



Proposal to Amend the Code of Academic Integrity and the Code of Student Conduct to Incorporate “Other Exceptional Circumstances”

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DESCRIPTION OF ISSUE

This proposal will seek to address gaps in the current approach to determining an appropriate sanction in the student adjudication process. While the existing process provides an extensive consideration of intangible factors, such as student learning, it does not provide the opportunity to consider tangible consequences, such as loss of student health insurance or student visa status.

The current language in the *Code of Student Conduct* regarding the factors considered when determining an appropriate sanction for misconduct is as follows:

8. When used in the context of this Code, the terms below mean the following:

- j) “Mitigating factors” may be considered in determining sanctions. Factors include, but are not limited to, the present demeanor and past disciplinary record of the Respondent and any steps the Respondent has taken to address their behavior.*
- k) “Aggravating factors” may be considered in determining sanctions. Factors include, but are not limited to, the present demeanor and past disciplinary record of the Respondent, as well as the nature of the offense and the severity of any resulting damage, injury, or harm.*

The current language in the *Code of Academic Integrity* regarding the factors considered when determining an appropriate sanction for misconduct is as follows:

2. When used in the context of this Code, the terms below mean the following:

- g) “Mitigating factors” may be considered in determining sanctions. Factors may include, but are not limited to, the conditions under which the incident occurred, the present demeanor of the Respondent, whether the Respondent has acknowledged responsibility for the alleged misconduct, and any steps the Respondent has taken to address their behavior.*
- (h) “Aggravating factors” may be considered in determining sanctions. Factors may include, but are not limited to, the present demeanor and past disciplinary record of the Respondent, the*

extent of dishonest or malicious intent, the degree of premeditation or planning, as well as the nature and importance of the academic exercise.

The current interpretation of the factors considered mitigating in the course of a potential misconduct adjudication are narrowly tailored and do not allow for the examination of potential secondary implications of a sanction for students at the University of Maryland.

The existing policy does not allow for the consideration of indirect consequences that will occur as a result of a sanction. While these indirect effects do not create additional consequences for the “normal” University of Maryland student, the impact can be severe for students with exceptional personal circumstances and goes against the University’s promise to “elevate the quality and accessibility of undergraduate education” and “expand the ethnic and economic diversity of [its] graduate students.”

In putting together this proposal, the writers have met with various stakeholders across campus (see “Stakeholder Meetings” section) to ensure a collaborative policy change, reviewed policies from peer institutions such as UNC Chapel Hill, discussed implementation strategies and the importance of training with the Office of Student Conduct, met with student governance groups to seek support and feedback, and examined the disproportional effects of current policy on certain student groups.

DESCRIPTION OF CHANGE YOU WOULD LIKE TO SEE

This amendment would not seek to amend or omit any of the existing language in the *Codes*. Rather, this amendment suggests the following addition:

h) “Other Exceptional Circumstances” may be considered in determining sanctions. An other exceptional circumstance is a circumstance which would reasonably cause the cumulative impact of a sanction to be grossly disproportionate to how the sanction would take effect in normal contexts. Other exceptional circumstances include but are not limited to deportation, sudden financial insolvency, complete loss of shelter, loss of access to critical medical care, and immediate physical harm. Additional exceptional circumstances that are unenumerated in this Code may be considered as deemed reasonable by University Judiciary Boards or staff members in the Office of Student Conduct.

If approved, this additional language would become Section 2, Part (h). As a result, the language regarding aggravating factors would become Section 2, Part (i); the definition of knowingly would become Section 2, Part (j).

SUGGESTION FOR HOW YOUR PROPOSAL WOULD BE PUT INTO PRACTICE

Incorporating this proposal into practice would not require substantial change, and could be quickly implemented:

- 1) Amend the language in the *Code of Academic Integrity* and the *Code of Student Conduct*
- 2) The Office of Student Conduct and Legal Aid Office incorporate this language into their training of USJ members, Student Advocates, and Community Advocates.
- 3) The Office of Student Conduct will internally define the word “reasonably,” in addition to the standard of evidence for this new provision.

While this proposal would likely have mainly positive outcomes, there are small potential negative consequences. Incorporating this new provision would make the process of disciplinary conferences, disciplinary conference boards, and honor reviews slightly more cumbersome, as a new step will be added. However, it will be the role of the presiding officer or OSC/R&R staff member to interpret whether an exceptional circumstance should be accepted, similarly to how mitigating and aggravating circumstances are accepted. In addition, the proposed language could be interpreted to incorporate certain circumstances but not others, and we invite the Senate to explore additional language options to reduce any confusion in this regard.

We expect no financial consequences from this policy change.

ADDITIONAL INFORMATION

EFFECT ON STUDENTS

The existing policy does not allow for the consideration of indirect consequences that will occur as a result of a sanction. While these indirect effects do not create additional consequences for the “normal” University of Maryland student, the impact can be severe for students with exceptional personal circumstances and goes against the University’s promise to “elevate the quality and accessibility of undergraduate education”¹ and “expand the ethnic and economic diversity of [its] graduate students.”²

While this proposal will highlight two example student groups, it is important to note that the implications of the current mitigating factors allowed to be considered during sanction can affect student groups beyond the two discussed at length here.

- 1. International students:** International student status is not considered when determining the most appropriate sanction for behavioral or academic misconduct. As a result, the sanction of suspension - for any period - can create permanent implications for a student’s visa status. The current, online learning environment has had even greater, immediate implications for international students. Suspension required these students to leave the country during a global pandemic. As the language currently reads, the Court cannot consider the requirement that students travel internationally - sometimes to countries with less-developed healthcare infrastructure - at any point during the deliberation regarding the most appropriate sanction. Despite the severe disparity in the implications of suspension for an international student when

¹ UMD Mission Statement

² UMD Mission Statement

compared to a domestic student, the current process does not allow for this to be considered. This gap in sanctioning has particularly severe implications for graduate students, as the current normal sanction for a violation of *The Code of Academic Integrity* is dismissal from the University.

Number of students impacted³

University of Maryland - College Park reports having a total of 5,173 international students on campus, making up about 12.6% of the student body. Over the last several years the total international population of students on campus has grown at an average rate of 6.0%. India is the largest contributor to this growth, with an estimated total of 1,265 students.

- 2. Student athletes:** Student athlete status - and, more importantly, the impact of no longer being considered NCAA eligible - is not considered under the current *Codes*. The current normal sanction for a violation of the *Code of Academic Integrity*, for example, can render a student athlete ineligible to play. This could result in the loss of the student's scholarship for the semester. If this semester overlaps with the playing season, the student's scholarship is compromised for the entire academic year. A sanction, which does not result in any removal from the University for a normal student, can easily translate to a 12-month loss in scholarship and - more importantly - a 12-month absence from learning for student athletes. This student group at the University of Maryland is grossly disproportionately affected by the current mitigating factors considered for sanctioning. The *Codes* do not currently allow for flexibility in terms of sanctioning guidelines or the consideration of a potential loss of scholarship.

Number of students impacted

University of Maryland - College park reports having a total of 707 student athletes: 398 men and 309 women. These athletes represent the university in 22 different sports.

As previously mentioned, this is not intended to provide an exhaustive list of students who may currently experience unintended consequences that are distinct - and more severe - than what happens as a result of a "normal" sanction to a "normal" student at the University of Maryland. They do, however, highlight the diversity of personal circumstances this proposal attempts to address as well as the large positive impact this amendment would have on the university community. This amendment aligns directly with the University's mission to "graduat[e] talented students from traditionally underrepresented groups; and provid[e] a supportive climate for their well-being."⁴

STAKEHOLDER MEETINGS

In preparation for the writing of this proposal and the proposed changes to the *Code*, the writers of this proposal have met with the following stakeholders to hear feedback and concerns:

³ Sourced from:

<https://www.collegefactual.com/colleges/university-of-maryland-college-park/paying-for-college/financial-aid/>

⁴ UMD Mission Statement

- Student Advocates, who represent students reported for academic or non-academic misconduct; Community Advocates, who represent professors who report students for academic misconduct; and University Student Judiciary Members, who serve on both academic and non-academic deciding boards (2 meetings)
 - Vice President of Student Affairs Patty Perillo and Dean of Students Andrea Goodwin
 - Interim Director of Student Conduct and Academic Conduct staff member James Bond
 - Non-Academic Conduct Staff in the Office of Student Conduct
 - Non-Academic Conduct Staff in the Office of Rights and Responsibilities
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STUDENT SUPPORT

Incorporating the consideration of “Exceptional Circumstances” into the student conduct sanctioning process has received support from both the Residence Hall Association (RHA), which represents on-campus students, and the Student Government Association (SGA), which represents all on-campus students.

On April 20, 2021, RHA voted unanimously to pass "*EHB003S: A Resolution Expressing Support for Incorporating the Consideration of “Exceptional Circumstances” into the Student Conduct Sanctioning Process*," that “encouraged the University Senate to explore a change in policy to incorporate the consideration of students’ “exceptional circumstances” into the sanctioning process.”

On April 28, 2021, SGA voted to pass "[S 21-04-28 D](#): *A Resolution Expressing Support for Incorporating the Consideration of “Exceptional Circumstances” into the Student Conduct Sanctioning Process*" that also encouraged the University Senate to explore a change in policy.

SUPPORTING UNIVERSITY POLICIES AND STATEMENTS

Non-discrimination Policy and Procedures, Part 2

This Policy applies to discrimination, harassment, or retaliation:

- on University premises, in any University facility, or on University property; and/or
- at any University sponsored, recognized, or approved program, visit, or activity, regardless of location; and
- that impedes equal access to any University education program or activity or that adversely impacts the education or employment of a member of the University community regardless of where the conduct occurred.

Non-discrimination Policy and Procedures, Part 3

“Discrimination” is unequal treatment based on a legally protected status that is sufficiently serious to unreasonably interfere with or limit an individual’s opportunity to participate in or benefit

from a University program or activity, or that otherwise adversely affects a term or condition of the individual's employment or education.

PEER UNIVERSITY: UNC CHAPEL HILL

The University of North Carolina at Chapel Hill provides a clear demonstration of successfully including the consideration of personal compelling circumstances when deliberating on an appropriate sanction. *The Instrument of Student Judicial Governance* contains the following language regarding guiding principles and factors considered when the Court determines the most appropriate sanction for each student found responsible for violating *The Instrument*.

Instrument of Student Judicial Governance, Section III. Sanctions

A. Guiding Principles. In keeping with the University's central mission, students who have violated the Honor Code should learn to take responsibility and learn from their mistakes. Student educational development should therefore play a central role in the development and imposition of sanctions pursuant to this Instrument. The imposition of sanctions should concern the shared interest of students, faculty, staff, and the greater University in academic integrity, maintenance of a safe and respectful environment conducive to learning, the protection of the University community, and protection of other University interests.

1. Relevant Factors. The Honor Court shall take into account the following factors in imposing sanctions:

- a. The gravity of the offense in question including, but not limited to: intent and deliberation involved in committing the offense; implications for other members of the campus community; and University interests impacted by the offense.
- b. The value of learning through experience so as to develop a greater sense of responsibility for one's actions and consequences to others, including, but not limited to: demonstrated sense of responsibility; demonstrated respect for the importance of academic and/or personal integrity; existence of plans to correct the offense and/or prevent future offenses; and any relevant recurring patterns of misconduct.
- c. The importance of equitable treatment for similar offenses including the minimum and usual sanctions and sanctioning guidelines established in Section III of this Instrument.
- d. *Other compelling circumstances. In some cases, it is appropriate for the Honor Court to consider other factors that would render a sanction unduly punitive, including, but not limited to, extraordinary personal circumstances of the student; the educational goals of the University; and University interests in a student's participation in the campus community.***