

BILL TO ENSURE PROPER INTERPRETATION AND ENFORCEMENT OF THE OCS CHARTER

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ACTION REQUESTED: Majority approval by the Graduate Student Council

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FINAL STATUS: **Approved 12-0**

WHEREAS, the Office of Community Standards (OCS) has historically failed to uphold its own policies and adhere to its governing Charter^{1,2,3,4};

WHEREAS, the OCS Charter has previously been reviewed in light of historical failures of the charter;

WHEREAS, the protection of due process rights for Responding Students is essential;

WHEREAS, fair and transparent interpretation of the Charter and policies is necessary to maintain trust in the disciplinary process;

WHEREAS, the Charter specifies an Investigatory period where evidence is gathered and witnesses are interviewed to be before formal charges are filed:

***Section IV - B.1** The Responding Student meets with the Conduct Investigator assigned to the concern.*

***Section IV - B.2** The Conduct Investigator gathers relevant evidence, including meeting with all relevant individuals with knowledge of the concern.*

***Section IV - B.5** After conducting a thorough Investigation, the Conduct Investigator may either:*

- 1. refer the concern to another appropriate office;*
- 2. file formal charges against the Responding Student; or*

¹ <https://stanforddaily.com/2013/05/13/case-study-finds-flawed-slanted-university-judicial-process/>

² <https://stanforddaily.com/2013/10/18/misconduct-alleged-in-honor-code-trials/>

³ https://stanfordreview.org/content/images/small_testimonials.pdf

⁴ <https://stanfordreview.org/content/images/Judicial-Affairs-Case-Study.pdf>

3. *take no further action, only if the charging standard is not met, the allegations could not constitute a violation, and/or the matter is not within the jurisdiction of this Charter.*

WHEREAS, the Charter specifies that charges should be filed only when the applicable standard of proof is met:

Section IV - B.6 *The Conduct Investigator files charges only if they conclude that a fair-minded panelist could find the Responding Student responsible for the alleged violation(s) by the applicable standard of proof.*

WHEREAS, the Charter permits charges to be filed or evidence to be gathered outside the six-month deadline only in specific cases:

Section IV - B.6.1 *If filing a charge, the Conduct Investigator must do so within six months of the alleged misconduct or when it should reasonably have been discovered, unless the alleged misconduct involves a hate crime or physical assault, in which case a charge must be filed within 24 months of that time.*

Section IV - B.6.3 *If compelling new evidence becomes available after these time limits elapse, charges may be filed within the applicable time limit from the availability of that evidence.*

WHEREAS, the Charter allows submission of any relevant evidence that are directly authored by the Responding Student or any witness who is willing to be cross-examined:

Section IV - C.6 *Presentation of evidence, including testimony and questioning of Parties and witnesses, will be conducted in a courteous manner without intimidation or harassment.*

1. *Only relevant evidence will be permitted.*
2. *Evidence provided by a witness unwilling or unable to be cross-examined will be disregarded unless otherwise provided by the Bylaws.*

WHEREAS, the Charter states that no sanctions are imposed when a Hearing Panel finds the Responding Student NOT responsible for any violation:

Section IV - C.7 *Following the presentation of evidence and cross-examination, the Hearing Panel meets in closed session to rule on the charges. The Panel may either:*

1. *Find the Responding Student responsible for the alleged violation; or*
2. *Find that a violation was not proven by the applicable standard of proof; or*
3. *Find that the allegations could not constitute a violation; grounds for such a finding include that charges were filed after the applicable time limit, or that the matter is outside the jurisdiction of the Charter.*

***Section IV - C.8** If the Panel finds the Responding Student responsible for a violation, the Parties and Conduct Investigator may provide additional information relevant to sanctions. The Hearing Panel then determines sanctions consistent with the Student Conduct Penalty Code. If the violation is an Honor Code violation, the instructor(s) for the affected course(s) may make an appropriate grade adjustment.*

WHEREAS, the Charter provides that Dean of Students has no purview to review sanctions when no sanctions are imposed:

***Section IV - C.8.1** The Dean of Students reviews the imposed sanction for general conformance with precedent and the Student Conduct Penalty Code, and within one week may request its reconsideration.*

WHEREAS, presuming the accuracy of allegations without independent corroboration undermines the fairness of the process and violates the Responding Student's right to be presumed not responsible until proven otherwise, as outlined in the Charter:

***Section V - B.1** Responding Student has the following additional rights: To be presumed not responsible for an alleged violation until accepting responsibility or being found responsible.*

WHEREAS, the Charter grants the right of confidentiality to the Responding Student, not the Reporting Party or OCS staff:

***Section V - B.2** A To be assured that their identity and the circumstances of the concern will be kept confidential, except as specified in the Bylaws or required by law.*

WHEREAS, the Charter requires the OCS to provide full access to all evidence used in charging and sanctioning decisions:

***Section V - B.4** To have access to all evidence considered by OCS when making a charging decision and, when applicable, determining responsibility and/or sanctions.*

WHEREAS, the Charter entitles the Responding Student to at least 30 days to prepare for a Hearing Panel, which should include access to all opposing evidence and witness statements:

***Section V - B.5** To be allowed at least thirty (30) days to prepare for a Hearing Panel.*

WHEREAS, the Charter requires first consulting the availability of the Responding Student before scheduling a Hearing:

***Section V - B.6** To appear before a Hearing Panel reviewing charges against them. The Hearing Panel shall be scheduled and arranged to allow a reasonable opportunity to participate.*

WHEREAS, the Charter affords the Responding Student the right to an audio recording of their Hearing:

Section V - B.9 To be given, upon request, an audio recording of their Hearing Panel, excluding Panel deliberations, for the purpose of filing an appeal.

WHEREAS, the Fundamental Standard inherently requires consideration of factors such as intent, knowledge, and good faith:

Students at Stanford are expected to show both within and without the University such respect for order, morality, personal honor and the rights of others as is demanded of good citizens. Failure to do this will be sufficient cause for removal from the University.

WHEREAS, it is important for the Responding Student to maintain materials related to their own case for future reference;

WHEREAS, access to witnesses and adequate support is essential for the Responding Student to mount a fair and thorough defense;

WHEREAS, due process requires specific charges with clear information on the allegations against the Responding Student;

WHEREAS, national Weingarten rights allow the participation of Union representatives when a graduate worker's employment status is threatened;

WHEREAS, it is important for the OCS to accurately reflect the content of Hearings in its records;

WHEREAS, vague or ambiguous allegations may be used—intentionally or unintentionally—to pressure Responding Students into prematurely accepting responsibility without full understanding of the claims against them;

WHEREAS, requesting acceptance of responsibility for a potential conduct violation before any investigation is inherently coercive and disfavors accused students, because students:

- may be made to believe that they will face a harsher punishment if they do not accept responsibility at an early stage,
- would retain a right to contest their charges at a later point in time, and
- if there is no difference in punishment before or after the investigation, then no student would be harmed by waiting to accept responsibility until an investigation has been concluded;

WHEREAS, transparency about the proceedings of past cases is essential for maintaining a fair process;

WHEREAS, the OCS has historically published aggregate statistics about the outcome of its cases;⁵

WHEREAS, High Level Review, which includes sanctions up to and including expulsion, creates undue stress on students; and

WHEREAS, the Graduate Student Council has received reports that the actions within OCS are not matching the expectations set out in the charter.

THEREFORE, BE IT ENACTED BY THE GRADUATE STUDENT COUNCIL:

THAT the Board of Conduct Affairs include the following clauses in the Office of Community Standards Charter and its bylaws:⁶

- Clear and explicit charges, along with the currently available evidence and proposed sanctions, must be provided before the Responding Student is permitted to accept responsibility for a violation,
- The Responding Student shall retain the right to waive confidentiality and disclose information about their own case at their discretion without fear of retaliation,
- The Reporting Party and the OCS staff involved in the case do not have a right to confidentiality,
- The Conduct Counselor must be trained to provide advice beyond recommending the Responding Student to accept responsibility,
- Allegations involving violations of the Fundamental Standard must explicitly cite the specific provision(s) of the Fundamental Standard that were allegedly violated,
- Allegations must be brought to the OCS within 30 days of the alleged violation,
- Investigation of the alleged conduct must conclude within 3 months of the alleged violation occurring, unless compelling new evidence is discovered more than 3 but at most 12 months after the alleged violation occurred,
- Compelling new evidence is evidence that could not have been reasonably discovered during the three-month original investigation period,
- Formal charges for policy violations must provide the exact provision (including subsection and paragraph) quoted in the formal charge, along with a clear rationale and evidence explaining how the provision was violated,
- All evidence from the Investigation must be submitted at least 30 days prior to the Hearing, ensuring that the Responding Student has sufficient time to prepare an adequate defense,
- Any witness statements and evidence presented by the Investigator or Reporting Party must also be submitted at least 30 days prior to the Hearing,
- The Responding Student's right to reach out to existing witnesses or involve additional witnesses is affirmed by the OCS in writing,

⁵ <https://communitystandards.stanford.edu/resources/additional-resources>

⁶ <https://communitystandards.stanford.edu/policies-guidance/bylaws-charter>

- The Responding Student is permitted more than one support person for High-Level Review,
- The Responding Student may designate one support person to be permitted to speak on their behalf in any high-level review meeting,
- The Responding Student is permitted to exercise their Weingarten rights, if they are a graduate worker, in any high-level review meeting or when their employment status is otherwise threatened,
- The OCS must provide the Responding Student the Finding, Vote, and Rationale of the Panel in writing within 48 hours of the Hearing Panel,
- The Hearing script concluding section must be revised to explicitly outline the distinctions in the sections between a “responsible” and “NOT responsible” finding, ensuring clarity for all participants,
- If the Responding Student’s due process rights as outlined are found to have been violated at any stage, they shall have the right to file an appeal to dismiss the charges,
- Any sanction and option for alternative resolution (e.g., when the Responding Student accepts responsibility) offered by OCS must be structured to accommodate a student’s religious or moral beliefs and physical and mental disabilities, without changing the nature of the sanction where possible,
- The aggregate statistics regarding the number of cases filed and the outcome of each case (including the severity of any sanctions), broken down by academic year, must be publicly available on the website of the OCS no later than seven months after the end of each academic year. These statistics shall include all aspects of the cases reported in previous years.

THAT these provisions shall be codified within the OCS Bylaws, ensuring enforceability and preventing future misinterpretations.

THAT the OCS make a presentation to the GSC articulating the changes that the OCS is making to the bylaws and articulate a specific reason why any of the modifications will not be made.