



Georgia Institute of Technology

Office of the President

MEMORANDUM

December 23, 2015

To: John Stein, Vice President for Student Life and Dean of Students
Pat McKenna, Vice President for Legal Affairs

From: G. P. "Bud" Peterson
President

A handwritten signature in black ink, appearing to read "G. P. Peterson", with a stylized flourish at the end.

Re: Georgia Tech Student Conduct Process

This past October, I formed a working group with the charge of reviewing the Institute's process for investigating and resolving alleged violations of the Institute's Student Code of Conduct. I have since received and reviewed the report of the working group, a copy of which is attached. I am asking that the two of you work to address the following in light of the findings of the group.

Definition and Refinement of Process. An overarching observation of the working group report was a lack of clarity in a small percentage of cases (less than 5%). In their report, they recommended that several of the processes and procedures be refined and clarified. This should be addressed by defining, and refining as necessary, processes to include forms or templates designed to aid in transparency, provide consistent documentation, and assist in appellate review. In addition, this should encompass all aspects of the proceedings, including the suggested forms necessary for the formalization of the recommendations as described in Section V of the report of the working group.

While not addressed in the working group report, I am also asking you to consider whether there should be a clearer differentiation between student and student organization conduct, and if there should be a mechanism for consultation with, and involvement by, the Office of Legal Affairs in some aspects of the process.

Case Investigation. The pre-charge review process should result in a determination as to whether the allegations of the complaint, if true, would be sufficient to constitute a violation of the Student Code of Conduct. The working group noted that problems may arise if the pre-charge review involves going beyond that threshold determination to a factual investigation. In the latter instance the working group suggested that evidence submitted by all parties should be considered.

The applicable provision of the Student Code of Conduct states:

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After OSI receives a complaint, the conduct administrator will review the information to decide what, if any process to initiate. The Student Conduct Administrator will:
initiate conduct proceedings by sending the Student a notice;
resolve the situation through an informal resolution process including, but not limited to, mediation or a meeting between the Accused and a Student Conduct Administrator or a third party; or determine that the facts of the complaint or report, even if true, would not constitute a violation of policy.

Refinements to the student conduct process should include clarification that the pre-charge review (i.e., that prior to initiation of a conduct proceeding) is limited to a determination whether or not the facts of the complaint or report, if true, would constitute a violation of policy, or whether the situation can be resolved through an informal resolution process. The conduct administrator may speak with the complainant to better understand the allegations, but does not make a factual investigation in the pre-charge review.

For cases where conduct proceedings are initiated, the working group found that the Institute's policies work well where the facts are undisputed (over 95% of the cases) but identified a need for further clarification with respect to the small minority of cases (less than 5%) that present material disputes of fact. Please consider and provide me with your recommendation whether cases with disputed facts should be addressed separately, through direct referral to a student conduct panel, investigation by an administrator other than the Student Conduct Administrator, or some other means.

Aggregation of Unrelated Cases. The report of the working group observes that the Institute's policies do not address the appropriateness of aggregating unrelated cases as a part of a single student conduct panel hearing. Please consider and provide me with your recommendation to address these principles:

As a general rule, each complaint to OSI should be resolved on its own merits.

The resolution of any prior complaint will be reflected in the disciplinary history of the accused and may be taken into account in imposing sanctions for subsequent violations.

Charges involving similar conduct by the same accused may be aggregated under appropriate circumstances, which may include consent of the parties and the administrative burden of considering them separately; and

Testimony regarding similar conduct may be pertinent to issues raised in another case involving the same accused.

Appellate Rights. A concern of the working group is that a suspension in abeyance is automatically converted into a suspension by a finding of responsibility in any subsequent charge, thereby creating the opportunity for suspension to be imposed without any appeal to the President.



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No student or student organization should be suspended or expelled without the ability to appeal to the President of the Institute. Please consider and provide me with your recommendation to address the concern of the working group. Alternatives may include:

- Providing for an immediate appeal to the President from the sanction of Suspension in Abeyance;
- Confirming that the appeal of a subsequent violation resulting in suspension will include the right to appeal the violation that led to Suspension in Abeyance;
- Reviewing and eliminating the sanction of Suspension in Abeyance, leaving Disciplinary Probation, Suspension and Expulsion as the only alternatives.

Challenges to Hearing Officer Bias. The working group found that there is no mechanism by which an accused student can challenge the bias of a hearing officer. However, the Student Code of Conduct currently provides that appeals will be considered for four reasons, including:

To determine whether the original hearing was conducted fairly and in conformity with prescribed procedures;

In further refining the process as requested above, it should be made clear that an allegation of bias on the part of the hearing officer bears on the question whether the hearing was conducted fairly and should be considered on appeal.

Please also consider and provide me with your recommendation whether there should be an additional process under which an accused can request recusal of a hearing officer or any Institute official involved in a subsequent appeal.

Finally, we should ensure that all individuals involved in the student conduct process, as an investigator, hearing officer, or appellate officer, are suitably trained and that the training emphasizes the importance of avoiding any appearance of bias during the process.

Thank you for your attention to this important matter. Please be prepared to discuss your recommendations to me no later than **January 15, 2016**, so that we can propose any needed changes in the Student Code of Conduct to the Student Regulations Committee in a timely manner.

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