



UNIVERSITY OF  
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UNIVERSITY SENATE

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March 5, 2013

Dr. Martha Nell Smith  
Chair, University Senate  
3238 Tawes Hall  
College Park, MD 20742-8878

Dear Dr. Smith:

I am writing on behalf of the Senate Student Conduct Committee (SCC) in regard to our charge for the "Review of the Evidentiary Standards in the *Code of Student Conduct*" (Senate Doc #12-13-30). The SCC was charged by the Senate Executive Committee (SEC) with this review in November 2012, following the committee's request to be charged as a result of the passage of Senate Doc #11-12-10 "Updates to Procedural Requirements Pertaining to Sexual Harassment and Sexual Violence" last December. The deadline for our charge is March 29, 2013. I am writing to respectfully request an extension for the committee's review of this complex topic.

As you know, one of the approved recommendations of the "Updates to Procedural Requirements Pertaining to Sexual Harassment and Sexual Violence" was a wish from the committee to be charged with revisiting the *Code of Student Conduct* regarding the changes made to comply with the directives in the Department of Education Office of Civil Rights' (OCR) "Dear Colleague Letter" of April 2011. In order to bring the University into compliance with the directives outlined in the OCR letter, the SCC had recommended revising the burden of proof requirements in the *Code* to include "preponderance of the evidence" (e.g., it is more likely than not that the sexual harassment or violence occurred) instead of "clear and convincing" (e.g., it is highly probably or reasonably certain that the sexual harassment or violence occurred) as the evidentiary standard in proceedings for complaints of sexual harassment and violence only. In making this change, however, the *Code* now has two different standards of evidence, depending on the type of case, which is uncommon for an institution of higher education.

Because of other pressing charges, including the "Expansion of Promoting Responsible Action in Medical Emergencies" and the "*Code of Student Conduct* Expansion of Jurisdiction," the SCC has not been able to conduct a thorough review of the evidentiary standards in the *Code* this year. The committee would like more time to explore whether the current situation is in the best interest of the Office of Student Conduct and the University.

We respectfully request an extension until December 13, 2013. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Speck".


Jason Speck  
Chair, University Senate Student Conduct Committee

Enclosure(s): Charge from SEC, November 16, 2012

Cc: Reka Montfort, Director, University Senate  
Andrea Goodwin, Director, Office of Student Conduct



## University Senate CHARGE

<b>Date:</b>	November 16, 2012
<b>To:</b>	Jason Speck Chair, Student Conduct Committee
<b>From:</b>	Martha Nell Smith  Chair, University Senate
<b>Subject:</b>	Review of the Evidentiary Standards in the Code of Student Conduct
<b>Senate Document #:</b>	12-13-30
<b>Deadline:</b>	March 29, 2013

The Senate Executive Committee (SEC) requests that the Student Conduct Committee reexamine the evidentiary standards in order to guarantee consistency throughout the University of Maryland Code of Student Conduct (V-1.00(B)). The Senate and President Loh approved the committee's recommendation (Senate Doc. No. 11-12-10 - Approved December 2011) to amend the Code to comply with the directives in the Department of Education's Office of Civil Rights' (OCR) "Dear Colleague Letter." This recommendation revised the burden of proof requirements to include "preponderance of the evidence" as the evidentiary standard in proceedings for complaints of sexual harassment. However, this change has created two different standards of evidence depending on the type of case. Therefore, the SEC requests that the Student Conduct Committee consider whether this differentiation within the Code is in the best interest of the University.

Specifically, we ask that you:

1. Review the University of Maryland Code of Student Conduct V-1.00(B).
2. Consult with a representative from the University's Office of Student Conduct.
3. Consult with the Senate Student Affairs Committee regarding the potential impact that any changes to the code would have on students at the University.
4. Review the standards of evidence in codes of student conduct at our peer institutions.
5. Consult with the University's Office of Legal Affairs.
6. If appropriate, recommend whether the University of Maryland Code of Student Conduct V-1.00(B) should be revised to make the standard of evidence for all cases consistent.

We ask that you submit your report and recommendations to the Senate Office no later than March 29, 2013. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.