

## **Special Committee to Review the Discipline System**

### **Final Report - October 5, 2005 Revised following Faculty Meeting of October 19, 2005**

Dean Larry Benedict  
Mr. Ian Brelinsky  
Mr. Mark DiVincenzo  
Professor Lorna Gibson (Chair)  
Professor Steve Graves  
Professor Margery Resnick  
Professor Derek Rowell  
Professor Merritt Roe Smith  
Mr. Eric Wade

### **Introduction**

The Special Committee to Review the Discipline System was charged by Professor Phillip Clay, Chancellor, and Professor Rafael Bras, Chair of the MIT Faculty, as follows:

1. The committee will assess the Committee on Discipline (COD) and the Office of the Dean for Student Life procedures and processes and identify places where changes are needed to make them consistent, transparent and fair.
2. The assessment in item #1 above will include how cases are assigned, responsibilities for DSL staff and for the COD, standards for investigations, counseling of students involved in cases, procedures for hearings and panels, appeal processes and other matters the committee believes to be important for the mission of the system. Should the committee feel changes are necessary, recommendations should be formulated.
3. The committee will set standards and outline procedures for cases subject to special training, investigation procedures or legal requirements.
4. The committee will recommend changes in the Rules and Regulations of the Faculty and in Policies and Procedures necessary to implement their recommendations.

The main recommendations of this Committee are:

- 1) There should be a single pathway for cases of alleged misconduct that are filed with the Office of Student Conflict Resolution and Discipline (OSCRD).
- 2) COD decisions should be final.
- 3) Appeals of COD sanctions should be made to the Chancellor.
- 4) Dean's Panels should be replaced by COD Panels.

- 5) New members of the COD should attend an orientation session led by the Chair of the COD, MIT Senior Counsel's Office and by the staff of the Office of Student Conflict Resolution and Discipline (OSCRD).

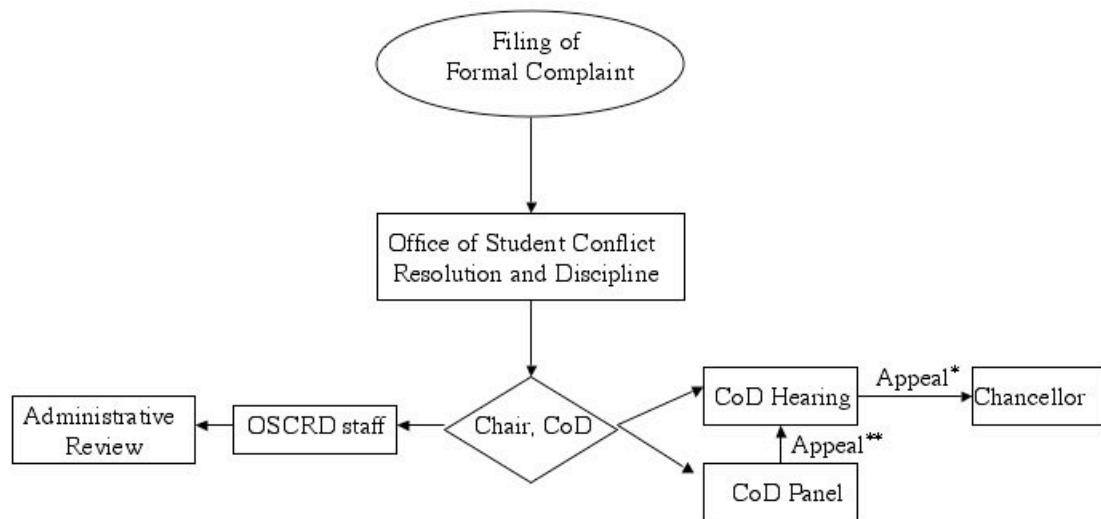
## A Single Pathway for the Disciplinary Process

There should be a single pathway for cases of alleged misconduct that are filed with OSCRD. Advice on whether or not to bring a formal complaint can be sought from multiple sources (e.g. the Ombuds Office, former chairs of COD and Department Heads; the Chair of COD and the staff of OSCRD can also suggest others that an individual might consult). Formal complaints are filed through the OSCRD. The OSCRD is responsible for administration of cases and staffing the COD. The COD is a hearing body that determines culpability and imposes sanctions for misconduct. The COD also has oversight over all written and web descriptions of the COD disciplinary process.

Existing COD rules provide that complainants and respondents may obtain assistance in preparing or defending their cases. MIT's disciplinary process should make available to complainants and respondents who ask for them advisors with an expanded role. Potential advisors would be drawn from faculty or experienced members of the senior staff in the offices of the Deans for Student Life, for Undergraduate Education and for Graduate Students suitable for that expanded role. The advisors would be independent of the COD and the OSCRD. Although such advisors would be available for either complainants or respondents, they are particularly needed for complainants who are unable or unwilling to investigate and present their cases in an organized and complete manner. Having an expanded resource for such complainants should eliminate the pressure now felt by staff of the OSCRD and even members of the COD to assist complainants who prove incapable of presenting their cases well, which can conflict with their primary roles as members of the OSCRD and COD.

The COD may hear cases either as a full COD Hearing or a smaller COD Panel. Complaints of alleged misconduct that may lead to suspension or expulsion are heard by a COD Hearing, as described in the COD Rules and Regulations. A majority of the membership of the COD is required for a COD Hearing. Cases of alleged misconduct that do not require the attention of a COD Hearing are to be heard by a COD Panel, consisting of the Associate Chair of the COD (or in his or her absence another faculty member from the COD, chosen by the Chair of the COD), another faculty member from the COD, two student members from the COD, and a specified Dean (for Student Life or Undergraduate Education or Graduate Students, depending on the subject matter of the complaint) or his or her representative. The Associate Chair of the COD or, in his or her absence, another faculty member from the COD, chairs the COD Panel. Minor cases in which the student admits culpability may go to an Administrative Review, handled by the staff of OSCRD and one student member from the COD. If there is a disagreement between the staff of OSCRD and the student member of the Administrative Review about an appropriate sanction for a particular case, the case should be referred to a COD Panel for a *de novo* review.

The Chair of the COD has jurisdiction over deciding the appropriate body for hearing particular cases (COD Hearing, COD Panel or Administrative Review). The Chair of the COD signs sanction letters on behalf of the COD to the student. Any sanction letter notifying a student of a decision of suspension or expulsion is copied to the Chancellor, to whom appeals are to be made.



\*CoD Hearing decisions final except in the cases of suspension or expulsion which can be appealed to the Chancellor

\*\* CoD Panel decisions can be appealed to a CoD Hearing

**Figure 1 The single pathway for formal cases of alleged misconduct filed with the OSCRD.**

Current membership of the COD includes, *ex officiis*, the Dean for Undergraduate Education and the Dean for Student Life, or their representatives. This should be expanded to also include the Dean for Graduate Students or his or her representative.

## **Confidentiality**

Proceedings within COD Hearings and COD Panels are confidential and should not be discussed even by attendees outside of that COD Hearing or COD Panel. Confidential information includes what is said at the COD Hearing and by whom, what the charges, findings and sanctions are and the names of the complainants and respondents. The professional staff of the OSCRD can discuss cases amongst themselves in order to administer the office. Any COD Hearing or COD Panel information, including notice that a complaint has been filed against a student, or decision can be communicated to Institute officials who have a legitimate educational interest on a need-to-know basis in order to fulfill their professional responsibilities, in consultation with the Chair of the COD to the extent possible, consistent with FERPA and MIT's privacy policies (e.g. to Housemaster, student's Advisor, victim, the appropriate Dean). Statistical information, such as the number of hearings in a year, the number and types of students (e.g. undergraduate or graduate) involved, the nature of the sanctions are reported to the Faculty by the Chair of COD each year.

## **Appeals on COD decisions**

A COD Hearing decision can be appealed only in the cases of

- (i) suspension of a student
- (ii) expulsion of a student
- (iii) revocation of a degree

In all other cases, the COD Hearing decision is final, with no appeal. Appeals are made to the Chancellor on the following grounds: substantial departures from COD rules that affect the fairness of the process; a material finding that is substantially against the weight of the evidence that was before the COD; or the severity of the sanction (i.e. the sanction substantially exceeds the range of sanctions appropriate in the situation) only.

A COD Panel decision can be appealed to a COD Hearing, which would receive the facts of the case, presented by the complainant and the respondent or their advisors, only on the basis of substantial departures from COD rules that affect the fairness of the process; a material finding that is substantially against the weight of the evidence that was before the COD; or the severity of the sanction (i.e. the sanction substantially exceeds the range of sanctions appropriate in the situation). The Chair of the COD decides whether or not an appeal will be heard by a COD Hearing.

All appeals must be made within 10 Institute working days of the original COD Hearing or COD Panel decision.

If new evidence becomes available that substantially contradicts the evidence that the COD Hearing or a COD Panel relied on in making its original decision, it can form the basis of a petition to the COD to reopen a case, although the length

of time between the original decision and the petition may be a factor in denying the petition. New evidence is not the basis for an appeal to the Chancellor.

## **Minor Infractions within Dorms and FSILGs**

Individual dorms may have different disciplinary processes (e.g. JudComm, house government or Housemaster, or some combination of these options) which should be defined and should be consistent with the following principles:

- 1) Local, less serious matters should be handled locally wherever possible.
- 2) Each dormitory may have a different process but the process it has must be consistently applied.
- 3) The staff of OSCRD should work with students and Housemasters to write brief guidelines for the process in the dormitory and establish a limit on what sanctions are available for these dormitory processes.
- 4) Appeals may be made within the dorm discipline system. Different dorms may have different processes. The staff of OSCRD should work with each dorm's student government and Housemaster to establish an appeal process. For those dorms that have a JudComm, appeals go to the DormCom JudComm, with a proscribed appeal process.
- 5) The staff of OSCRD should work with dorms in training of students for dormitory judicial process; training should be streamlined to 3-4 hours.
- 6) If a student refuses a sanction, then the case would be referred to OSCRD by the Housemaster for further handling including possible COD involvement.
- 7) The Housemaster must be informed by the student(s) overseeing the internal dormitory disciplinary process in a reasonably prompt manner of any dormitory-based problems that could result in disciplinary action against students.
- 8) Sanctions for similar offenses should be similar in different dorms; this should be monitored by the staff in the OSCRD.
- 9) Any decision for a severe sanction at the dorm level (e.g. withdrawal of housing privileges) should be discussed with OSCRD and / or the COD prior to the sanctions being issued.
- 10) The Housemaster (or designate) should bring any cases that are not able to be resolved by a decision within the dorm and the appeal system to the OSCRD. The Chair of the COD will decide the appropriate body to hear them.

- 11) In the graduate dorms, matters which can be regarded as clear violations of the license agreement, such as smoking, will be handled by the Housemasters and the Graduate Housing Office, rather than OSCRD. In some cases, these violations may result in the loss of housing by the resident.

IFC JudComm is the current fraternity discipline process for fraternity houses. It applies to the houses as organizations and does not apply to individual students. Once a complaint is filed, the Chair of IFC JudComm meets with staff of OSCRD to determine if sufficient evidence exists to open an investigation. An organization has 8 Institute working days to respond to investigation. The Chair of IFC JudComm meets with the staff of OSCRD to determine if a violation warrants a hearing. If so, the IFC JudComm holds hearing. The staff of OSCRD acts as the procedural officer. Cases are heard by 5 fraternity members: 1 member of the panel is the Secretary of the IFC JudComm and sits at every hearing. There is a pool of about 20 members trained to sit at hearings. The Chair of JudComm attends as a procedural officer but does not vote. Possible actions are: 3-6 month warning; 6-12 month probation; 12 month suspension; expulsion (over 4 years, loss of MIT recognition). A fraternity may appeal an IFC JudComm decision. The Appellate Board is 3 fraternity members unrelated to the original case. The appeal decision is final. This system is working well and should continue as is. Complaints against individual students go through the single pathway described above (Fig. 1). Cases involving serious personal misconduct do not go to the IFC JudComm and are handled by the COD.

For sororities, complaints are handled through the OSCRD/COD single pathway. Complaints that cannot be resolved within Independent Living Groups go through the single pathway (Fig. 1).

### **Office of Student Conflict Resolution and Discipline Responsibilities**

The Office of Student Conflict Resolution and Discipline is responsible for:

- serving as staff to the COD
  - meeting with the Chair of the COD weekly to discuss intake of cases and appropriate body for hearing new cases
  - scheduling COD Hearings and Panels
  - attending COD Hearings and COD Panels as a non-voting administrator
  - updating and maintaining the database of the COD Hearing and Panel cases and decisions
  - drafting sanction letters from the Chair of the COD
  - ensuring that any new documentation describing the discipline system is fully vetted and approved through the COD

- managing the process for each case:
  - intake
  - mediation
  - development of dorm disciplinary processes, in conjunction with students within each dorm
- general responsibilities:
  - education of students on discipline policies
  - maintenance of records
  - ensuring consistency in process
  - training of students adjudicating discipline cases within the dorm/FSILG system
  - maintaining a presence in the office to meet with students, complainants, respondents
  - fact-gathering
  - arranging meetings
  - secretarial administrative duties

The annual evaluation of the staff within the OSCRD is by the Dean for Student Life with input from Chair of the COD. If the Dean for Undergraduate Education and/or the Dean for Graduate Students have had interactions with the staff of OSCRD, then they should have input to the evaluation also.

## **COD Hearing Processes**

The Committee on Discipline Rules and Regulations “Specific Procedures for Holding a Hearing” currently reads as follows:

“To permit an orderly sequence at the hearing, the Committee adheres to the following steps:

1. Opening statement by complainant
2. Opening statement by accused student
3. Testimony by complainant and his/her witnesses
4. Questioning of complainant and his/her witnesses by accused student
5. Testimony by accused student and his/her witnesses
6. Questioning of the accused and his/her witnesses by complainant
7. Committee members may ask questions of any party at any time

After all the testimony and statements have been completed and all questions asked, the hearing is concluded and the Committee meets in executive session to reach its decision. The Committee shall decide either to dismiss the complaint or to impose sanctions in accordance with Section V below.”

This section should be amended as follows, with procedures to be worked out with the Chair of the COD.

The hearing will generally follow the order described below:

1. Introductions of the COD members present.
2. Chair describes the hearing procedures to the parties.
3. The charges are read and the Chair may ask the respondent to either admit or deny responsibility.
4. Opening Statements.
5. Complainant's testimony.
6. The Respondent and the COD have the opportunity to question the Complainant.
7. Complainant's witnesses' testimony
8. The Respondent and the COD have the opportunity to question the witnesses
9. Respondent's testimony
10. Same as above as to Respondent, his or her witnesses
11. COD may call brief recesses at any time.
12. Chair may call witnesses to aid the COD.
13. Conclusion by Chair as to when decision will be made.

During opening statements by the complainant and the accused student (#1 and 2), no questions are allowed. During testimony (#5 and 9) questions are allowed for clarification purposes only. At the conclusion of testimony by each party or witness, members of COD may ask questions of any party or witness. #7 should be deleted.

New members to the COD should attend an orientation session led by the Chair of the COD, MIT's Senior Counsel's Office and the staff of OSCRD. The Chair of COD should assist new members in learning their role in the process, how to evaluate cases and their responsibilities as a member of the COD. MIT's Senior Counsel's Office should review relevant MIT policies (for example, on sexual harassment, computer use, privacy of student information), legal issues (for example, federal laws such as the Family Educational Rights and Privacy Act (FERPA), medical privacy laws such as the Health Insurance Portability and Accountability Act of 1996 (HIPAA), rules of procedure, standards of proof, responsibilities to students and relevant case law. The staff of OSCRD should give an overview of the functions, processes and responsibilities of the OSCRD in the disciplinary system.

## **Documentation**

The discipline system at MIT is described in a number of documents which will need to be revised to be consistent with the recommendations of this committee that are adopted by the Faculty and the Administration. We propose that the Senior Counsel's Office develop consistent written materials for Rules and Regulations of the Faculty, COD Rules and Regulations and MIT Policies and Procedures. The proposed changes to Rules and Regulations of the Faculty should be discussed at the Faculty Policy Committee and voted on at a Faculty Meeting in the Fall Term. The proposed changes to MIT Policies and Procedures should be discussed at Academic Council for possible adoption by the Institute.

We propose that the OSCRD develop consistent written materials for the Student Life Handbook, Student Code of Rights and Responsibilities and for dormitory judicial processing, including JudComm guidelines within the dorms that wish to use them. The Student Code of Rights and Responsibilities should identify standards of behavior, as well as a summary of the process, and the range of available sanctions . All materials developed by the OSCRD should be reviewed by the Senior Counsel's Office and approved by the COD before being distributed to students. Information on the discipline system on websites has to be consistent with these materials.

Updates of written documentation and any web-based information are to be monitored by staff of OSCRD and reviewed and approved by the Chair of the COD. No information regarding disciplinary procedures will be published without prior review and approval by the Chair of the COD.