

University Committee on Rights and Responsibilities: Fact-finding Procedures and University-wide Approach to Discipline¹

The following Procedures apply to cases that involve possible violations of the University-wide Statement on Rights and Responsibilities (USRR) (including related interpretations and guidance) or the Campus Use Rules (together, Covered Policies), and that relate to instances involving students from two or more Faculties or instances in which students from one Faculty are alleged to have interfered with the performance of normal duties and activities within another Faculty or a unit of the University. In such cases, the President² may, at their discretion or if an affected School or unit of the University so requests, convene a Faculty Panel (FP) of the University Committee on Rights and Responsibilities (UCRR) to conduct an investigation, find facts, and determine and issue appropriate discipline, if any (other than dismissal or expulsion), as part of the UCRR's authority to coordinate fact-finding and ensure consistency in discipline in such cases.³

In implementing this authority, the President may convene an FP drawn from a pool of faculty members to be nominated annually by each Dean of a Faculty for service on the UCRR. The President shall designate one member of the FP to serve as chair (FP Chair).⁴ The FP ordinarily will include at least three members and be comprised of one member from each of the involved Faculties and at least one member who is not from one of the involved Faculties.⁵ The FP may, where appropriate, consult with the student disciplinary bodies, Deans of Students, or other relevant personnel of the relevant Faculties.

The President will provide the FP with a written summary of the allegations, including the names and Faculties of the student(s) involved (the Respondent(s)), and any relevant evidence submitted by the School or unit or obtained regarding the allegations. The FP will proceed in accordance with these Procedures but may make appropriate adjustments as needed for the circumstances of a particular matter:

1. *Initial Review.* The FP Chair⁶ will conduct an initial review to determine whether the allegations, if true, would violate the Covered Policies and thus merit formal investigation. Initial review may involve efforts by the FP to gather a more complete understanding of the allegations. Allegations may be dismissed without further process or appeal if:

¹ These Procedures do not constitute a contract, guarantee a particular process, or create new rights, legal or otherwise. These Procedures will be subject to review after two full academic years.

² Any reference within these Procedures to an action by the President permits such action to be taken by the President's designee.

³ When a case has been initiated under these Procedures, the President may refer the matter to the appropriate University official(s) to make a determination, in consultation with the Dean(s) of Students of a Respondent's School(s), about any issues posing a significant risk to safety or to the educational environment of the community and, if such issues arise, an appropriate response, which may include, for example, placing such student on an involuntary leave of absence. The process used for making an involuntary leave determination should follow that of the relevant School(s).

⁴ The Secretary for Compliance of the Office for Community Support, Non-Discrimination, Rights and Responsibilities (Secretary) will support the University's administration and implementation of these Procedures.

⁵ In cases involving allegations against a single student who is enrolled in a joint or concurrent degree program across more than one Faculty, a member of each Faculty shall be added to the FP.

⁶ Any reference within these Procedures to an action by the FP Chair permits such action to be taken by the FP Chair's designee if the FP Chair is unavailable. The FP Chair's designee must be a member of the FP.

- a) on their face they are insufficient, implausible, or fail to state a violation under the Covered Policies, or fall outside the scope of the Covered Policies;
- b) if the issues raised have been finally resolved in another forum or through another process;⁷ or
- c) specific circumstances, such as where an investigation would not be feasible due to the passage of time since the alleged conduct occurred, prevent the FP from gathering evidence sufficient to reach a determination as to the issues raised or allegations therein.

Allegations that do not state a claim under, or are outside the scope of, the Covered Policies but may violate other University or School policies may be forwarded by the FP Chair to the appropriate group or process.

- 2. *Personal Advisor.* Respondent(s) may bring with them one personal advisor to any meeting or other proceeding that is part of these Procedures. A personal advisor must be a member of the faculty or administrative staff of the School in which the Respondent is enrolled but cannot represent Respondent(s) as their legal counsel. A personal advisor may consult with their advisee but may not speak for them. When a Respondent is a member of a collective bargaining unit, the personal advisor may be a union representative.
- 3. *Confidentiality.* All participants, including Respondent(s), personal advisors, and witnesses, will be notified of the expectation that they keep information about the case – including any documents they receive – confidential. Respondent(s) remain free to share their own experiences, other than information that they have learned solely through these Procedures and any related processes.

Any information obtained from or learned through participation in these Procedures and any related processes must remain confidential; disclosure of such information without permission from the FP is prohibited and may subject a student to disciplinary action. This provision does not limit a student's ability to seek support from a licensed mental health provider.

- 4. *Notice and Written Statement.* For any allegations that are not dismissed, the FP Chair will provide written notice to the Respondent(s) of the allegations that have been referred to and taken up by the UCRR, the Covered Policies at issue, these Procedures, and the composition of the FP.⁸ Respondent(s) will be permitted access to review the relevant evidence collected thus far, if any. Respondent(s) will have five business days to submit an individual written statement in response to the allegations, if Respondent(s) wishes to do so.⁹ The statement is an opportunity for Respondent(s) to tell their story, describing the

⁷ If the issues raised are pending in another forum or process, the FP may stay the matter under these Procedures until such time that the issues are finally resolved.

⁸ If, in the course of these proceedings, the President refers further allegations or the FP identifies additional allegations not included in the written notice to the Respondent(s) described herein, the FP Chair will provide notice of the additional allegations to Respondent(s) and will offer them an opportunity to submit an additional written response.

⁹ Respondent(s) may raise in their individual written statement any concerns about potential conflicts of interests relating to the FP.

context in which their account of the event(s) occurred, share any reflections they have on it, provide any evidence they have or are aware of that would support their account, and identify any potential witnesses who would have information relevant to the allegations at issue. General character witnesses are not permitted. Respondent(s) are encouraged to keep in mind the following while writing the statement:

- a) Each Respondent, should they choose to submit a written statement, must write their own; a Respondent may not submit statements written by others.
 - b) Respondent(s) may wish to obtain legal advice about how this process could affect any legal case in which they are or may become involved. When the allegations, if true, might constitute criminal conduct, Respondent(s) are advised to seek legal counsel before making any written or oral statements.
 - c) Respondent(s) should be aware that any information they may submit that is relevant to allegations subject to these Procedures, or any other policy or expectation, involving other Respondent(s) may be shared by the FP with the other Respondent(s), or in other processes, as appropriate.
5. *Referral Decision.* Following receipt of the Respondent's written statement, if any, the FP will review all of the relevant information collected; seek additional information as it deems appropriate, including but not limited to, from Respondent(s), witnesses, and other sources; and determine:
- a) Whether there is insufficient information for the FP to determine that a violation of the Covered Policies occurred. In those cases, the matter may be dismissed by letter from the FP Chair without further process or appeal. The FP may also refer the matter to the student disciplinary bodies of the Faculties in which the Respondent(s) are enrolled for processing under other University or School policies, as appropriate;
 - b) Whether there is sufficient information for the FP to determine that a violation of the Covered Policies occurred. In those cases, the matter may be referred to hearing as described in paragraph 7; or
 - c) Whether additional fact finding is needed. In those cases, the matter may be referred to the Office for Dispute Resolution (ODR) for investigation as described in paragraph 6.
6. *Investigation.* If a matter is referred for investigation, ODR will assign an internal or external investigator (Investigator) who will conduct individual interviews and/or request written statements from the Respondent(s) and other individuals with relevant knowledge, as appropriate; review relevant documents; and undertake any other action they deem appropriate to understand the relevant facts. At the conclusion of the investigation, the Investigator will provide the Respondent(s) each with an Investigative Report, along with access to review the relevant evidence collected. The Investigative Report will include a summary of the relevant evidence collected and preliminary findings of fact, based on a preponderance of the evidence. The Investigative Report will be referred to the FP for a hearing as described in Paragraph 7.
7. *Hearing.* Prior to the hearing, the FP and Respondent(s) will be provided with access to review the relevant evidence collected and the Investigative Report, if any. Similarly, Respondent(s) are expected to provide to the FP any additional evidence they intend to present on their behalf within a reasonable time—ordinarily no less than two business days—before the hearing.

The FP will conduct a separate hearing for each Respondent. The FP shall determine the conduct of the hearing, including without limitation rules of decorum and reasonable time limitations for the hearing. Formal rules of evidence will not apply.

Respondent(s) will have the opportunity to appear before the FP to give a verbal statement, which may include a response to the Investigative Report, if any. The FP may ask questions of the Respondent(s) as it deems appropriate.

In general, documents that have not been submitted in advance of the hearing may not be presented to the FP at the hearing, although the FP may make an exception if the documents contain new information that was not reasonably available prior to the hearing. The FP may determine what further process (including, e.g., asking further questions of Respondent(s) or witnesses) may be necessary to make a fair and accurate determination under the Covered Policies.

8. *FP Determination.* Following the hearing, the FP will make a determination by majority vote of whether the Respondent(s) violated the Covered Policies and then provide to Respondent(s) the written determination(s) under the Covered Policies, based on a preponderance of the evidence. The FP, after consultation with the student disciplinary bodies, Deans of Students, or other relevant personnel within each Respondent's School, will also determine appropriate discipline for the Respondent(s). The FP may impose any form of discipline available to the student disciplinary body of the School where each Respondent is enrolled, excluding dismissal or expulsion. To the extent that the FP determines that dismissal or expulsion is appropriate, the FP may issue a non-binding recommendation to the applicable student disciplinary body for transmission to the relevant Faculty or Faculties.
9. *Appeal.* Disagreement with the determination is not, in and of itself, a ground for appeal. Within five business days of the issuance of the FP's determination, any Respondent may submit a signed, written appeal of no more than 1,250 words to the FP Chair on either of the following grounds:
 - a) There is new evidence that was not reasonably available at the time the determination was made and that would have a material impact on the outcome of the determination; or
 - b) On the record as a whole, no reasonable FP could have reached the same determination.

All appeals will be decided based on the written record and each Respondent's submission.

If the appeal is timely and compliant with these Procedures, then the President will appoint an Appeals Panel consisting of three members of the UCRR who were not members of the FP.¹⁰ Following review of the written submission and record, the Appeals Panel will prepare a written statement of outcome.

¹⁰ The President shall, each year, designate six faculty members from the UCRR to serve as a pool from which the Appeals Panel may be drawn.

If the Respondent does not appeal or the Appeals Panel affirms, the decision of the FP becomes final. If the Appeals Panel reverses, it may remand the matter to the FP for further action in accordance with the Appeals Panel's written instructions.

10. *Timeframes*. The FP, the FP Chair, the Investigator, the Appeals Panel, and others involved in administering these Procedures may specify reasonable timeframes to enable the timely completion of a proceeding and may grant limited reasonable extensions for good cause.