSAB 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.

### 3. Conduct of Reviews

- 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 Advisory Board'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 Chair of the FSAB presides over all hearings and decides all questions about the admissibility of evidence and the conduct of hearings.
  - c. Reviews are held in private unless the respondent(s) and the complainant(s) agree in writing in an open hearing. The Chair of the FSAB may limit attendance at a hearing to ensure fair and orderly proceedings. If a hearing is opened in accord with this procedure, the Chair of the FSAB 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 Chair of the FSAB 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 he 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 result 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 Advisory Board. However, at the discretion of the Chair of the FSAB, the respondent's advisor may be permitted to question witnesses on behalf of a respondent or to address the Advisory Board. The Chair of the FSAB may exercise 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. Neither complainants nor their advisors may call witnesses or present evidence or arguments.
  - h. At the hearing's conclusion, the OSC and the respondent(s) or their advisor(s) may make brief statements. At the discretion of the Chair of the FSAB, 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 Chair of the FSAB.
    - 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.
- ### 4. Findings and Recommendations of the Advisory Board
- a. Following the hearing, the members of the Advisory Board meet to discuss in private their findings, which consist of two parts:
    - i. a determination of whether the respondent chapter is responsible for any violation; and
    - ii. if so, a recommendation of sanction(s).
  - b. Only evidence presented at the hearing will be considered by the Advisory Board for a decision on this incident and possible violations of law or University policy. The Advisory Board will

presume a respondent innocent unless proven responsible for a violation by clear and convincing evidence. All decisions of the Advisory Board require a majority vote.

- c. The OSC may recommend to the Advisory Board a sanction to be imposed if the Advisor Board finds the respondent chapter(s) responsible for a violation. The respondent chapter(s) may respond to the OSC's proposed sanction(s). Before the Advisory Board makes its recommendations on sanctions, it will review any previous disciplinary offenses by and sanctions the respondent(s) and the chapter status report (as outlined in Section IIIB.2b).
  - d. If the Advisory Board determines that the respondent chapter(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 Advisory Board finds that a respondent chapter is responsible for a violation of University rules or regulations, it will recommend to the Vice Provost for University Life appropriate sanctions. Only the Vice Provost for University Life (or designee), acting on behalf of the University, may actually impose a sanction on a chapter. The Vice Provost for University Life (or designee) will not impose a sanction until after any appeal of the Advisory Board's decision has been decided by the Vice Provost for University Life.
5. Notice of Advisory Board Decision  
The Director of OFSA will promptly transmit its decision, including its findings and recommendation regarding sanctions, in writing to the Advisory Board, the OSC, the respondent(s) and the Vice Provost for University life as soon as possible after the end of the hearing.

the Charter of the University Student Disciplinary System (Section IV.C.7bi.)

3. The failure of a respondent chapter or its individual members to comply with sanctions shall be a violation of this Charter and the University's Policies and Procedures.

## E. Advisors to the Respondent and the Complainant

1. At hearings before the Advisory Board, each respondent and complainant may be accompanied by an advisor who is a member of the University community (student, faculty, or staff) or of a national or local alumni sponsoring organization; advisors may address the Board.
2. Attorneys may not serve as advisors unless the previously designated alumnus/a chapter advisor is an attorney by profession. If criminal charges are pending against a respondent or its members, the chapter may be accompanied and advised by an attorney; however, the attorney may not address the Advisory Board or directly participate in the hearing.
3. Advisors are obligated to acquaint themselves thoroughly with the University's policies, regulations, and procedures, and must hold confidential any information which they learn through their participation in the proceedings.
4. At least five calendar days before the hearing the complainant and/or respondent will notify the OFSA of the name, address, title and relationship of their advisor who will be present.

## F. Failure to Appear, Cooperate, or Comply

1. A fair, conclusion adjudication of a dispute under this Charter depends on the cooperation of all involved persons, including complainants, respondents, and witnesses. Therefore, all community members who may be interviewed are obliged to provide honest, complete statements to the Director, the OSC, and the Advisory Board in order that dispute may be equitably resolved as quickly as possible.
2. If the Advisory Board determines that a witness failed to appear or cooperate with the investigation and/or review, the Advisory Board may serve as complaint seeking, disciplinary sanctions described in