



# THE JOHN MARSHALL LAW SCHOOL

## Student Disciplinary Proceedings Policy

### Application of Rules

- a. These Rules are intended to provide a procedure to receive, investigate, and decide charges alleging violation of the Student Code of Conduct. Any time limits under these Rules may be waived or extended by the Dean or chair of the Discipline Committee. These rules shall not apply to conduct that is prohibited by the Student Protection from Discrimination and Harassment Policy. All such conduct shall be handled under that policy.
- b. These Rules apply to all students and former students, if the charge against them relates to their conduct while they were students of the law school. The law school administration retains the right consistent with these Rules to initiate or continue an investigation, notwithstanding a change from student to non-student status, and to take appropriate action including deferring, revising, or revoking grades or matriculation and amending a student file to reflect disciplinary action.
- c. These Rules apply to conduct occurring on and off campus, so long as any off-campus conduct complained of has a substantial impact on the law school or a member of the law school community.
- d. The Dean, or if the matter is pending before it, the chair of the Discipline Committee, shall have the authority to stay an investigation or proceeding under these Rules due to the pendency of external proceedings related to the same subject matter; provided, however, that it is usually in the interests of the law school community not to delay proceedings alleging violation of the Student Code of Conduct; provided, further, that the law school shall not be bound by the results or determinations made by any other entity or forum. The law school may also refer a matter to other appropriate authorities, including, but not limited to, a criminal justice agency or an attorney disciplinary committee and, in such a case, may decide not to proceed or to stay an investigation or other proceeding under these Rules.
- e. All persons involved in this process have the right to be represented by counsel or other representative at all stages of this procedure; provided, however, that no person employed full time by the law school or any adjunct

faculty member may act as a student's representative. The law school shall have no responsibility to pay the legal fees of any student or former student.

- f. These Rules shall not apply to conduct that is prohibited by the policy on Student Protection from Discrimination and Harassment. All such conduct shall be handled under that policy.

### **Initiation of Discipline Proceeding**

- a. Any member of the faculty, administration, staff, or student body may initiate a discipline proceeding (hereinafter referred to as the "Complainant") against a student or former student (hereinafter referred to as the "Respondent") by filing a charge with the Vice Dean for Academic Affairs. A charge may be filed by more than one Complainant.
- b. The charge shall be filed within 180 days after the Complainant knows or should have known about the conduct complained of. The charge shall identify the Complainant, the Respondent and state in plain language and with reasonable particularity the date, place, and act complained of, and if possible, identify the standard of conduct which had been violated.
- c. Within 20 days after a charge is filed, the Vice Dean for Academic Affairs should inform the Respondent of the charge against him/her by providing a copy of the charge to his/her last known address, or, if appropriate to protect the confidentiality of the Complainant or third persons, a summary of the charge allegations.

### **Investigation and Resolution by the Vice Dean for Academic Affairs**

- a. The Vice Dean for Academic Affairs may attempt, in the exercise of his/her discretion, to investigate and resolve the charge before referring it to the Discipline Committee for formal investigation. If the Vice Dean for Academic Affairs resolves the charge at this stage, the matter shall be concluded subject to the provisions in this paragraph. If not resolved, the Vice Dean for Academic Affairs shall refer the charge to the Discipline Committee no later than 60 days after the charge is filed. The Vice Dean for Academic Affairs shall inform the chair of the Discipline Committee of any charge intended to be resolved at this stage of the process and seek his/her counsel before entering into a final resolution. Any student or former student who the Vice Dean for Academic Affairs believes should be suspended, expelled, or subject to revocation of a degree has the right to have the charge referred to the Discipline Committee for investigation and subsequent proceedings in accordance with these Rules.

- b. The Vice Dean for Academic Affairs, after consultation with the chair of the Discipline Committee, shall have the discretion and authority to take any interim actions/he believes is in the best interest of the law school or any member of the law school community after a charge is filed and before it is finally resolved. Such interim action may include, but is not limited to, removing the Respondent or other student from a particular class or from the school.

### **Referral to the Discipline Committee for Investigation and Reasonable Cause Determination**

- a. There shall be a Student Discipline Committee comprised of nine members: six from the full-time faculty and three students in good standing. The Student Discipline Committee shall elect a faculty member as the chair. The three student-members shall be selected by the Student Bar Association president-elect for one-year terms. The six faculty members shall be appointed by the faculty's Executive Committee for two-year terms.
- b. When a charge is referred from the Vice Dean for Academic Affairs to the Discipline Committee, the chair of the Discipline Committee shall appoint one faculty member to the committee (which may include the chair) as the "Investigator" who, along with the Vice Dean for Academic Affairs, shall have responsibility to investigate the charge allegations. Their investigation may, but is not required, to include interviews with the Complainant, Respondent, and other witnesses and to review documents, including any investigation previously conducted. The Complainant and Respondent have a duty to fully cooperate in the investigation of the charge.
- c. The Investigator and Vice Dean for Academic Affairs should attempt to complete their investigation within reasonable time, but in no event more than 120 days. After they complete their investigation, the Investigator and Vice Dean for Academic Affairs shall make a written determination whether there is reasonable cause to believe a rule violation or other misconduct has occurred and shall send their determination to the Vice Dean for Academic Affairs and chair of the Discipline Committee. There shall be no reasonable cause determination made without first providing the Respondent an opportunity to respond in writing or orally to the charge allegations. If it is determined there is not reasonable cause, the matter shall be terminated. If reasonable cause is found, the chair of the Discipline Committee shall convene a Hearing Panel.

- d. The Respondent should be informed in writing within 20 days after a reasonable cause determination is made.

### **Referral for Hearing**

- a. If reasonable cause is found, the chair of the Discipline Committee shall select by lot two faculty members (which may include the chair) and one student member from the Discipline Committee to constitute a Hearing Panel (HP); provided, however, that the Investigator who conducted the reasonable cause investigation shall be excluded from consideration. The Hearing Panel shall select one of the faculty members to chair the Hearing Panel. Any member of the Discipline Committee who may be a witness shall be excluded from consideration for the Hearing Panel and shall not participate in any decisions made by the Hearing Panel. The chair of the Discipline Committee has the discretion to appoint interim members to the Discipline Committee in the event members are excluded under this Paragraph.
- b. Within 10 days after the Respondent is informed of a finding of reasonable cause, she/he shall respond in writing to the Hearing Panel by admitting, denying, or otherwise responding to each factual matter charged. The chair of the HP may extend the time for such response.
- c. The chair of the HP shall set a date for hearing within a reasonable time and issuance of the reasonable cause determination; provided, further, that the hearing date may be extended by the chair in his/her discretion for good cause shown.
- d. Either the Vice Dean for Academic Affairs or Investigator shall be responsible for presenting the facts and evidence in support of the charge to the Hearing Panel (hereinafter referred to as the "Presenter").
- e. Pre-hearing discovery shall be limited to the following. Upon request to the chair of the Hearing Panel, the Respondent shall be given all evidence which support the reasonable cause determination and any evidence which will be offered at the hearing to support the charge, except for evidence protected by attorney-client privilege or otherwise prohibited from disclosure by law. Upon request by the Presenter to the Respondent, the Respondent shall provide to the Presenter all evidence which support any denial of the charge allegations and any evidence which the Respondent will offer at the hearing in his/her defense, except for evidence protected by attorney-client privilege or otherwise prohibited from disclosure by law. The chair of the HP may place restrictions on the use and disclosure of any evidence as a condition to the

production of such evidence to protect the confidentiality or privacy interests of the law school or members of the law school community, or for other bona fide reason. Unless the chair of the HP sets a different date, the production of information required under this Paragraph should occur no later than 10 days after the request for production is made or five days prior to hearing, whichever comes first. The Hearing Panel may draw an adverse reference from the failure to produce any evidence required under this Paragraph.

- f. The Investigator, Presenter, or Vice Dean for Academic Affairs shall have the authority at any time to Final Decision to discuss the Respondent a stipulated disposition of the charge. Any stipulated disposition after a charge is referred to the Discipline Committee but before a reasonable cause determination is made must be approved by the Dean and the chair of the Discipline Committee after consultation as appropriate with the Vice Dean for Academic Affairs, Investigator and/or Presenter. Any stipulated disposition after reasonable cause is found and prior to a Final Decision under these rules must be approved by the Dean and a majority vote of the Discipline Committee members, excluding members sitting on the Hearing Panel who shall now participate in any consideration of a stipulated disposition. If a stipulated disposition is approved as provided in this Paragraph, the matter shall be concluded. If a stipulated disposition is not approved, the matter shall proceed in accordance with these Rules.

### **Hearing and Recommended Decision**

- a. The hearing shall be conducted in such manner as to provide a full and true disclosure of the facts and do substantial justice. The rules of evidence shall not apply at hearing and the Hearing Panel may consider written and oral statements and documents which may be hearsay. The chair of the Hearing Panel has the discretion and authority to decide all procedural issues that may arise in connection with the hearing process.
- b. The hearing shall not be open to third persons.
- c. The Respondent, Presenter, and Hearing Panel members or their attorneys, or representatives may question witnesses and offer other evidence during the hearing. No person may be compelled to present evidence at hearing; provided, however, that an adverse inference may be drawn by the failure of the Respondent to speak on his/her own behalf at hearing. The chair of the Hearing Panel has discretion to limit the number of witnesses and questions. The chair may allow opening and closing statements and such other

presentation of evidence or argument that she/he believes would be useful to the Hearing Panel.

- d. Hearings shall be recorded on tape or by stenographer, and shall remain the property of the law school and shall be made available to the Respondent for review or copying, subject to any restrictions the chair of the Hearing Panel may impose to protect the confidentiality or privacy interests of the law school or members of the law school community, or for other bona fide reason. The transcript shall not be made available to third persons except as required by legal process.
- e. After the presentation of evidence, the Hearing Panel shall decide by majority vote whether the charge allegations have been proven by clear and convincing evidence, shall issue a Recommended Decision and shall send the decision to the Respondent, Presenter, Vice Dean for Academic Affairs, and Dean. The Hearing Panel should attempt to issue its decision within 30 days after the hearing concludes.
- f. If the Hearing Panel finds against the Respondent, it may, but is not required to, recommend a sanction. The recommended sanction shall be included in the Hearing Panel's Recommended Decision. The Hearing Panel may seek the input of any relevant faculty member, student, or administrator before recommending a sanction which may include, but is not limited to:
  - i. Written Warning or Censure
  - ii. Disciplinary Probation: Exclusion from participation in school privileges or extracurricular activities for a specified period of time
  - iii. Change in grade: Entry of a reduced or failing grade in a course.
  - iv. Restitution: Financial reimbursement for damage or misappropriation of property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damage.
  - v. Suspension: Exclusion from classes and other privileges or activities for a specified period of time.

- vi. Expulsion: Termination of the student's status of an indefinite period of time. The conditions for readmission, if readmission is contemplated, shall be stated in the order of expulsion.
- g. A Recommended Decision by the Hearing Panel in favor of the Respondent shall terminate the proceeding and constitute a Final Decision.

### **Review by Dean and Final Decision**

- a. A Recommended Decision by the Hearing Panel against the Respondent shall be reviewed in all cases by the Dean. The Respondent shall have seven days after receipt of the Recommended Decision to state his/her position in writing to the Dean concerning the decision. Failure by the Respondent to object to the Recommended Decision may be construed by the Dean as Respondent's agreement with Recommended Decision. The Dean may review the entire record presented to the Hearing Panel as part of his/her review.
- b. The Dean shall make a non-reviewable Final Decision, giving appropriate deference to the factual findings of the Hearing Panel; provided, however, the Dean has the authority to reject or revise the Recommended and/or sanctions of the Hearing Panel, and, if necessary, to remand the matter to the Hearing Panel to consider additional evidence or to cure a material procedural error. If the Hearing Panel has not recommended a sanction, the Dean shall make that decision. The Dean may seek the input of any relevant faculty member, student, or administrator before deciding a sanction. The Dean shall issue a Final Decision within a reasonable time and receipt of the Recommended Decision of the Hearing Panel.
- c. The Dean shall send his/her Final Decision in writing to the Respondent, Discipline Committee, Vice Dean for Academic Affairs and, as appropriate, any other member of the law school community who has a legitimate interest in knowing the Final Decision.

### **Effect and Disclosure of Disciplinary Decision**

- a. The Dean or Vice Dean for Academic Affairs may publish a written summary of the charge and Final Decision to faculty, students, and/or administrators. In such event the names of the Complainant and Respondent shall not be disclosed.
- b. The law school reserves the right to:

- i. make full disclosure about disciplinary charges and findings to administrators, trustees, faculty, staff, and students (including all Disciplinary Committee Members) who need to know to process any disciplinary charge and disposition
  - ii. advise all or select administrators, trustees, faculty members, students, and media of the charges, process, and disposition of a disciplinary matter without disclosing the name of the Respondent
  - iii. make full disclosure in the context of any litigation involving or relating to a disciplinary matter
  - iv. make full disclosure in response to legal process.
- c. Any charge, resolution, stipulated disposition, Final Decision and sanction shall be placed and retained in a student's official law school file. Any suspension from attending school, expulsion or revocation of a degree for disciplinary reasons shall be recorded on a student's transcript. Further, the law school will respond truthfully to questions or other inquiries from other law schools, educational institutions, courts, bar admission committees, employers or other parties who have a legitimate interest in learning about any disciplinary charges, findings, and sanctions involving a student or former student and, in that respect, will respond truthfully to questions about allegations of dishonesty, character, or disciplinary proceedings brought against a student or former student.