

PROPOSED DRAFT

CORNELL UNIVERSITY STUDENT DISCIPLINARY SYSTEM

I. PURPOSE

The purpose of the Student Disciplinary System is to further the educational mission of Cornell University by providing for the fair and effective resolution of complaints arising under Cornell's Conduct Code. The Conduct Code is intended to protect and promote the University community's pursuit of its educational goals. Accordingly, the procedures of the Student Disciplinary System are designed to:

- Promote students' respect for themselves and for the rights of others within the campus community;
- Promote students' understanding of their personal responsibility for sustaining a vibrant intellectual and personally enriching campus environment; and
- Promote students' learning from the reasonable consequences that follow when they violate the community's standards of behavior.

In furtherance of these goals, the Student Disciplinary System promotes and is guided by the principle of "freedom with responsibility" that is central to Cornell University.

The Student Disciplinary System is not a legal system and its proceedings are not civil or criminal litigation. Thus, while the Student Disciplinary System ensures fairness to accused students, to those bringing complaints, and to the University community, the system's procedures are fundamentally different from the rules and standards that govern civil or criminal legal matters.

II. APPLICABILITY

A. The Student Disciplinary System applies to all students and University-registered student organizations of Cornell University, except for students or registered organizations whose connection with the University is exclusively with the New York City divisions. The term "student" includes:

1. Any person currently registered for classes in any of Cornell's undergraduate or graduate divisions, a special student in the undergraduate division, or a non-degree candidate in the graduate school.
2. Any person currently enrolled in or taking classes.

3. Any person who, in connection with academic activities, uses University facilities or property or the property of a University-related residential organization.

4. Any student who is on an unexpired leave of absence from the University.

Approved or unapproved absence from the University is not a bar to the conduct or completion of disciplinary proceedings under the Student Disciplinary System.

B. In the case of student organizations that are subject to the University's Recognition Policy for Fraternities and Sororities, the Greek Judicial System will process allegations that such an organization has violated the Conduct Code. The Office of Student Conduct will process allegations that individuals associated with such organizations have violated the Conduct Code.

C. In cases of alleged hazing involving any student group or organization, there will be a presumption that such conduct is associated with the group or organization and that, if established, the violation(s) will result in disciplinary action against the group or organization. In order for the group or organization to overcome this presumption, the group's or organization's officers must provide names of individuals who have engaged in the alleged misconduct and must confirm that such activity was not authorized or encouraged by, or known to, the group or organization.

D. The term "respondent" as used in this document means a student or University-registered organization accused of violating the Conduct Code.

III. OFFICE OF STUDENT CONDUCT

The Office of Student Conduct (OSC), as a unit of the Dean of Students Office, will be responsible for administering the Conduct Code and the Student Disciplinary System. The duties and authority of the OSC include:

A. Determining whether complaints are sufficient to warrant action by the OSC;

B. Conducting disciplinary conferences;

C. Deciding whether to charge students or University-registered organizations with Conduct Code violations;

D. Resolving charges by agreement or imposition of sanctions;

E. Presenting cases for hearing and review;

F. Monitoring and enforcing sanctions imposed at any stage of campus disciplinary proceedings;

- G. Maintaining records of all disciplinary matters;
- H. Taking any other action necessary to carry out its obligations under this document or to ensure the integrity of the Student Disciplinary System; and
- I. Reporting at least annually to inform the University community about the character and extent of the office's work, any significant trends, and any recommended changes.

IV. UNIVERSITY CONDUCT COUNCIL

A. Purpose and composition. The Vice President for Student and Academic Services is responsible for ensuring that a 24-member University Conduct Council (UCC) is properly constituted at all times. The 24 members will include 12 students (approximately 8 undergraduate students and approximately 4 graduate students); 6 faculty members; and 6 employees. All members of the UCC must be in good academic and disciplinary standing with Cornell University. The membership of the UCC will:

- 1. Become educated about the purposes and functioning of the Student Disciplinary System; and
- 2. Serve as the pool from which panels of the University Hearing Board and University Review Board are drawn.

B. Selection and terms.

- 1. The Vice President for Student and Academic Services will solicit nominations and applications each year for the open positions on the UCC. At a minimum, the Vice President will solicit nominations from the Student Assembly, the Graduate and Professional Student Assembly, the Dean of the Faculty, and the Employee Assembly.
- 2. Members of the UCC serve terms of two years. Terms of office commence on the first day of classes in the next academic year.
- 3. Members of the UCC may serve more than one term in succession, but the Vice President for Student and Academic Services should endeavor to find a balance of experienced and new members.
- 4. No person may serve on the University Conduct Council who is at the same time an employee of the Office of Student Conduct.

C. Vacancies. If any UCC member vacates his or her position, by resignation or by departure from the Cornell community, prior to the expiration of his or her term, the Vice President for Student and Academic Services will appoint a replacement.

V. UNIVERSITY HEARING AND REVIEW BOARDS

A. Purpose. Panels sitting as the University Hearing Board or University Review Board may be convened as necessary, consistent with the provisions of this document, to consider alleged violations of the Conduct Code involving recommended sanctions of suspension or dismissal.

B. Composition. Whether sitting as the University Hearing Board or the University Review Board, the voting membership of a panel will include one student, one faculty member, and one employee selected at random from the membership of the University Conduct Council. When possible, the student panelist will be drawn from the undergraduate student membership of the UCC, if the respondent is an undergraduate; and from among the graduate student membership of the UCC, if the respondent is a graduate student.

C. Chairpersons of the Hearing and Review Boards. The Vice President for Student and Academic Services, following consultation with the Dean of the Faculty, will name one senior member of the faculty to serve as chairperson of the University Hearing Board and another senior member of the faculty to serve as chairperson of the University Review Board. These chairpersons will preside whenever a panel of their respective boards is selected to hear a case involving alleged violation(s) of the Conduct Code. The chairpersons will be appointed for renewable three-year terms and will not have a vote.

D. Disqualification of members.

1. No member of the UCC may sit as a member of a Hearing Board or Review Board panel if that member is biased or otherwise unable to render an impartial judgment. Knowledge of the events at issue or parties involved will not, in and of itself, be grounds for disqualification.

2. The Hearing Board or Review Board chairperson, with input from panel members if appropriate, will decide whether a panel member should be disqualified. The chairperson's decision will be final.

3. Ordinarily, disqualifications should be made prior to commencement of the board's proceedings so that another UCC member of the same constituency may be randomly selected to hear the case. If the question of a disqualification arises after the proceeding is underway, the chairperson will decide whether the interests of fairness would be best served by allowing the case to be determined by the remaining members or whether a new member should be selected who, after becoming familiar with the record created during the proceedings to that point, would be permitted to vote with the other board members.

VI. CONDUCT REVIEW OFFICER

A. The Vice President for Student and Academic Services will appoint a faculty member or an employee in good disciplinary standing to serve as Conduct Review Officer for a two-year term. The Vice President, in her or his sole discretion, may reappoint the Conduct Review Officer to subsequent terms or rescind the appointment before a term ends if the appointment no longer serves the University's best interests.

B. The Conduct Review Officer will hear and decide requests for review of decisions by the Office of Student Conduct, not involving suspension or dismissal, in which a voluntary agreement to sanctions could not be reached. The Conduct Review Officer also will hear and decide requests for review of University Hearing Board decisions that do not involve sanctions of suspension or dismissal. The Conduct Review Officer's decision is final.

VII. JURISDICTION

A. Campus jurisdiction. The Student Disciplinary System has jurisdiction over all complaints alleging violations of the Conduct Code occurring on any campus of Cornell University except for Weill Medical College and the Graduate School of Medical Sciences, on any property or facility used by Cornell for educational purposes, or on the property of a University-related residential organization in the Ithaca area.

B. Off campus jurisdiction.

1. Because the Student Disciplinary System concerns itself fundamentally with the educational mission of the University, the Student Disciplinary System ordinarily will confine its reach to "campus jurisdiction" as defined in this document. Notwithstanding this general principle, the Office of Student Conduct has discretion to consider complaints alleging off campus violations of the Conduct Code if the alleged misconduct poses a direct and substantial threat to the University's educational mission or to the health, safety, or property of the University or its members.

2. Cornell students remain subject to the criminal and civil laws of society. Violations of law off campus may result in criminal or civil sanctions imposed by the appropriate authorities. Such sanctions may be in addition to any sanctions imposed through Cornell's Student Disciplinary System.

C. Jurisdiction when related criminal or civil charges are pending.

1. The University ordinarily will conduct disciplinary proceedings under the Conduct Code regardless of possible or pending criminal charges or civil claims related to the same incident or behavior. The decision of whether to go forward with campus proceedings will be made by the Office of Student Conduct based on the best interests of the Cornell community.

2. If the Office of Student Conduct elects to go forward with campus disciplinary proceedings, it may advise off-campus authorities of the existence of the campus proceedings and of how such matters are typically handled within the Cornell community. The Office of Student Conduct may, upon the respondent's request and as permitted by law and University policy, notify the prosecuting officials of the final resolution. The Office of Student Conduct will neither request nor agree to special advantageous disposition of the case in the criminal system because of the individual's status as a member of the Cornell community.

3. The University ordinarily will attempt to cooperate with law enforcement and other public officials with a view toward safeguarding the interests of the educational community and promoting community confidence in the University. Individual students and other members of the University community, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate.

4. If the University elects to defer campus proceedings in light of pending criminal or civil proceedings, the University may elect at any subsequent time to proceed under the Student Disciplinary System. In such case, the passage of time provisions otherwise applicable under the Student Disciplinary System will not bar the campus disciplinary proceedings.

D. Time limits. Complaints must be filed with the OSC not later than one calendar year after the date of the alleged misconduct. In cases involving fraudulent or otherwise deceptive acts, complaints must be filed not later than one calendar year from the alleged misconduct or not later than 60 calendar days from discovery of the misconduct, whichever is longer, but in any event not later than three calendar years from the date of the alleged misconduct.

VIII. SANCTIONS

A. Types of sanctions. Students or University-registered student organizations found in violation of the Conduct Code are subject to one or more of the following sanctions:

1. **Warning.** A warning is a written notice appropriate in cases of minor misconduct to reinforce the community's standards of behavior.

2. **Reprimand.** A reprimand is a written censure for violation of the Conduct Code. A reprimand will include notice that further conduct violations will result in the imposition of more serious sanctions.

3. **Educational sanctions.** Educational sanctions may include referrals for alcohol or drug education, counseling, letters of apology, reflective papers, directed study, or similar requirements intended to foster self-insight and self-initiated change of behavior.

- 4. Community work.** Community work hours may be assigned as a way of reinforcing the obligation shared by all community members to protect and promote the University's educational goals. Community work may not be more than 80 hours per violation and must be performed in a manner acceptable to the OSC.
- 5. Monetary fine.** In the sole discretion of the appropriate disciplinary decision-maker, a monetary fine may be substituted in lieu of community work. The amount of the fine will be determined by multiplying the number of community work hours that would otherwise be assessed by the then-applicable federal minimum wage. Monetary fines must be made payable to the University Treasurer.
- 6. Restitution.** Restitution is reimbursement for damage resulting from a Conduct Code violation. Restitution may be required for loss or misappropriation of University, private, or public property or in compensation for injuries to individuals. Restitution may take the form of monetary or property payment.
- 7. Directives.** Directives are written notices requiring the respondent to cease certain behavior, not to contact certain individuals, not to appear in certain locations, and similar mandates reasonably related to the Conduct Code violation.
- 8. Probation.** Probation is a disciplinary status during which violations of the Conduct Code may result in additional sanctions up to and including suspension or expulsion from the University. Probation, which must be imposed for a stated period, may be imposed for a single instance of misconduct or for repeated minor misconduct.
- 9. Loss of privileges.** Loss of privileges is the denial of specified privileges or the ability to participate in certain activities for a designated period of time. By way of example, loss of privileges may include revocation of University-owned or -operated housing or prohibition from using certain facilities or services.
- 10. Suspension** from the University for a stated period not to exceed one year, or indefinitely with the right to petition the University Hearing Board at any time for readmission or reinstatement. Suspension means the loss of all rights and privileges normally associated with student or registered organization status. While on disciplinary suspension, students may not obtain academic credit at Cornell or elsewhere toward completion of a Cornell University degree.
- 11. Dismissal** from the University. Dismissal is the permanent separation of student status and permanent separation from Cornell University. Dismissal is imposed for the most serious violations of the Conduct Code or in instances of continued serious misconduct following the imposition of probation or suspension.

B. Guidelines for sanctions.

1. When a student or University-registered organization is found responsible for violation(s) of the Conduct Code, the appropriate decision-maker will consider all of the relevant facts and circumstances and will determine, in the decision-maker's discretion, what sanction(s) to impose.
2. Without intending to limit the decision-maker's ultimate discretion, certain types of Conduct Code violations are so fundamentally inconsistent with Cornell's educational mission that, absent unusual mitigating factors, a sanction of dismissal or substantial suspension ordinarily will be imposed. Such violations include acts of violence, including sexual violence; violations that are motivated by bias based on race, gender, sexual orientation, national origin, disability, or any other protected category; or any other violation that directly and substantially threatens the University's educational mission or the health or safety of University community members.
3. Without intending to limit the decision-maker's ultimate discretion, repeated findings that a student is responsible for Conduct Code violations will result, absent unusual mitigating factors, in progressively more serious sanctions.

C. Withholding of degree. The University may withhold awarding a degree otherwise earned until the completion of proceedings under the Student Disciplinary System, including the completion of any imposed sanctions.

IX. GENERAL PROCEDURAL PROVISIONS

A. Complaints.

1. Any person may initiate a complaint with the OSC alleging that a student has violated the Conduct Code. If the complaint contains facts that, if true, would constitute a Code violation, the OSC will schedule a disciplinary conference with the respondent.
2. A complaint is not a charge that a respondent has violated the Conduct Code. Only the University, acting through the OSC and following an investigation, may bring charges against a respondent.
3. Once a complaint is brought to the attention of the OSC, the OSC, on behalf of the University, will decide how the complaint will be handled, including whether disciplinary charges should be filed against the respondent. Complainants who wish to maintain greater control over the processing and resolution of their concerns may wish to consult with other offices on campus that are able to handle complaints in a more informal manner, such as the Office of the University Ombudsman; or consider off-campus services such as mediation.

B. Adviser. A respondent has the right to be accompanied, at every stage of the disciplinary process, by an adviser. The adviser must be a current member of the Cornell community (faculty, staff, or student) in good academic and disciplinary standing. The adviser may confer with the respondent in a manner that does not disturb the proceedings but may not speak or participate directly in the disciplinary proceedings.

Note: If the respondent was arrested for the same incident that is the subject of campus disciplinary proceedings, the respondent will be permitted to have an attorney from inside or outside the University as his or her adviser at all stages of the campus proceedings. The attorney must conduct himself or herself as any other adviser acting within the Student Disciplinary System. In particular, an attorney acting as an adviser may not speak or participate directly in the disciplinary proceedings.

C. Temporary No Contact Directive. In cases involving allegations of harassment, abuse, assault, rape, or other threatening activity, the OSC, after making reasonable attempts to meet with the respondent, may issue a Temporary No Contact Directive. The Temporary No Contact Directive may not require the respondent to withdraw from a class or to change place of residence. Violation of a Temporary No Contact Directive may result in immediate suspension pending resolution of the underlying complaint. The OSC may rescind the Temporary No Contact Directive or lift a suspension if it determines that circumstances no longer require such action.

D. Disciplinary Holds. At any time after receiving a complaint, the OSC may place a Disciplinary Hold on the academic and/or financial records of the respondent. The purpose of the Disciplinary Hold is to preserve the status quo pending the outcome of disciplinary proceedings, to enforce a disciplinary sanction, or to ensure cooperation with the OSC. A Disciplinary Hold may prevent, among other things, registration, the release of transcripts, and the awarding of a degree.

E. Evidence. The Campus Judicial System is not a court of law and the rules of evidence applicable to criminal and civil proceedings do not apply to proceedings under the Student Disciplinary System. At all stages of campus proceedings, the decision-maker(s) may consider all information that is relevant, not unduly repetitious, and is the sort of information which responsible persons would consider in conducting their serious affairs. The decision-maker(s) will decide what weight to give to any evidence considered.

F. Sufficiency of evidence. Violations of the Conduct Code must be established by a preponderance of the evidence. A "preponderance of the evidence" exists when the decision-maker is persuaded that it is more likely than not that the respondent violated the Conduct Code.

G. Obligation to cooperate.

1. All members of the University community are required to cooperate with the Student Disciplinary System. Individuals who are requested by the OSC to provide information or to appear as witnesses in disciplinary proceedings must do so. This obligation may be excused for good cause (for example, if a person chooses not to answer questions because of pending criminal charges), but the individual must respond to the OSC's request.
2. The decision of a respondent not to answer questions or to provide information will not be a reason to delay proceedings under the Student Disciplinary System.
3. All participants in proceedings under the Student Disciplinary System are required to conduct themselves in a respectful way. Repeated disruption of disciplinary proceedings or conduct that threatens or intimidates other participants may result in separate Conduct Code charges and/or exclusion of the person from further proceedings. The exclusion of a respondent or the respondent's adviser under this provision will not bar completion of disciplinary proceedings against the respondent.

H. Sufficiency of electronic communication. Any time written notice is required under the Student Disciplinary System, such notice may be provided in paper copy or via electronic communication (such as email) directed specifically to the person(s) involved.

X. DISCIPLINARY CONFERENCES

A. Purpose. The purpose of a disciplinary conference is to provide the respondent with notice of the complaint and an opportunity to respond. A disciplinary conference is intended to be a serious but non-adversarial conversation with the ultimate goal of understanding and promoting the community's standards of behavior. A complaint may be resolved following the disciplinary conference with dismissal of the complaint, with voluntary or imposed sanctions, or through the hearing and review process described below.

B. Notification. Upon receipt of a complaint alleging a Conduct Code violation, the OSC will notify the respondent of the substance of the allegations, including the date, time, and location of the alleged violation.

The notice will include the date, time, and location of the disciplinary conference. The disciplinary conference should be held as soon as reasonably practical after the alleged infraction. The notice will also advise the respondent of the right to be accompanied by an adviser (as defined for the Student Disciplinary System) at all stages of the disciplinary process, including the disciplinary conference.

C. Request to re-schedule; failure to appear. If the respondent is not able to attend the disciplinary conference at the indicated time, the respondent must contact the

OSC to re-schedule the appointment. If the OSC and the respondent cannot agree on a new time within a reasonable period, the OSC will specify the date and time of the conference. If the respondent fails to appear for a disciplinary conference, the OSC may resolve the complaint based on the evidence available and, if appropriate, assess sanctions. In that event, the respondent's agreement will be implied and the respondent will not have any right of appeal.

D. Disciplinary Conference procedure.

1. At the disciplinary conference, the OSC will present evidence in support of the complaint against the respondent. The respondent will be given the opportunity to respond and, if she or he wishes, to present evidence refuting the complaint. The respondent may request that the OSC speak with witnesses who will provide evidence of the respondent's lack of culpability.
2. The OSC will determine whether sufficient evidence exists to decide the case or whether additional investigation is required. If additional investigation is required, the OSC may continue the disciplinary conference to a later date. The respondent will have the right to respond to any evidence that bears on the outcome of the complaint before a decision is reached.
3. After hearing the respondent and considering evidence as defined in the "General Procedural Provisions" section of this document, the OSC may either dismiss the complaint or charge the respondent with one or more violations.
4. If supported by the OSC's investigation, the charges may extend beyond the issues raised in the initial complaint. The OSC will inform the respondent of any such additional charges and provide the respondent with an opportunity to respond.

E. Voluntary Agreement to Sanctions.

1. If the OSC determines that one or more violations of the Conduct Code have occurred, the OSC may discuss with the respondent whether a voluntary agreement to sanction(s) might be appropriate to resolve the charges. The respondent may accept, reject, or propose alternatives to the sanctions proposed by the OSC.
2. If the OSC and the respondent concur on a voluntary agreement to sanctions, the OSC and the respondent must promptly sign the agreement. The agreement will not become final until two business days after both parties have signed.
3. All sanctions set forth in the "Sanctions" section of this document may be imposed through a voluntary agreement to sanctions. Any voluntary agreement to sanctions providing for suspension or dismissal from the University will be forwarded within 24 hours to the Vice President for Student and Academic Services.

XI. OSC IMPOSITION OF SANCTIONS; CONDUCT REVIEW OFFICER

A. Imposition of sanctions. If the OSC determines that one or more violations of the Code have occurred and is not able to agree with the respondent on sanctions within a reasonable time, the OSC may:

1. Issue a written decision imposing sanctions, if the OSC does not recommend suspension or dismissal; or
2. If the OSC concludes that suspension or dismissal is appropriate, bring the charges against the respondent to the University Hearing Board.

B. Review by Conduct Review Officer. If the respondent is not satisfied with sanctions imposed by the OSC, the respondent may request review by the Conduct Review Officer.

1. The Conduct Review Officer will review the evidence before the OSC and the OSC's written decision. The Conduct Officer will also provide the respondent with an opportunity to meet to discuss the matter.
2. The Conduct Review Officer will promptly prepare a written decision and transmit it to the respondent and to the OSC. The Conduct Review Officer's decision is final.

XII. UNIVERSITY HEARING BOARD

A. Convening the Hearing Board. If disciplinary charges are not resolved by a voluntary agreement to sanctions and if the OSC determines that suspension or dismissal is appropriate, the OSC will promptly begin the process of convening a University Hearing Board panel to consider the case.

1. The OSC will randomly select members of the University Conduct Council from each of the three constituent groups, as set forth in this document.
2. Hearings should take place as soon as reasonably possible after the filing of disciplinary charges while allowing all parties a reasonable time to prepare.
3. The OSC must provide reasonable advance written notice of the date, time, and location of the hearing and the names of the persons who will sit as the University Hearing Board. This notice will be provided to the complainant(s), respondent, and witnesses. The hearing date may be expedited in cases involving an interim suspension or the impending departure of the respondent or other witnesses due to graduation, leave of absence, or other circumstance.

B. Pre-hearing exchanges.

1. At least three business days prior to the hearing, the OSC and the respondent will exchange among themselves and with the Hearing Board chairperson names of witnesses to be called, exhibits to be presented, and a brief summary of the evidence expected to be presented to the Hearing Board. The Hearing Board, in its discretion, may exclude witness testimony or documents if it determines that the OSC or the respondent has failed to comply with this provision.
2. In exceptional circumstances, when a witness or exhibit is not identified until immediately before the hearing, the Hearing Board, in its discretion, may permit the evidence to be presented or may reschedule the hearing to a later date.

C. Hearing Procedures

1. Disciplinary hearings are intended to encourage open discussion among the participants that promotes the hearing panel's understanding of the facts, the individuals involved, the circumstances related to the incident, the nature of the conduct, and the attitudes and experiences of those involved.
2. The University Hearing Board chairperson will conduct the hearing to ensure fair and orderly proceedings. Conduct that is disruptive, abusive, intimidating, threatening, or coercive is fundamentally at odds with the purposes of the Student Disciplinary System and will not be tolerated.
3. The chairperson will decide all questions about the admissibility of evidence and other procedural questions. Admissibility of evidence will be determined as set forth in the "General Procedural Provisions" section of this document.
4. Disciplinary hearings will be conducted in private unless the respondent notifies the OSC in writing, at least two business days before the hearing begins, that he or she wishes a public hearing. Notwithstanding the right of the respondent to request a public hearing, the Hearing Board chairperson may declare the hearing or a portion of the hearing closed to the public, or make other procedural accommodations:
 - a. When necessary to maintain order;
 - b. To protect the rights of the participants; or
 - c. In a case involving important privacy interests.
5. The following will be present at the hearing:
 - a. The respondent, who has the right at all times to be accompanied by an adviser as defined in this document. If the respondent fails to attend the hearing without good cause, the Hearing Board may proceed in the respondent's absence, decide the case

based on the evidence presented, and, if appropriate, apply sanctions. Failure to appear without good cause constitutes a waiver of any rights of appeal.

- b. The Director of the Office of Student Conduct or designee.
- c. Witnesses called by the respondent or by the OSC. Witnesses may be present only during the time they are testifying.

Complainant(s) and/or victim(s) may attend the hearing, may be accompanied by an adviser, and may testify if they wish to do so. Neither complainants nor victims, nor their advisers, may call witnesses, present evidence, or make arguments.

6. If a matter involves disciplinary charges against more than one respondent, the University Hearing Board may, in its sole discretion, permit the proceedings against the respondents to be conducted either separately or jointly. If the matters are heard jointly, the chairperson will make such procedural rulings as are necessary to ensure fairness to the individual respondents. If the Hearing Board finds multiple respondents responsible for violations of the Conduct Code, the Hearing Board will consider any differences between the conduct and circumstances of each individual respondent before imposing sanctions.

7. The OSC will present the results of its investigation of the complaint, call witnesses to testify, and present the University's evidence against the respondent. Members of the University Hearing Board may also call witnesses to testify and may question any witness. Respondents may also call witnesses and question any witness.

8. The respondent is responsible for presenting his or her case to the University Hearing Board. The respondent may confer with an adviser, if one is present, to obtain assistance in responding to the charges and questioning witnesses. The adviser may not speak or participate directly in the proceedings.

9. In order to further the educational objectives of the Student Disciplinary System, witness testimony ordinarily will be presented in person. The University Hearing Board, however, may accommodate concerns for personal safety, well being, and/or fears of confrontation of a complainant, victim, respondent, or other witness during the hearing by permitting participation by telephone, videoconference, audiotape, videotape, written statement, with the aid of a screen between participants, or by other appropriate means. The Hearing Board chairperson, in her or his sole discretion, will rule on any such request.

10. After all evidence and witnesses have been presented, the OSC and the respondent will have an opportunity to make brief statements. The chairperson, in his or her discretion, may allow the complainant(s) or victim(s) to make a brief statement. The Chairperson will determine how much time will be allowed for such statements.

11. Following the closing statements, the UHB will meet in closed session to deliberate. The UHB chairperson will be present to assist with any procedural questions but will not have a vote.
12. At least two of the three Hearing Board members must vote to find the respondent responsible for a violation of the Conduct Code. The Board may find the respondent responsible only if a preponderance of the evidence supports such a finding.
13. The Hearing Board will come out of closed session to announce, through the chairperson, its decision of whether the respondent is responsible for a violation. If the respondent is found not responsible, the hearing will be concluded. If the Hearing Board determines that the respondent is responsible for a violation, the OSC will then inform the Hearing Board of any prior disciplinary offenses by and sanctions imposed against the respondent. The OSC also may recommend a sanction to the Hearing Board. The Hearing Board will then return to closed session to discuss what sanction(s), if any, are appropriate in the pending matter. The Hearing Board may impose any one or more of the sanctions provided for in this document. The Hearing Board will come out of closed session to announce, through the chairperson, its decision on sanctions.
14. The OSC will ensure that a tape recording is made of all disciplinary hearings. The recording is the property of Cornell University and becomes part of the record of the disciplinary proceedings. Portions of the proceedings conducted in closed session will not be recorded.
15. The Hearing Board chairperson will assist the board in preparing a brief written statement of its decision, including findings to support the decisions on responsibility and sanctions, if any. The statement will be prepared promptly following the hearing and the chairperson will transmit the written decision as soon as possible after the hearing to the OSC and the respondent.
16. The OSC will forward the written decision to University officials who have a need to know of the outcome, and will notify such other persons as may be required by law. The OSC will take such steps as are necessary to ensure that the Hearing Board's decision is implemented.

XIII. REVIEW OF HEARING BOARD DECISIONS

- A. Right to review.** The respondent or the OSC may seek review of a University Hearing Board's finding(s) of responsibility and/or sanctions. Complainants do not have any right to request review of the UHB decision except as may be provided by applicable laws or regulations.
- B. Grounds for review.** Requests for review must be based on one or more of the following grounds:

1. A violation of procedure by the Hearing Board that might have prejudiced the outcome of the hearing.
2. Additional evidence that might have affected the outcome of the hearing became available following the hearing.
3. The sanction imposed does not reflect the gravity of the violation.

Reviews will be based solely on the record of the University Hearing Board and the written submissions and responses of the OSC and/or respondent (including, if appropriate, a showing of new evidence).

C. Reviewing body.

1. In any case in which the University Hearing Board has imposed a sanction of suspension or dismissal, the University Review Board will consider the request for review. Membership of the University Review Board will be constituted as defined in this document.
2. In any case except those in which the University Hearing Board has imposed a sanction of suspension or dismissal, the Conduct Review Officer will consider the request for review.

D. Review procedures.

1. Any request for review must be filed in writing with the OSC within 5 business days after the Hearing Board announces its decision on the record. The written request must state in detail the specific grounds on which it is based and must be sent to the OSC or to the respondent, as appropriate.
2. The OSC will forward the request for review promptly to the to the Conduct Review Officer or to the University Review Board chairperson, as appropriate. Along with the request for review, the OSC will also forward a copy of the charges against the respondent, a copy of the UHB decision, copies of any exhibits considered by the UHB, and information about how to access the tape recording of the UHB proceedings.
3. The OSC will schedule the hearing as soon as reasonably possible, provided that the parties must receive written notice of the date, time, and location of the hearing at least seven calendar days prior to the hearing.
4. The OSC and the respondent have 5 business days from the date of appeal to submit a written response to the request for review. The written response must be provided to the other party, and to the Conduct Review Officer or to the University Review Board chairperson, as appropriate.

5. In considering the appeal, the Conduct Review Officer or the University Review Board will give appropriate deference to the University Hearing Board. In all but the most unusual circumstances, it is expected that the Review Officer or Review Board will uphold the findings and recommendations of the Hearing Board. If the Review Officer or Review Board finds sufficient basis, it may:

- a. Reverse or modify the Hearing Board's finding(s) of responsibility.
- b. Reduce, modify, or nullify a sanction. While the Review Officer or the Review Board may increase any sanction(s) imposed by the Hearing Board, the Review Officer or Review Board should consider increasing the sanction, if it is the respondent seeking review, only in the exceptional case.
- c. Remand the matter for further proceedings before the same Hearing Board panel or, in the case of a procedural irregularity, before a new Hearing Board panel.
- d. Remand the matter for further investigation by the OSC.

The Conduct Review Officer or Review Board will promptly prepare a written decision and transmit it to the respondent and to the OSC.

6. Any sanctions previously imposed by the OSC and/or by the University Hearing Board may be deferred until the Conduct Review Officer or Review Board issues its written decision. The Conduct Review Officer or the University Review Board chairperson, in his or her sole discretion, may require that a particular sanction remain in effect pending the review.

XIV. RECORDS AND RELEASE OF DISCIPLINARY INFORMATION

A. Disciplinary records.

1. **Maintenance of Records.** The OSC will retain records of all complaints, disciplinary proceedings, sanctions, and hearing and review proceedings in accordance with the OSC's internal record management practices and the University's Retention of University Records Policy.
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. Nothing in this document shall be interpreted as preventing a student from seeking legal advice.
3. **Violation of Confidentiality.** Failure to observe the requirement of confidentiality of disciplinary proceedings 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. The University may disclose otherwise confidential information when required by law, when necessary to protect the safety or well being of the University community, or to preserve the integrity of proceedings under the Student Disciplinary System.

4. **Transcript notations.** Suspensions and dismissals – whether imposed by voluntary agreement or by action of a hearing or review board – shall result in a permanent transcript notation. Interim suspensions and judicial holds shall be indicated on a student's transcript while in effect.

B. Release of Information on Disciplinary Proceedings.

1. The OSC may share information with other University officials in furtherance of legitimate educational interests or as necessary to carry out sanctions imposed.
2. As required by law, in disciplinary matters involving allegations of sexual offenses, the complainant(s) will be informed of the outcome of disciplinary proceedings, including sanctions.

C. Reportability of Disciplinary Information.

1. Subject to applicable law and the University's policies on the confidentiality of student records and information, any disciplinary information may be reportable outside of Cornell University, subject to specific policies governing the reporting of sanctions adopted by the Office of Student Conduct.
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 by any decision-maker.

XV. ADDITIONAL PROVISIONS

A. Ad Hoc Proceedings. If a member or body of the Student Disciplinary System is not able to perform duties as set forth in this document, the Vice President for Student and Academic Services may designate an alternate person or process in place of the otherwise applicable provisions. Such circumstances, while anticipated to be rare, could include a conflict of interest, unavailability of individuals during exams or when classes

are not in session, or particularly complicated matters that might require special procedures.

B. Interim Suspension.

1. In extraordinary circumstances, when a student's or student organization's presence on campus is deemed to be a threat to order, health, safety, or the conduct of the University's educational mission, the Director of the OSC may impose an interim suspension pending the resolution of charges against the student or student organization. The Director of the OSC must make a reasonable attempt to meet with the student or student organization before taking such action.

2. A student or student organization suspended under this section may request that the Vice President for Student and Academic Services review the interim suspension and the basis for imposing it. Consistent with the standards set forth in the preceding paragraph, the Vice President may uphold, modify, rescind, or reinstate the interim suspension at any time.

3. During an interim suspension affecting a student, the student will not be allowed on the Cornell University campus, may not attend classes, and may not attend or participate in any activities or privileges for which the student might otherwise be eligible. During an interim suspension affecting a student organization, the student organization may not conduct any official business, including expenditure of any funds derived in any way from the University or any of its units. The Director of the OSC or the Vice President for Student and Academic Services may make exceptions to these prohibitions if appropriate; any such authorizations must be specific and communicated in writing to the student or student organization, and to appropriate University officials.

C. Authority of the Vice President for Student and Academic Services.

1. Notwithstanding any other provision of this document to the contrary (except in cases related to regulation of the public order), the Vice President for Student and Academic Services retains the right at all times to take necessary and appropriate action to protect the safety and well being of the campus community.

2. The Vice President for Student and Academic Services will decide any question of interpretation or application of the Conduct Code or the Student Disciplinary System.

3. Whenever the term "Vice President for Student and Academic Services" is used in this document, the term shall include a person designated by the Vice President to act on her or his behalf.

D. Ultimate authority of President in public order cases. Notwithstanding any other provision of this document or the Conduct Code to the contrary, the President (or designee) shall at all times retain ultimate authority over cases involving regulation of the public order.

E. Review and Amendment. The Vice President for Student and Academic Services shall ensure that this document is reviewed periodically to determine whether amendments are appropriate. This document may be amended pursuant to the procedures set forth in University Policy 4.1 (Formulation and Issuance of University Policies). During the course of periodic reviews and when considering any proposed amendments, the Vice President for Student and Academic Services and the University Policy Office will endeavor to seek appropriate community input.