



Agenda

Special Order:

Presenter

Suzanne Ashour-Bailey

Chair, Senate Student Conduct Committee

Preliminary Report and Discussion on Review of Code of Academic Integrity and Code of Student Conduct



Background

- The *Code of Student Conduct* has not been updated since 2018.
- The *Code of Academic Integrity* was updated in 2020 but has not been substantively changed since 2019.
- In October 2021, the Office of Student Conduct submitted a proposal to the Senate Office requesting that the *Codes* be reviewed.
 - Better alignment between the structures of the *Codes* and less legal terminology.
 - Clearer indication of potential sanctions.
 - Modify processes to allow for expeditious resolution of matters from early resolution through appeal.



Background

- In August 2021, the Senate Office received a proposal from a group of students that requested that the *Codes* be amended to include an “Other Exceptional Circumstances” provision.
- In Sanctioning, consider whether the cumulative impact of a sanction would be grossly disproportionate than would occur in normal contexts because of an individual’s exceptional circumstance.
 - Impact on visa status
 - Non-University housing insecurity
 - Loss of access to medical insurance



Committee's Work

In October 2021, the SEC charged the Student Conduct Committee with reviewing both proposals.

- Reviewed peer institution Codes:
 - Resolution processes
 - Descriptions of Sanctions
 - Provisions for considering “exceptional circumstances” and mitigating and aggravating factors during sanctioning.
- Consultations
 - Office of Student Conduct
 - Representatives of Student Group Proposers



Committee's Preliminary Guiding Principles

- The *Codes* should provide campus community members with awareness and guidance on student conduct expectations, processes for addressing violations, and potential consequences for violations.
- The educational objectives of the *Codes* should be enhanced.
- The processes for addressing violations of the *Codes* should be streamlined and handled in an expeditious manner to provide resolution so students may move forward and staffing resources may be committed to address other significant matters.
 - For minor misconduct, processes such as initial screenings should be available to allow early assessments and possible resolution of alleged violations.
 - Resolution options incorporating Restorative Justice practices should also be made available at the discretion of the Director of Student Conduct.



Committee's Preliminary Guiding Principles

- Sanctions for violations based on similar conduct under similar circumstances should be consistent whether addressed through Instructor intervention, initial assessment, informal resolution, or adjudication.
 - Instructors should provide clear guidance on
 - What constitutes academic misconduct in the course, and
 - What work is a major assignment subject to sanctions under the *Code of Academic Integrity*.
 - It is important for students to be aware of potential sanctions for violations but sanction options also should permit flexibility to be responsive to specific circumstances.



Committee's Preliminary Guiding Principles

- The processes for addressing alleged violations should ensure that Respondents are adequately informed of the charges they face with sufficient notice before they participate in an investigation and adjudication process.
- Equity in sanctions and undue hardship based on unique circumstances of a Respondent is an appropriate consideration as a ground for appeal based on disproportionate sanction.



Proposed Process Revisions

Code of Academic Integrity

- Permit Honor Reviews and Appeals only for cases where transcript notation is possible sanction, e.g., major assignment infractions.
- Honor Board *recommends* sanction to OSC instead of determining sanction.
- “XF” referenced as a *typical* sanction instead of Normal Sanction for high value assignments.
- Provide greater flexibility as to limiting factors of “XF.”
- No additional appellate grounds for Complainant (usually Instructor).



Proposed Process Revisions

Code of Student Conduct

- Add restorative practices as resolution options.
- Clarify notification provisions to Respondents when violations under consideration are amended.
- Allow consideration of “exceptional circumstances” during an appeal based upon disproportionate impact of sanctions.
- Vest dismissal approval with Dean of Students instead of VP Student Affairs.
- Provide greater flexibility as to limiting factors of Disciplinary Probation.



Next Steps

Additional Consultations:

- Representatives of Undergraduate and Graduate Student Legal Aid Offices
- Representatives of University Student Judiciary (USJ)
- Representatives of Academic Integrity Liaisons
- Representatives of Student Government Association and Graduate Student Government
- Representatives of the Office of Faculty Affairs and the Office of Undergraduate Studies

Report and Recommendations

- Reviewed by Office of General Counsel
- Senate Consideration – April 2023



**Review of the Student Codes of Conduct
(Senate Document #21-22-22)
Student Conduct Committee | Chair: Suzanne Ashour-Bailey**

The Senate Executive Committee (SEC) and Senate Chair Williams request that the Student Conduct Committee review issues associated with the University of Maryland Code of Academic Integrity (III-1.00[A]) and the University of Maryland Code of Student Conduct (V-1.00[B]) (“Codes”) raised by student leaders and the Office of Student Conduct.

The Student Conduct Committee should:

1. Review the University of Maryland Code of Academic Integrity ([III-1.00\[A\]](#)).
2. Review the University of Maryland Code of Student Conduct ([V-1.00\[B\]](#)).
3. Review the proposal entitled, “Proposal to Amend the Code of Academic Integrity and the Code of Student Conduct to Incorporate ‘Other Exceptional Circumstances’” ([Senate Document #21-22-17](#)).
4. Review the proposal entitled, “Proposal for Changes to the Codes of Student Conduct and Academic Integrity” ([Senate Document #21-22-18](#)).
5. Review student code policies at peer and other Big 10 institutions.
6. Consult with the proposer and student representatives involved in the development of the proposal on the “Other Exceptional Circumstances” provision.
7. Consult with the Director of the Office of Student Conduct.
8. Consult with representatives of the Office of Rights and Responsibilities.
9. Consult with representatives of the Undergraduate Student Legal Aid Office.
10. Consult with representatives of the Graduate Student Legal Aid Office.
11. Consult with representatives of the University Student Judiciary (USJ).
12. Consult with representatives of the Academic Integrity Liaisons.
13. Consult with representatives of the Student Government Association (SGA).
14. Consult with representatives of the Graduate Student Government (GSG).
15. Consider whether a new provision for “Other Exceptional Circumstances” is necessary and should be incorporated into both student Codes as suggested in the proposal associated with [Senate Document #21-22-17](#).
16. Consider whether alignment and consistency across the two student Codes is needed, and whether terminology in the Codes is accessible and understandable to student users.
17. Consider whether the hearing board procedures should be revised to: (a) expedite and streamline the overall process, (b) better describe the disciplinary meeting process, and (c) focus on the educative nature of the process as suggested in the proposal associated with [Senate Document #21-22-18](#).

18. Consider whether the appeals processes in the student *Codes* should include an initial assessment as suggested in the proposal associated with [Senate Document #21-22-18](#).
19. Consider whether the available sanctions in the student *Codes* should be modified as suggested in the proposal associated with [Senate Document #21-22-18](#).
20. Consider whether the approval authority for dismissal-level sanctions should be shifted from the Vice President for Student Affairs to the new Dean of Students role.
21. Consider whether revised or additional options for achieving a resolution should be available for specific types of cases.
22. Consider whether the Code of Academic Integrity should include a separate resolution option for minor incidents that focuses more on student learning and on clarifying academic integrity expectations for students.
23. Consider whether the definition of the “normal sanction” designation of the grade of “XF” in the Code of Academic Integrity should be refined to align with best practices in the field of student conduct.
24. Consider whether the Code of Academic Integrity should be revised to provide greater flexibility in applying the limiting factors of the “XF”.
25. Consult with a representative of the Office of General Counsel on any proposed revisions to the policies.
26. If appropriate, recommend whether the policies should be revised and submit recommended revisions.

We ask that you submit a report to the Senate Office no later than **March 4, 2022**. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, reka@umd.edu.



Proposal to Amend the Code of Academic Integrity and the Code of Student Conduct to Incorporate "Other Exceptional Circumstances"

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UNIT College of Behavioral and Social Sciences

CONSTITUENCY Undergraduate

on behalf of themselves and Emily Berry, Graduate Student, Sajeda Shaikh, Undergraduate Student, Jennifer Wang, Undergraduate Student, Zach Goldberg, Undergraduate Student, Kayleigh Hasson, Undergraduate Student, and Virginia Pierrie, Former Graduate Student

DESCRIPTION OF ISSUE

This proposal will seek to address gaps in the current approach to determining an appropriate sanction in the student adjudication process. While the existing process provides an extensive consideration of intangible factors, such as student learning, it does not provide the opportunity to consider tangible consequences, such as loss of student health insurance or student visa status.

The current language in the Code of Student Conduct regarding the factors considered when determining an appropriate sanction for misconduct is as follows:

8. When used in the context of this Code, the terms below mean the following:

- j) "Mitigating factors" may be considered in determining sanctions. Factors include, but are not limited to, the present demeanor and past disciplinary record of the Respondent and any steps the Respondent has taken to address their behavior.
k) "Aggravating factors" may be considered in determining sanctions. Factors include, but are not limited to, the present demeanor and past disciplinary record of the Respondent, as well as the nature of the offense and the severity of any resulting damage, injury, or harm.

The current language in the Code of Academic Integrity regarding the factors considered when determining an appropriate sanction for misconduct is as follows:

2. When used in the context of this Code, the terms below mean the following:

- g) "Mitigating factors" may be considered in determining sanctions. Factors may include, but are not limited to, the conditions under which the incident occurred, the present demeanor of the Respondent, whether the Respondent has acknowledged responsibility for the alleged misconduct, and any steps the Respondent has taken to address their behavior.
(h) "Aggravating factors" may be considered in determining sanctions. Factors may include, but are not limited to, the present demeanor and past disciplinary record of the Respondent, the

extent of dishonest or malicious intent, the degree of premeditation or planning, as well as the nature and importance of the academic exercise.

The current interpretation of the factors considered mitigating in the course of a potential misconduct adjudication are narrowly tailored and do not allow for the examination of potential secondary implications of a sanction for students at the University of Maryland.

The existing policy does not allow for the consideration of indirect consequences that will occur as a result of a sanction. While these indirect effects do not create additional consequences for the “normal” University of Maryland student, the impact can be severe for students with exceptional personal circumstances and goes against the University’s promise to “elevate the quality and accessibility of undergraduate education” and “expand the ethnic and economic diversity of [its] graduate students.”

In putting together this proposal, the writers have met with various stakeholders across campus (see “Stakeholder Meetings” section) to ensure a collaborative policy change, reviewed policies from peer institutions such as UNC Chapel Hill, discussed implementation strategies and the importance of training with the Office of Student Conduct, met with student governance groups to seek support and feedback, and examined the disproportional effects of current policy on certain student groups.

DESCRIPTION OF CHANGE YOU WOULD LIKE TO SEE

This amendment would not seek to amend or omit any of the existing language in the *Codes*. Rather, this amendment suggests the following addition:

h) “Other Exceptional Circumstances” may be considered in determining sanctions. An other exceptional circumstance is a circumstance which would reasonably cause the cumulative impact of a sanction to be grossly disproportionate to how the sanction would take effect in normal contexts. Other exceptional circumstances include but are not limited to deportation, sudden financial insolvency, complete loss of shelter, loss of access to critical medical care, and immediate physical harm. Additional exceptional circumstances that are unenumerated in this Code may be considered as deemed reasonable by University Judiciary Boards or staff members in the Office of Student Conduct.

If approved, this additional language would become Section 2, Part (h). As a result, the language regarding aggravating factors would become Section 2, Part (i); the definition of knowingly would become Section 2, Part (j).

SUGGESTION FOR HOW YOUR PROPOSAL WOULD BE PUT INTO PRACTICE

Incorporating this proposal into practice would not require substantial change, and could be quickly implemented:

- 1) Amend the language in the *Code of Academic Integrity* and the *Code of Student Conduct*
- 2) The Office of Student Conduct and Legal Aid Office incorporate this language into their training of USJ members, Student Advocates, and Community Advocates.
- 3) The Office of Student Conduct will internally define the word “reasonably,” in addition to the standard of evidence for this new provision.

While this proposal would likely have mainly positive outcomes, there are small potential negative consequences. Incorporating this new provision would make the process of disciplinary conferences, disciplinary conference boards, and honor reviews slightly more cumbersome, as a new step will be added. However, it will be the role of the presiding officer or OSC/R&R staff member to interpret whether an exceptional circumstance should be accepted, similarly to how mitigating and aggravating circumstances are accepted. In addition, the proposed language could be interpreted to incorporate certain circumstances but not others, and we invite the Senate to explore additional language options to reduce any confusion in this regard.

We expect no financial consequences from this policy change.

ADDITIONAL INFORMATION

EFFECT ON STUDENTS

The existing policy does not allow for the consideration of indirect consequences that will occur as a result of a sanction. While these indirect effects do not create additional consequences for the “normal” University of Maryland student, the impact can be severe for students with exceptional personal circumstances and goes against the University’s promise to “elevate the quality and accessibility of undergraduate education”¹ and “expand the ethnic and economic diversity of [its] graduate students.”²

While this proposal will highlight two example student groups, it is important to note that the implications of the current mitigating factors allowed to be considered during sanction can affect student groups beyond the two discussed at length here.

- 1. International students:** International student status is not considered when determining the most appropriate sanction for behavioral or academic misconduct. As a result, the sanction of suspension - for any period - can create permanent implications for a student’s visa status. The current, online learning environment has had even greater, immediate implications for international students. Suspension required these students to leave the country during a global pandemic. As the language currently reads, the Court cannot consider the requirement that students travel internationally - sometimes to countries with less-developed healthcare infrastructure - at any point during the deliberation regarding the most appropriate sanction. Despite the severe disparity in the implications of suspension for an international student when

¹ UMD Mission Statement

² UMD Mission Statement

compared to a domestic student, the current process does not allow for this to be considered. This gap in sanctioning has particularly severe implications for graduate students, as the current normal sanction for a violation of *The Code of Academic Integrity* is dismissal from the University.

Number of students impacted³

University of Maryland - College Park reports having a total of 5,173 international students on campus, making up about 12.6% of the student body. Over the last several years the total international population of students on campus has grown at an average rate of 6.0%. India is the largest contributor to this growth, with an estimated total of 1,265 students.

- 2. Student athletes:** Student athlete status - and, more importantly, the impact of no longer being considered NCAA eligible - is not considered under the current *Codes*. The current normal sanction for a violation of the *Code of Academic Integrity*, for example, can render a student athlete ineligible to play. This could result in the loss of the student's scholarship for the semester. If this semester overlaps with the playing season, the student's scholarship is compromised for the entire academic year. A sanction, which does not result in any removal from the University for a normal student, can easily translate to a 12-month loss in scholarship and - more importantly - a 12-month absence from learning for student athletes. This student group at the University of Maryland is grossly disproportionately affected by the current mitigating factors considered for sanctioning. The *Codes* do not currently allow for flexibility in terms of sanctioning guidelines or the consideration of a potential loss of scholarship.

Number of students impacted

University of Maryland - College park reports having a total of 707 student athletes: 398 men and 309 women. These athletes represent the university in 22 different sports.

As previously mentioned, this is not intended to provide an exhaustive list of students who may currently experience unintended consequences that are distinct - and more severe - than what happens as a result of a "normal" sanction to a "normal" student at the University of Maryland. They do, however, highlight the diversity of personal circumstances this proposal attempts to address as well as the large positive impact this amendment would have on the university community. This amendment aligns directly with the University's mission to "graduat[e] talented students from traditionally underrepresented groups; and provid[e] a supportive climate for their well-being."⁴

STAKEHOLDER MEETINGS

In preparation for the writing of this proposal and the proposed changes to the *Code*, the writers of this proposal have met with the following stakeholders to hear feedback and concerns:

³ Sourced from:

<https://www.collegefactual.com/colleges/university-of-maryland-college-park/paying-for-college/financial-aid/>

⁴ UMD Mission Statement

- Student Advocates, who represent students reported for academic or non-academic misconduct; Community Advocates, who represent professors who report students for academic misconduct; and University Student Judiciary Members, who serve on both academic and non-academic deciding boards (2 meetings)
 - Vice President of Student Affairs Patty Perillo and Dean of Students Andrea Goodwin
 - Interim Director of Student Conduct and Academic Conduct staff member James Bond
 - Non-Academic Conduct Staff in the Office of Student Conduct
 - Non-Academic Conduct Staff in the Office of Rights and Responsibilities
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STUDENT SUPPORT

Incorporating the consideration of “Exceptional Circumstances” into the student conduct sanctioning process has received support from both the Residence Hall Association (RHA), which represents on-campus students, and the Student Government Association (SGA), which represents all on-campus students.

On April 20, 2021, RHA voted unanimously to pass "*EHB003S: A Resolution Expressing Support for Incorporating the Consideration of “Exceptional Circumstances” into the Student Conduct Sanctioning Process*," that “encouraged the University Senate to explore a change in policy to incorporate the consideration of students’ “exceptional circumstances” into the sanctioning process.”

On April 28, 2021, SGA voted to pass "[S 21-04-28 D](#): *A Resolution Expressing Support for Incorporating the Consideration of “Exceptional Circumstances” into the Student Conduct Sanctioning Process*" that also encouraged the University Senate to explore a change in policy.

SUPPORTING UNIVERSITY POLICIES AND STATEMENTS

Non-discrimination Policy and Procedures, Part 2

This Policy applies to discrimination, harassment, or retaliation:

- on University premises, in any University facility, or on University property; and/or
- at any University sponsored, recognized, or approved program, visit, or activity, regardless of location; and
- that impedes equal access to any University education program or activity or that adversely impacts the education or employment of a member of the University community regardless of where the conduct occurred.

Non-discrimination Policy and Procedures, Part 3

“Discrimination” is unequal treatment based on a legally protected status that is sufficiently serious to unreasonably interfere with or limit an individual’s opportunity to participate in or benefit

from a University program or activity, or that otherwise adversely affects a term or condition of the individual's employment or education.

PEER UNIVERSITY: UNC CHAPEL HILL

The University of North Carolina at Chapel Hill provides a clear demonstration of successfully including the consideration of personal compelling circumstances when deliberating on an appropriate sanction. *The Instrument of Student Judicial Governance* contains the following language regarding guiding principles and factors considered when the Court determines the most appropriate sanction for each student found responsible for violating *The Instrument*.

Instrument of Student Judicial Governance, Section III. Sanctions

A. Guiding Principles. In keeping with the University's central mission, students who have violated the Honor Code should learn to take responsibility and learn from their mistakes. Student educational development should therefore play a central role in the development and imposition of sanctions pursuant to this Instrument. The imposition of sanctions should concern the shared interest of students, faculty, staff, and the greater University in academic integrity, maintenance of a safe and respectful environment conducive to learning, the protection of the University community, and protection of other University interests.

1. Relevant Factors. The Honor Court shall take into account the following factors in imposing sanctions:

- a. The gravity of the offense in question including, but not limited to: intent and deliberation involved in committing the offense; implications for other members of the campus community; and University interests impacted by the offense.
- b. The value of learning through experience so as to develop a greater sense of responsibility for one's actions and consequences to others, including, but not limited to: demonstrated sense of responsibility; demonstrated respect for the importance of academic and/or personal integrity; existence of plans to correct the offense and/or prevent future offenses; and any relevant recurring patterns of misconduct.
- c. The importance of equitable treatment for similar offenses including the minimum and usual sanctions and sanctioning guidelines established in Section III of this Instrument.
- d. Other compelling circumstances. In some cases, it is appropriate for the Honor Court to consider other factors that would render a sanction unduly punitive, including, but not limited to, extraordinary personal circumstances of the student; the educational goals of the University; and University interests in a student's participation in the campus community.***



Proposal for Changes to the Codes of Student Conduct and Academic Integrity

Table with 4 rows: NAME/TITLE (James Bond / Director, Office of Student Conduct), EMAIL (jebond@umd.edu), PHONE (301-314-8204), UNIT (OVPSA/OSC), CONSTITUENCY (Exempt Staff)

DESCRIPTION OF ISSUE

The Code of Student Conduct (CSC) and Code of Academic Integrity (CAI) are routinely reviewed and updated for administrative efficiencies, ease of understanding, and to stay current with best practices.

During the 2020-2021 academic year, the OSC worked through twice as many cases than the previous year pertaining to both Codes, while the Office of Rights and Responsibilities within Resident Life (R&R) likewise saw a dramatic increase in cases and behavioral issues in and around our residence halls and public private partnership properties.

Further, the Codes as written reflect an adversarial process and should do more to emphasize the educative nature of student disciplinary processes, as well to reinforce the OSC's mission to promote the health and safety of the campus community, while at the same time ensuring due process for all involved.

DESCRIPTION OF CHANGE YOU WOULD LIKE TO SEE

The Code of Student Conduct (V-1.00(B)) and the Code of Academic Integrity (III-1.00(A)) function as two processes out of the same office. The proposed changes to both policies are below:

- 1) Create tighter alignment between the two Codes as they relate to terminology, definitions, timing, and sanctioning processes.
2) Provide greater clarity as to what is expected of students as they participate in the conduct process (i.e., move away from legal terminology as our process is an administrative and educational one).
3) Update the hearing board procedures in a manner that expedites the process, makes it more accessible to all students, and centers student learning.

- i) The appeal process should include an initial review to determine if an appeal should be heard based on the grounds outlined in the Codes.
- 4) Modify the listed sanctions and update the factors considered when determining the most appropriate sanctions (e.g. mitigating and aggravating circumstances), to align with best practices.
 - a) Terminology like “demeanor” should be removed as that is subjective to interpretation.
 - b) The Disciplinary Probation sanction should be adjusted to give the case manager the ability to include restricting factors they deem appropriate.
- 5) Shift dismissal-level sanction (suspension and expulsion) review and approval to the Dean of Students.
- 6) Adjust resolution options for different types of cases.
 - a) Provide students with additional resolution options, like the ability to resolve their cases with smaller boards. This would expedite the scheduling of most disciplinary meetings, while at the same time putting students more at ease.
 - b) These boards should have staff members participate to ensure proper and consistent interpretation and administration of policies.
 - c) Cases resulting in transcript notations (e.g. suspension, expulsion, or “XF”) should be subject to appeal.
 - d) Resolution options for organizations should be included.

Changes specific to the Code of Academic Integrity:

- 1) Create a resolution option for minor incidents to quickly and appropriately address incidents in consultation with the affected faculty and students without instituting a full hearing process, in order to center student learning and clarify academic integrity expectations for students.
- 2) Refine the definition of the “normal sanction” designation of the grade of “XF” to align with best practices.
 - a) Major assignments for a course should warrant an “XF”, but other assignments typically should not.
 - b) The CAI should provide more clarity as to what types of violations would warrant what types of penalties.
- 3) Provide for greater flexibility to the limiting factors of the “XF”. The language should be adjusted to give the case manager the ability to include the restricting factors they deem appropriate.
- 4) Add sanction options to the CAI to provide educational outcomes for incidents when a student is not currently enrolled in a course. The sanction list should be expanded to include disciplinary sanctions to be used when appropriate.

SUGGESTION FOR HOW YOUR PROPOSAL WOULD BE PUT INTO PRACTICE

Upon charging the Student Conduct Committee with this proposal, the committee would work with knowledgeable campus partners to make the changes, including:

- OSC Staff
- Undergraduate Student Legal Aid Office
- Graduate Student Legal Aid Office
- The University Student Judiciary
- The Student Government Association
- Academic Integrity Liaisons (a volunteer group of faculty and staff)
- The Department of Resident Life (Office of Rights & Responsibilities)

New versions of the CSC and CAI would be presented to the Senate for discussion and approval, approved by the President, and then given to OSC for implementation. OSC would work with campus partners, departments, and colleges to educate the community about the changes made and how they will affect operations.

ADDITIONAL INFORMATION