

Cornell University Student Assembly

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Type of Action:	Legislation
Status/Result:	New Business

1 S.A. Resolution #65
2 Office of the Student Advocate Observations and Recommendation on Community
3 Life
4
5

6 **ABSTRACT:** This resolution is intended to put forth policy recommendations stemming from
7 casework collected by the Office of the Student Advocate and in acknowledgement of existing
8 policies at companion Universities to Cornell.
9

10 **Sponsored by:** Liel Sterling '21, Uche Chukwukere '21, Anuli Ononye '22, Natalia
11 Hernandez '21, Cat Huang '21, Deborah Nyakaru '20, Gavin Martin '20, Moriah Adeghe
12 '21
13

14 **Whereas,** the Office of the Student Advocate was founded in Fall 2019;
15

16 **Whereas,** the Office of the Student Advocate was founded to address student needs and help
17 students advocate for themselves at all levels of the University;
18

19 **Whereas,** the Office of the Student Advocate dedicated three months to studying campus
20 policies and procedures;
21

22 **Whereas,** the Office of the Student Advocate dedicated the 2019-2020 Academic Term to
23 meeting with the administration and faculty about existing policies;
24

25 **Whereas,** the Office of the Student Advocate dedicates a director specifically to focus on
26 Student and Campus Life;
27

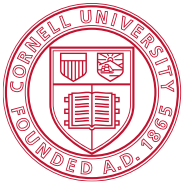
28 **Whereas,** the Office of the Student Advocate has been accepting cases from students since the
29 Fall of 2019 through the present date;
30

31 **Whereas,** the Office of the Student Advocate has been logging and documenting casework since
32 our creation in Fall of 2019;
33

34 **Whereas,** the Office of the Student Advocate has been noting aspects of campus policy that we
35 might be able to alter in order to improve the student experience and ensure equity in disciplinary
36 procedures;
37

38 **Whereas,** the Office of the Student Advocate examined and analyzed policies and procedures
39 across companion universities to understand how Cornell's policies compare;
40

41 **Whereas,** the Office of the Student Advocate has specifically logged cases brought forth because
42 of lack of basic diversity and inclusion trainings for officials involved in community standard
43 procedures;



Cornell University Student Assembly

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45 **Whereas**, the Office of the Student Advocate has specifically logged cases that could have
46 clearly benefited from restorative justice and mediation measures;

47

48 **Whereas**, the Office of the Student Advocate has specifically logged cases that highlight
49 misconduct from advisors and a lack of tangible recourse when the advisors violate student trust;

50

51 **Whereas**, the Office of the Student Advocate has specifically logged case that would have
52 benefited from a more empathetic model from counselors advising codes procedures;

53

54 **Whereas**, the Office of the Student Advocate has specifically logged cases in which parties to a
55 code violation expressed interest in having an undergraduate student serve in a counseling role;

56

57 **Whereas**, the Office of the Student Advocate has taken interest in baseline restorative justice
58 approaches, such as, the University of Pennsylvania has instituted the following programs:
59 “Restorative Circles, Conflict Coaching, Mediation, Restorative Conferences, Workshops on
60 Communication and Conflict Resolution skills, and Workshops on Restorative Circles. These
61 services are available to all members of the Penn Community who seek to build community, or
62 manage/resolve conflict. Additionally, restorative practices are considered by the Office of
63 Student Conduct when resolving violations of the Code of Student Conduct when appropriate.”;

64

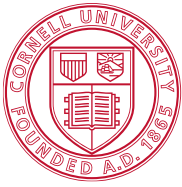
65 **Whereas**, the Office of the Student Advocate has taken interest in baseline restorative justice
66 approaches, such as, the University of Michigan provides Adaptable Conflict Resolution (ACR)
67 in addition to Formal Conflict Resolution (FCR) as a restorative justice measure. ACR includes
68 methods such as Conflict Coaching, Facilitated Dialogue, Restorative Justice Circles, Shuttle
69 Negotiation, and Social Justice Mediation ;

70

71 **Whereas**, the Office of the Student Advocate has taken interest in increased student involvement
72 in conduct procedures, such as, the University of Michigan has a student “Advisor Corps.”
73 According to the University, “these advisors will be available to any student party involved in
74 Statement proceedings (excluding mediations). All potential peer advisors in the Advisor Corps
75 must successfully complete training provided by OSCR. OSCR will develop and conduct
76 training in consultation with CSG.”

77

78 **Whereas**, the Office of the Student Advocate has taken interest in increased student involvement
79 in conduct procedures, such as, the University of Virginia’s Judiciary Committee, composed of a
80 First Year Committee, Educators, Investigators, and Counselors, is entirely student-run. Their
81 constitution states that “To be eligible to be a candidate for election to the Judiciary Committee
82 an undergraduate student must have completed three semesters of work toward a degree while
83 graduate students must have completed one semester of work unless the student is enrolled in a
84 one-year degree program. Each candidate for election shall be a fulltime student and in the
85 process of completing at least two full semesters of work in their particular school. No student on
86 probation may be a candidate for election. If after election a member of the Committee is placed
87 on probation their office shall become vacant.” ;



Cornell University Student Assembly

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89 **Whereas**, the Office of the Student Advocate has taken interest in baseline restorative justice
90 approaches, such as, Brown University ingrains restorative justice approaches within their Code
91 of Conduct, including “restorative circles, restorative conferences, restorative board hearings,
92 addressing conflict, repairing harm, and building community.”;

93

94 **Whereas**, the Office of the Student Advocate has taken interest in increased Diversity and
95 Inclusion Trainings for any parties involved in the code of conduct procedural process, such as,
96 in 2018, Brown University assessed their Diversity and Inclusion procedures and published a
97 Diversity and Inclusion Action Plan to address work that needs to be done;

98

99 **Whereas**, the Office of the Student Advocate has taken interest in increased student involvement
100 in conduct procedures, such as, Columbia University allows the respondent “to be accompanied
101 to any meeting or hearing related to an incident of misconduct by the advisor(s) of his/her
102 choice... Advisors may include but are not limited to family members, friends, counselors,
103 therapists, clergy, attorneys, academic advisors, professors, and administrators.” ;

104

105 **Whereas**, the Office of the Student Advocate has taken interest in increased student involvement
106 in conduct procedures, such as, Dartmouth College states in their policies and procedures that
107 “Students responding to disciplinary allegations heard by the COS are entitled to have a single
108 advisor present at their hearing. Students who report sexual misconduct or physical violence
109 have the same right to an advisor. Students must identify their advisor to the JAO in writing.
110 Only currently enrolled Dartmouth students, members of the Dartmouth faculty, and members of
111 the Dartmouth administration may serve as advisors.” ;

112

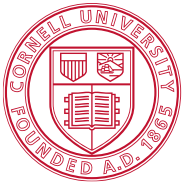
113 **Whereas**, the Office of the Student Advocate has taken interest in baseline restorative justice
114 approaches, such as, Dartmouth College has developed restorative justice approaches called its
115 “Principles of Community.” Dartmouth states that “In [certain contexts], there are responses
116 which are more effective and more in keeping with the aspirations of an academic community:
117 expressions of disapproval in the exchange of different ideas through free and open discussion
118 and debate, mediation, or other restorative processes.” ;

119

120 **Whereas**, the Office of the Student Advocate has taken interest in baseline restorative justice
121 approaches, such as, Princeton University offers Informal Procedures as a restorative justice
122 measure to violations of the Code of Conduct. According to their 2019 Rights, Rules, and
123 Responsibilities, “The University encourages open and honest communication between members
124 of the community. Most conflicts and differences of opinion between members of the University
125 community can be resolved by the individuals directly confronting issues and jointly exploring
126 alternatives. In addition, there are a variety of resources available to individuals who may be
127 called upon to assist in informal conflict resolution.” ;

128

129 **Whereas**, the Office of the Student Advocate has taken interest in increased student involvement
130 in conduct procedures, such as, Princeton University states regarding their hearing procedures
131 that, “The student may be accompanied at the committee hearing by an adviser, who must be a



Cornell University Student Assembly

132 current member of the resident University community, and who may participate in the same
133 manner as the student in the hearing.”

134

135 **Whereas**, Cornell University, in comparison with companion universities, is behind on its
136 adoption of community standard procedures that include the undergraduate student voice;

137

138 **Whereas**, the Student Assembly has the unique opportunity to consider student input based on
139 tangible casework data and take a stance on crucial procedural and policy changes;

140

141 **Whereas**, student members of the Cornell Judicial Codes Committee see a need for the
142 undergraduate voice in the development of new codes procedures and policies;

143

144 **Whereas**, the attached procedures only pertain to student conduct, and not the conduct of faculty
145 and staff;

146

147 **Be it therefore resolved**, that the Student Assembly acknowledges the careful collection of data
148 and analysis completed by the Office of the Student Advocate in the 2019-2020 Academic
149 Term;

150

151 **Be it therefore resolved**, that the Student Assembly endorses the change of the Campus Code of
152 Conduct to reflect the procedures included in the attached appendix to this resolution;

153

154 **Be it therefore resolved**, that the Student Assembly requests acknowledgement from the
155 University Assembly and Board of Trustees that the attached procedures are specifically what
156 students want;

157

158 **Be it therefore resolved**, that a copy of this resolution with attached appendix is posted on the
159 Office of Assemblies website for public comment/feedback;

160

161 **Be it therefore resolved**, that any inaction by levels of government consisting of non-student
162 representatives shows a lack of regard for the student voice;

163

164 **Be it finally resolved**, that the University should adopt the attached procedural changes to the
165 Campus Code of Conduct and Community Standards;

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167 **Respectfully submitted,**

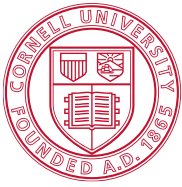
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169 Liel Sterling '21
170 *Student Advocate 2019-2020, Office of the Student Advocate*

171

172 Uche Chukwukere '21
173 *Undesignated Representative At Large, Student Assembly*
174 *President, Multicultural Greek and Fraternal Council*

175



Cornell University Student Assembly

- 176 Anuli Ononye '22
177 *Student Advocate 2020-2021, Office of the Student Advocate*
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179 Natalia Hernandez '21
180 *Director of Student and Campus Life, Office of the Student Advocate*
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182 Deborah Nyakaru '20
183 *Parliamentarian, Student Assembly*
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185 Gavin Martin '20
186 *Vice President of Research and Accountability, Student Assembly*
187 *Arts & Sciences Representative, Student Assembly*
188
189 Cat Huang '21
190 *Executive Vice President, Student Assembly*
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192 Moriah Adeghe '21
193 *Vice President for Finance, Cornell Student Assembly*
194 *Minority Students Liaison-at-Large, Cornell Student Assembly*
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196 *(Reviewed by: Executive Committee, 5-0-0, 4/21/2020)*
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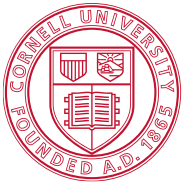
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Cornell University

Student Assembly

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Code Procedures

217 **1 INTRODUCTION**

218 These procedures apply when a student is alleged to have violated the Cornell Student Code of Conduct
219 (“Code”). Although these procedures incorporate certain principles associated with the legal system (such
220 as fair process protections), the Code is at its foundation a set of behavioral standards embracing teaching
221 and learning opportunities, whenever possible, to foster personal development and accountability.
222 Cornell’s goal is to provide a safe environment for all members of the University community, to teach and
223 educate students regarding appropriate conduct, and to address misconduct when it occurs.

224 These procedures establish a process for University administrative review, and do not seek to replicate
225 substantive or procedural legal rules. Neither the Rules of Civil Procedure nor Rules of Evidence apply to
226 these procedures, though principles of fairness and predictability inherent in such rules inform and
227 provide guidance. These procedures are to be implemented in conjunction with the Code, where key
228 definitions and authority (including jurisdiction) are described. The administrative bodies that manage
229 and perform under these procedures are described in Section 2.

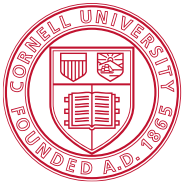
230 **2 ADMINISTRATION OF THE CODE AND PROCEDURES**

231 **2.1 The Office of Student Conduct and Community Standards**

232 The Director (“Director”) of the Office of Student Conduct and Community Standards (“OSCCS”)
233 manages the student conduct system and cases arising out of the Student Code of Conduct (“Code”). The
234 Director receives and ensures proper investigation and adjudication of alleged violations of the Code, or
235 of any other regulation as the University President or Board of Trustees may direct.

236
237 The fundamental role of the Director is to ensure that complaints are handled with fairness, integrity, and
238 objectivity for all parties concerned, consistent with the educational and rehabilitative goals of the
239 University’s student conduct system. The Director does not prosecute cases against students. The Director
240 shall hire and train competent individuals to undertake careful, fair, and objective investigations of
241 complaints and to serve as chairs of hearing panels. The Director is also responsible for the training and
242 administration of the University Hearing and Review Panel, with the intention of ensuring fair and
243 consistent adjudication, findings of responsibility and as appropriate, imposition of sanctions based on the
244 circumstances of individual cases. Anyone can direct questions about the student conduct system to the
245 OSCCS.

246
247 The Director shall be appointed by and reports to the Vice President for Student and Campus Life. The
248 Vice President shall consult with the Student Assembly (“SA”) and Graduate and Professional Student
249 Assembly (“GPSA”) prior to the Director’s appointment and shall request representatives from the SA
250 and GPSA to serve on the search committee when a new Director is hired. The Director shall provide an
251 annual report to the Vice President, the SA and the GPSA on the operations of the office and of the
252 student conduct system. The Director shall undergo an annual review overseen by the Vice President (or
253 designee). The Vice President shall request and thoughtfully consider feedback from the SA and GPSA as
254 part of that annual review.



Cornell University Student Assembly

255 **2.2 Office of the Student Code Counselors**

256 The Office of the Student Code Counselors is part of the SA's Office of the Student Advocate. Student
257 Code Counselors ("Counselors") provide free assistance and representation to both Complainants and
258 Respondents within the Student Code of Conduct process.

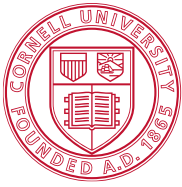
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260 Counselors are not attorneys and do not provide formal legal advice. Within the rules in these procedures
261 governing the participation of non-parties, Complainants and Respondents may utilize Counselors
262 exclusively, in addition to their own legal counsel, or may rely entirely on legal counsel of their choosing.
263 Counselors explain how the student conduct system works and assist and support Complainants and
264 Respondents at every stage of proceedings. The Lead Student Code Counselor ("Lead Counselor"), who
265 manages the Office of Counselors, assigns individual Counselors to serve on individual matters.
266 However, Complainants and Respondents may request specific Counselors, which request shall be
267 honored to the extent practically possible. Complainants and Respondents may also request assignment of
268 a new Counselor for good reason, which request shall be honored if practical and feasible in the discretion
269 of the Lead Counselor. Counselors are required to adhere to strict confidentiality responsibilities and may
270 not discuss a case within the community of other Counselors except as appropriate within the context of
271 applicable procedures.

272
273 Each spring, the SA and GPSA, in consultation with the Director, shall select a Lead Counselor to
274 manage the Office of Student Code Counselors for the following academic year from a group of no more
275 than three individuals nominated by the Counselors. The Lead Counselor must be an undergraduate,
276 graduate or professional student, and have previously served for at least two years as a Counselor. The
277 normal term of appointment is one year; however, this individual may be reappointed for a second term.
278 (In the first two years of operation of this new office, the SA and GPSA in consultation with the Director,
279 may appoint any duly qualified person to serve as the Lead Counselor.) The Office of the Student Code
280 Counselors shall create the procedures used in nominating candidates for Lead Counselor.

281
282 The SA and the GPSA, in consultation with the Director, shall set relevant qualifications for the
283 Counselors, along with an application, selection and training process to be implemented by the Director.
284 Counselors may be undergraduate, graduate, or professional students and will be appointed by the Lead
285 Counselor from nominations supplied by the SA and the GPSA. To support an empathetic and
286 knowledgeable approach to all conduct proceedings, Counselors will be trained and assigned to assist
287 both Complainants and Respondents. Counselors will recognize that the goals of the Code are focused on
288 education, rehabilitation and accountability, and shall treat parties, witnesses and each other with respect
289 and consideration. Counselors may be reappointed by the Lead Counselor for continued one-year terms so
290 long as their service is deemed exemplary, and they remain students at the University.

291 **2.3 The Hearing and Review Board**

292 The Hearing and Review Board is a group of at least 55 members appointed from nominations submitted
293 by the Student Assembly ("SA"), the Graduate and Professional Student Assembly ("GPSA"), the Faculty
294 Senate and the Employee Assembly. The Board shall include at least 25 students, 15 faculty members,
295 and 15 nonfaculty employees. The Assemblies and Senate shall solicit applications from interested
296 faculty, students and staff on an annual basis and submit them to the Director no later than May 1 of each
297 year. All applications shall be confidentially shared with the Executive Committees of the SA and GPSA
298 for review and evaluation. Together with those committees, the Director shall make appointments. The
299 Director may also make emergency appointments on a temporary basis. No person shall serve on the



Cornell University Student Assembly

300 Hearing Panel and Review Board who is at the same time a member of the SA or GPSA, or is an
301 employee of the Office of the Assemblies.

302
303 Members of the Hearing and Review Board are typically appointed for two-year staggered terms
304 beginning in June 1 of the year appointed. Any appointment to fill a vacancy or to address an emergency
305 shall become effective immediately. The Director shall have the authority, in consultation with the SA
306 and GPSA Executive Committees, to remove a member of the Board if the member is reasonably deemed
307 to not be honoring their commitment to communicate promptly regarding hearings, to serve on panels, to
308 participate ethically in hearings, and otherwise to participate responsibly in this process.

309 **2.4 The Panel Chair**

310 The Director shall hire a professional Panel Chair to guide Hearing Panel proceedings with appropriate
311 training and expertise to manage technical questions and rulings. The Panel Chair does not vote on
312 individual cases. Instead, the Panel Chair addresses the many procedural and evidentiary matters that arise
313 under these procedures in a fair and consistent manner, across many individual cases and proceedings.
314 The intent of appointing a trained Panel Chair is to afford consistency, fairness and professionalism in all
315 cases proceeding to hearings under the Code.

316 **2.5 University Hearing Panels**

317 A five-person panel of the Hearing and Review Board shall adjudicate cases under the Code. Panels are
318 chosen through a random process but shall be appointed to include three students, one faculty, and one
319 nonfaculty member.

320 **2.6 University Review Panels**

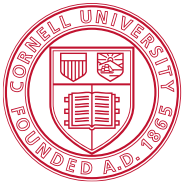
321 A three-person panel of the Hearing and Review Board shall hear appeals under the Code. Panels are
322 chosen through a random process but shall be appointed to include one student, one faculty, and one
323 nonfaculty member. The appointed faculty member serves as the Review Panel Chair.

324 **2.7 Training**

325 Every person serving in an official capacity or role under these procedures shall receive training from the
326 Director or other appropriate university experts appropriate to their position. In addition, training focused
327 on diversity, equity and inclusion that is approved by the Presidential Advisers on Diversity and Equity
328 (“PADE”) shall be required on an annual basis. PADE shall solicit the involvement of leaders of diverse
329 and representative groups from the student community to assist in the development and vetting of this
330 training.

331 **3 DESIGNATION AS COMPLAINANT AND RESPONDENT**

332 These procedures distinguish between Reports and Formal Complaints. A Report of alleged prohibited
333 conduct is often the first contact with the OSCCS. A Formal Complaint is filed with the Director in
334 writing, and is required for certain processes (commencing with required notifications and investigation)
335 to be initiated under these procedures. Any person providing an initial Report or filing a Formal
336 Complaint under these procedures will be designated the “Complainant.” A person providing an initial
337 Report or filing a Formal Complaint of interpersonal misconduct committed against that individual, such



Cornell University Student Assembly

338 as assault and endangerment, harassment and hazing, is an “Individual Complainant.” These procedures
339 afford certain additional rights to Individual Complainants.

340
341 University units are expected to designate a specific individual or individuals to serve in the role of
342 institutional Complainant for cases brought under the Code, and to represent institutional concerns
343 regarding potential misconduct. Further, such institutional representatives (for example, from Residence
344 Life or Fraternity and Sorority Life), may provide additional support to Individual Complainants in cases
345 where violations of the Code have potentially affected both individual(s) as well as University concerns.

346
347 A student or University-registered organization against whom a Report or Complaint has been made will
348 be designated the “Respondent.”

349
350 Both the Complainant and the Respondent are referred to as “party” or “parties” throughout these
351 procedures.

352 **4 EFFECTIVE DATE OF THESE PROCEDURES**

353 The effective date of these procedures is [TBD].

354
355 These procedures will apply in all cases where a Report or Formal Complaint of alleged prohibited
356 conduct is made on or after [TBD].

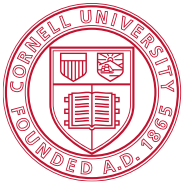
357
358 Where the date of the alleged prohibited conduct precedes the effective date of these procedures or a
359 subsequent update to these procedures, the definitions of prohibited conduct in existence at the time of the
360 alleged conduct will be used.

361
362 These procedures, however, will be used to investigate and resolve all Complaints made on or after the
363 effective date of these procedures or subsequent updates to these procedures, regardless of when the
364 conduct occurred.

365 **5 TIME LIMIT TO FILE COMPLAINTS**

366 To promote timely and effective review, the University strongly encourages persons with knowledge of
367 possible violations of the Code to make Reports or file Formal Complaints as soon as possible, preferably
368 within one year of the alleged prohibited conduct. A delay may affect the Director’s ability to gather
369 relevant and reliable information, contact witnesses, investigate thoroughly and respond meaningfully,
370 and may also affect the imposition of appropriate discipline upon a Respondent who has engaged in
371 prohibited conduct.

372
373 While prompt reporting is strongly encouraged, the Director will accept and review any Report or Formal
374 Complaint that is filed under these procedures as long as the Respondent was a “student,” at the time of
375 the subject conduct and remains a “student” as defined by the Code, (e.g., has not graduated or
376 permanently left the University).^[1] If the Respondent is no longer a student at the time of the Formal
377 Complaint, and the Director is unable to pursue resolution, that office will assess whether any remedial
378 steps can be taken to address any prohibited conduct or its effects on the Complainant or others. Special
379 circumstances and the University’s continued assertion of jurisdiction may apply where a student leaves
380 the University to avoid a student conduct charge or its disposition.



Cornell University

Student Assembly

381 **6 COMPUTATION OF DEADLINES**

382 In computing any time period specified in these procedures, the day of the event, act, or default that
383 initiates the period will be excluded.

384 **7 THE RESPONSE TO A REPORT OF PROHIBITED CONDUCT**

385 **7.1 Initial Assessment**

386 Upon receipt of a Report (or Formal Complaint) alleging that a student or University-registered
387 organization has violated the Code, the Director^[2] will make an initial assessment of the information and
388 work to address any immediate health or safety concerns. Where the identity of an Individual
389 Complainant is known, the Director will ensure that the Individual Complainant receives a written
390 explanation of available resources and options and is offered the opportunity to meet promptly to discuss
391 those resources and options. Where the identity of an Individual Complainant is unknown, the Director
392 will assess the nature and circumstances of the Report (or Formal Complaint), including whether it
393 provides information that identifies the potential Individual Complainant, the potential Respondent, any
394 witnesses, and/or any other third party with knowledge of the reported incident, and the Director will take
395 reasonable and appropriate steps to respond to the complaint.

396 **7.2 Actions Following Initial Assessment**

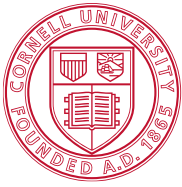
397 **7.2.1 Where the Complainant Seeks Resolution Under These Procedures**

398 In any case where the Complainant reports prohibited conduct and requests resolution under these
399 procedures, the Director will move forward. Initiation of this process requires the Complainant to submit
400 a signed, written Formal Complaint, if one has not already been filed.

401 **7.2.2 Where the Complainant Requests That No Formal Complaint Be Pursued Under These** 402 **Procedures**

403 The University will generally honor an Individual Complainant's choice not to file or withdraw a Formal
404 Complaint. Where an Individual Complainant declines to participate in an investigation, the Director's
405 ability to meaningfully investigate and respond to a report may be limited. However, the University may
406 elect, particularly in cases involving threats to personal safety or inherent public safety considerations
407 such as interpersonal violence, harassment, assault or hazing, to evaluate whether doing so will
408 adequately mitigate the risk of harm to the Individual Complainant or other members of the University
409 community. The Director will consider the following factors, among others, when determining whether to
410 honor the request that no formal resolution be pursued under these procedures:

- 411
- 412 1. Whether the Respondent has a history of violent behavior or is a repeat offender;
- 413 2. Whether the incident represents escalation in prohibited conduct;
- 414 3. The increased risk that the Respondent will commit additional acts of interpersonal
415 misconduct;
- 416 4. Whether the Respondent used a weapon or force;
- 417 5. Whether the Complainant is a minor;
- 418 6. Whether the University possesses other means to obtain evidence such as security footage
419 or other tangible evidence; and



Cornell University Student Assembly

420 7. Whether available information reveals a pattern of perpetration at a given location or by a
421 particular group.
422

423 Regardless of whether an Individual Complainant chooses to file or participate in an investigation of a
424 Formal Complaint, the Director will assist an Individual Complainant with reasonable and available
425 accommodations or interim measures in appropriate cases, with fairness towards and notice to the
426 Respondent. Interim measures such as housing or academic/scheduling accommodations, referrals to
427 counseling, or other supportive or protective measures are designed to advance and balance a number of
428 goals:

- 429 · to support and protect the safety and health of the Individual Complainant, the
- 430 Respondent, the University's educational environment, and the University community;
- 431 · to deter retaliation; and
- 432 · to preserve the integrity of the investigation and resolution process pursuant to these
- 433 procedures.
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435
436 The Director may also take proactive steps, such as training or awareness efforts, to address misconduct
437 in a general way that does not identify the Individual Complainant.

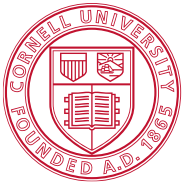
438 **7.2.3 Director's Determination that the Complainant's Request(s) Cannot Be Honored**

439 Where the Director determines that the office cannot honor the Individual Complainant's request that no
440 complaint be pursued under these procedures, the Director will promptly initiate the investigation process
441 by filing a Formal Complaint on behalf of the University community. The Director will notify the
442 Individual Complainant that the office intends to proceed and that it will take actions to protect and assist
443 the Individual Complainant, including reasonable efforts to protect the privacy of the Individual
444 Complainant. The Individual Complainant is not required to participate in any proceedings that follow.
445

446 **7.2.4. Alternative Dispute Resolution and Summary Disposition**

447
448 It is the intention of the Code to foster a system of that prioritizes accountability, education and the
449 growth of students as responsible community members. For this reason, these procedures enable the
450 Director to handle many reports (or Formal Complaints) in a flexible way to address the alleged
451 misconduct promptly and, in a manner emphasizing education, restorative justice, and rehabilitation
452 where these are appropriate. Towards this end, the Director may also recommend that the parties explore
453 restorative justice opportunities, alternative dispute resolution and/or for any Respondent to undertake
454 voluntary AOD screening, education and prevention programming, at any time, rather than continuing
455 under these Procedures. A Respondent need not accept responsibility for the prohibited conduct in order
456 for such referrals to be made. Similarly, either the Complainant or the Respondent may request to engage
457 in alternative dispute resolution or restorative justice processes at any point in the process. Such a request
458 will be carefully considered by the Director, with opportunity for input from both parties if only one has
459 requested diversion, and granted or denied at the Director's discretion.
460

461 The Director also has discretionary authority to resolve charges that do not involve interpersonal
462 misconduct (such as assault and endangerment, harassment and hazing), upon completion of an initial
463 assessment when the Respondent agrees. In such cases, the Director and the Respondent may agree, in
464 writing, to any resolution such as restitution, community service, alcohol or other drugs ("AOD")
465 screening, education and prevention programming, or other remedy for the alleged offense(s). Matters



Cornell University

Student Assembly

466 involving interpersonal misconduct involve the full involvement of the Individual Complainant under
467 Alternate Resolution, Section 14, unless the Individual Complainant has chosen not to participate in the
468 proceedings.

469 **8 TEMPORARY SUSPENSIONS**

470 **8.1 Temporary Suspensions Pending Resolution**

471 In consultation with appropriate University officials, the Director or other Presidential delegate⁽³⁾ has
472 discretionary power temporarily to suspend a Respondent pending resolution of the underlying case
473 where immediate action is necessary to protect the Complainant or the University community. Temporary
474 Suspension may include the withdrawal of any or all University privileges and services, including class
475 attendance, participation in examinations, utilization of University premises and facilities, and in the case
476 of University-registered organizations, recognition by the University, as determined by the Director or
477 designee.

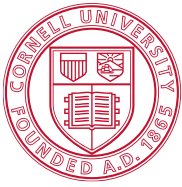
478
479 Since the underlying allegation of prohibited conduct has not yet been adjudicated on the merits, a
480 Temporary Suspension may be imposed only when less restrictive measures are deemed insufficient to
481 protect the Complainant or the University community. In determining whether a Temporary Suspension is
482 appropriate, the following factors, among others, should be considered:

- 483
- 484 · whether the Respondent has a history of violent behavior or is a repeat offender;
 - 485 · whether the incident represents escalation in unlawful conduct;
 - 486 · whether there are facts indicating a risk that the Respondent will commit additional acts
487 of interpersonal misconduct or violence; and
 - 488 · whether there represents reasonable basis of concern for retaliatory acts;
 - 489 · whether there exists reasonable basis for concern over possible harm to the safety of
490 others involved or the campus community generally;
 - 491 · whether the Respondent used a weapon or force.

492 **8.2 Review of Temporary Suspensions of Students and Temporary Suspensions of University-** 493 **Registered Organizations**

494 The Respondent may file a written request to lift the Temporary Suspension with the University Hearing
495 and Review Board. The Director may file a response. Three members of the Board (one student, one
496 faculty, and one nonfaculty member) shall serve as a Review Panel. The Review Panel will meet to
497 consider the request to lift the temporary suspension within five (5) business days of receiving the
498 Complainant's request, with exceptions only for extraordinary cause. If the Review Panel determines that
499 good cause for the Temporary Suspension is inadequate or absent, that other less restrictive alternatives
500 are available, or that circumstances have changed so that the suspension is no longer necessary, the
501 Temporary Suspension will be immediately lifted. The Review Panel may simultaneously provide the
502 Director with guidance regarding appropriate alternate interim measures, and such alternatives are within
503 the Director's continuing authority. The Review Panel's decision is final; there is no further right of
504 appeal.

505 **9 NOTICE TO COMPLAINANT AND RESPONDENT OF DIRECTOR'S ACTIONS**



Cornell University Student Assembly

506 The Director will inform the Complainant and the Respondent of any actions undertaken that will directly
507 affect either party, including the filing of a Formal Complaint.

508 **10 NOTICE TO PARTIES OF A FORMAL COMPLAINT**

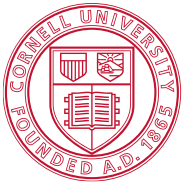
509 Upon receipt of a Formal Complaint, the Director will notify the Complainant and the Respondent, in
510 writing, of the commencement of an investigation and provide both parties with a copy of the Complaint,
511 the Code, and these procedures. Such notice will:

- 512 · identify the Complainant and the Respondent;
- 513 · specify the alleged prohibited conduct and its date, time, and location, to the extent
514 known;
- 515 · specify the factual allegations pertaining to the prohibited conduct;
- 516 · specify any sanctions that may be imposed, including the University's transcript notation
517 policy;
- 518 · identify the investigator;
- 519 · include information about the parties' respective rights and obligations under the Code of
520 Conduct and these procedures;
- 521 · inform the parties of the availability of alternative dispute resolution and restorative
522 justice processes for resolving complaints;
- 523 · inform the parties of their right to seek the assistance of a Counselor/advisor or attorney
524 and a support person for emotional support, all of whom may accompany the respective parties to
525 meetings and proceedings;
- 526 · inform the parties of the range of available resources, including mental health and
527 academic support resources;
- 528 · explain the prohibition against retaliation; and
- 529 · instruct the parties to preserve any potentially relevant evidence, whatever its form.

530 **11 COUNSELORS/ADVISORS AND SUPPORT PERSONS**

531 At all stages under these procedures, both the Complainant and Respondent will be afforded the
532 assistance of an advisor provided through the Office of the Student Code Counselors to assist and advise.
533 Alternatively, each party has the right to select and consult with an advisor and/or legal counsel of their
534 own choosing. Both the Complainant and Respondent also have the right to a support person of their
535 choice.

536
537 Counselors/advisers and support persons may be any person, including an attorney, who is not a party or
538 witness or otherwise involved in the case. A Counselor/advisor and a support person may accompany the
539 party to all meetings, such as investigative interviews, and proceedings, but it is expected that the parties



Cornell University Student Assembly

540 will speak on their own behalf, and that Counselors/advisers and support persons will not interfere with
541 meetings or proceedings. During hearings, Counselors/advisers and support persons may confer with the
542 party, and submit written requests and objections to the Hearing Chair on the party's behalf, at the time
543 and in the manner prescribed by the Chair. Throughout the proceedings, Counselors/advisers and support
544 persons may also help the party prepare written submissions.

545
546 By accepting the role of Counselor/advisor or support person, such persons agree to comply with the rules
547 and processes set forth in these procedures, including rules regarding both process and party privacy
548 requirements. In unusual cases where either the Director or Panel Chair determines that a
549 Counselor/advisor or support person's conduct undermines the integrity of these procedures, is abusive
550 towards the other party, or has a serious conflict of interest, the Counselor/advisor or support person will
551 be prohibited from continuing to serve in that case. The affected party will be permitted a reasonable
552 amount of time to obtain a substitute Counselor/advisor or support person and acquaint that person with
553 the case.

554 **12 WRITTEN SUBMISSIONS**

555 For all written submissions permitted by these procedures, other than the written objections and requests
556 specifically permitted during hearings, the documents must be submitted by the individual parties.
557 Written submissions from a Counselor/advisor, support person, or other individual made on behalf of a
558 party, other than the written objections and requests specifically permitted during hearings, will not be
559 included in the investigative or hearing records. Where a form has been developed by the Director for a
560 written submission, the party must use the form for the submission. Where required by these procedures,
561 a party must sign their written submission.

562 **13 OBLIGATION TO PROVIDE TRUTHFUL INFORMATION**

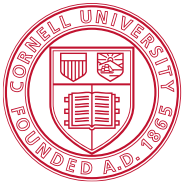
563 At all stages of the process, all Cornell University community members are required to provide truthful
564 information. "Furnishing false information to the University with intent to deceive" is prohibited and
565 independently subject to disciplinary sanctions under the Code. This provision does not apply to reports
566 made or information provided in good faith, even if the facts alleged are not later substantiated.

567 **14 DUTY TO COOPERATE**

568 All members of the University community are expected to cooperate and participate in inquiries,
569 investigations, and resolutions of Reports and Formal Complaints under these procedures. However,
570 Individual Complainants and other alleged victims of interpersonal misconduct such as assault and
571 endangerment, harassment and hazing, are not required to participate and may not be charged with
572 violating the duty of cooperation.

573 **15 ALTERNATE RESOLUTION OF A FORMAL COMPLAINT^[A1]**

574 The parties or the Director may seek to resolve a Formal Complaint of prohibited conduct through
575 Alternate Resolution at any time. Participation in Alternate Resolution is entirely voluntary; the Director
576 will neither pressure nor compel either party to participate in the process or to agree to any specific terms.
577 Both the Complainant and the Respondent must agree to explore Alternate Resolution as a potential



Cornell University Student Assembly

578 means of resolution. The parties are strongly encouraged to consult with their Counselor/advisor and any
579 support persons during the Alternate Resolution process. Even if both parties request Alternate
580 Resolution, the Director has discretion to determine whether the matter is appropriate for that process.

581
582 The Director will manage the Alternate Resolution process and have access to all University records in
583 the matter, including any records or reports prepared during an investigation. The Director may personally
584 conduct Alternative Resolution or utilize mediators or others with appropriate expertise to support the
585 process through consultations with both parties. The Director ultimately documents the proposed terms of
586 a potential Alternate Resolution agreement. Such terms may include, but are not limited to, any sanctions
587 or remedies that could be imposed by a Hearing Panel after a hearing under these proceedings.

588
589 The investigation will be paused during the Alternate Resolution process. At any time before a written
590 agreement is effective (see below), the Complainant or the Respondent may withdraw from the Alternate
591 Resolution process, and the Director may also, at their discretion, terminate the process. If the Alternate
592 Resolution process is terminated for any reason, the matter continues under these procedures. For this
593 reason, the investigator will not participate in an Alternate Resolution process.

594
595 If both parties are satisfied with the Director's recommendation, the matter will be resolved with a written
596 agreement to be executed by both parties. The Director will provide each party, separately, with a copy of
597 the proposed agreement for the party to review, sign, and return. Once a party has returned the signed
598 agreement to the Director, the party has two (2) business days to reconsider and withdraw from the
599 agreement by notifying the Director in person or in writing. If either party withdraws from the agreement,
600 the Formal Complaint will be resolved according to these procedures. Once an agreement is effective, the
601 parties may not appeal the agreement.

602
603 If the Respondent agrees to an Alternate Resolution that provides for a suspension, withdrawal, or
604 dismissal (i.e. expulsion) from the University, there will be a transcript notation consistent with
605 University policy. The parties are expected to honor and comply with the terms of the Alternate
606 Resolution. Later noncompliance may be subject to proceedings under the Code.

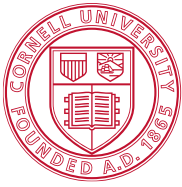
607
608 To protect both parties' confidential disclosures within the Alternate Resolution process, if the matter
609 moves back to the Formal Complaint resolution process, neither the Director nor the parties will disclose
610 to the investigator, Panel Chair, University Hearing Panel, or University Review Panel either the fact that
611 the parties had participated in Alternate Resolution or any information learned during the process.

612 **16 THE PARTIES' PARTICIPATION IN THE INVESTIGATION AND HEARING** 613 **PROCESSES**

614 Both the Complainant and the Respondent may decline to participate in the investigation and/or hearing.
615 However, the Director may continue without a party's participation, completing the investigation, and the
616 Hearing Panel may meet, reach findings, and issue sanctions based on the record available.

617 **16.1 Declining to Participate in the Investigation**

618 Parties are expected to cooperate in the process, including the investigative stage and interviews. If a
619 party declines to participate in investigative interviews or other aspects of the investigative process, the
620 party will generally forfeit the opportunity at the hearing to give a written opening statement, testify, and
621 give oral and written closing statements, absent demonstration of compelling circumstances that



Cornell University Student Assembly

622 reasonably prevented the party from cooperating in the process. The potential for or pendency of a related
623 civil or criminal court proceeding shall not constitute compelling circumstances. A party who later seeks
624 to participate may file a written request with the Panel Chair. No request for participation under this
625 Section will be granted to a party who failed to request a postponement or otherwise timely explain to the
626 investigator why they were unable to engage with the investigation process prior to filing the request. If
627 the Panel Chair agrees that non-participation was justified by compelling circumstances, they will assess
628 whether the investigation should be reopened or whether the party should instead be permitted to file a
629 written statement for consideration by the Hearing Panel. In determining what level of participation (and
630 resultant delays) are appropriate, the Panel Chair shall consider fairness to the opposing party and the
631 University's legitimate interest in resolving the matter. The Panel Chair's decisions on such requests to
632 reopen are final and are not subject to further review.

633 **16.2 Declining to Attend or Participate in the Hearing**

634 Parties are expected to participate in the hearing. If, despite being notified of the date, time, and location
635 of the hearing (at their last known contact information), either party is not in attendance, the hearing may
636 proceed, findings may be reached and applicable sanctions may be imposed. In addition, the parties are
637 not required to testify at a hearing and the Hearing Panel will not draw a negative inference from a party's
638 election to remain silent. Where a party declines to testify, the Hearing Panel's ability to hear information
639 necessary to make an informed decision in that party's favor may be limited and the Hearing Panel will
640 render a decision on the record and the evidence before it.

641 **17 CONSOLIDATION OF INVESTIGATIONS AND HEARINGS UNDER THESE** 642 **PROCEDURES**

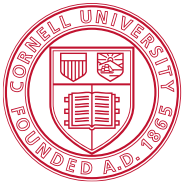
643 At the discretion of the Director, multiple reports or Formal Complaints under these procedures that are
644 factually related will be joined in one investigation whether they involve single or multiple Complainants
645 or Respondents.

646
647 At the discretion of the Panel Chair, in consultation with the investigator, multiple Formal Complaints,
648 whether or not joined in one investigation, and multiple investigations under these procedures may be
649 joined in one hearing if doing so is likely to result in reliable and more efficient outcomes without causing
650 prejudice to a party or parties or confusion for the fact finders. In determining whether to consolidate, the
651 Panel Chair will provide the parties with an opportunity to explain their preferences for consolidated or
652 severed hearings. In all hearings involving multiple Respondents, the Hearing Panel will consider
653 individually the sanctions and remedies appropriate for each Respondent.

654 **18 INVESTIGATION OF A FORMAL COMPLAINT**

655 **18.1 Overview of Investigations of a Formal Complaint**

656 The investigation is designed to be timely, thorough, and impartial and to provide for a fair and reliable
657 gathering of the facts. All individuals involved in the investigation, including the Complainant, the
658 Respondent, and any witnesses, will be treated with fairness and respect. The investigation will generally
659 include individual interviews of the Complainant, the Respondent, and relevant witnesses. Upon
660 completion of the investigation, the investigator will prepare a final investigative record and an
661 investigative report. The investigative record is a compilation of statements by the parties and witnesses



Cornell University Student Assembly

662 as well as other evidence gathered by the investigator. The investigative report explains the scope of the
663 investigation and summarizes the information gathered. The investigator does not make any
664 determination or recommendations as to responsibility, other than to make an assessment, in consultation
665 with the Director, as to whether there is sufficient evidence for the case to proceed. The absence of an
666 element necessary to determine responsibility for a subject charge is sufficient cause to decline to proceed
667 on that charge. In the event of a hearing, the final investigative record and report become part of the
668 hearing record.

670 The Complainant and the Respondent will have an equal opportunity to participate in the investigation,
671 including an equal opportunity to be heard, submit evidence, and suggest witnesses who may have
672 relevant information. Specifically, during the investigation, each party will have the opportunity to:

- 673
- 674 . be interviewed by the investigator;
- 675 . review their own interview statements prior to the statements being distributed to the
676 other party and included in a draft investigative record;
- 677 . provide evidence to the investigator;
- 678 . suggest witnesses to be interviewed by the investigator;
- 679 . propose questions to be asked of witnesses and the other party; and
- 680 . review a draft investigative record and comment on it, in writing, before the investigator
681 finalizes the record and prepares an investigative report.

682

683 At the hearing, the Hearing Panel will rely upon the final investigative record and report as well as any
684 additional statements and information provided to the Hearing Panel pursuant to the procedures set forth
685 below.

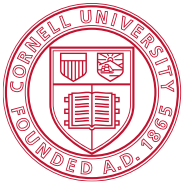
686 **18.2 Time Frame of the Investigation**

687 The investigation will be completed as expeditiously as possible, commensurate with its complexity. The
688 investigator will establish reasonable time limits for the various stages of the investigation, including
689 meetings and deadlines for any submissions or responses, and the parties shall comply with these time
690 limits. The parties may request extensions that may be granted, if reasonable, at the discretion of the
691 investigator. Extensions granted to one party will be granted to the other party. Delays simply to prolong
692 the process will not be permitted, and failure to meet deadlines will generally result in forfeiture of a
693 party's ability to participate in that aspect of the investigation. Subject to a demonstration of compelling
694 circumstances as described in section 16.1 above, a party who declines or fails to participate in a meeting
695 or interview, provide evidence, or suggest witnesses, waives their right to do so upon the issuance of the
696 final investigative record and report.

697 **18.3 Investigative Interview Process**

698 The parties have the opportunity to request in writing witnesses they would like the investigator to
699 interview and offer questions and topics they would like the investigator to ask of witnesses, themselves,
700 and/or the other party. The investigator has the discretion to determine the relevance of any proffered
701 witnesses or questions, and, accordingly, the investigator will determine which witnesses to interview and
702 questions to be asked. In general, the investigator will not consider as relevant witnesses who are offered
703 solely for the purpose of providing evidence of a party's character.

704



Cornell University Student Assembly

705 Investigative interviews with the parties and any witnesses may be audio recorded at the discretion of the
706 investigator. At the start of a recorded interview session, the investigator will inform an interviewee that
707 the session is being audio recorded. Parties and witnesses will receive copies of any audio recordings of
708 their own interviews. The parties will be provided with access to listen to any audio recordings of other
709 witnesses and/or other party interviews upon request during business hours at a secure and private campus
710 location, with access facilitated by the Director. All persons being interviewed, including the parties, are
711 prohibited from recording interviews.

712
713 In the event of a failure rendering an audio recording of an interview inaudible in whole or in part, the
714 investigator will either reconstruct the interview with input from the interviewee or re-conduct the
715 interview, as the investigator deems appropriate. The reconstructed interview statement will become part
716 of the investigative record. A recording failure will not constitute grounds for appeal.

717 **18.4 Evidentiary Materials**

718 The investigator will gather relevant available evidentiary materials, including physical evidence,
719 documents, communications between the parties, and electronic records and media as appropriate. The
720 parties may request in writing the evidentiary materials they would like the investigator to obtain. The
721 investigator has the discretion to determine the relevance of any requested materials, and, accordingly the
722 investigator will determine what materials to seek to obtain.

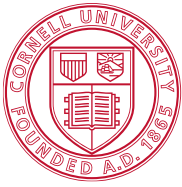
723 **18.5 Expert Testimony and Materials**

724 If the investigator determines that expertise on a topic will assist the Hearing Panel in making its
725 determinations, upon the investigator's own initiative or at the request of a party, the investigator may
726 include in the investigative record medical, forensics, technological, or other expert testimony and
727 materials (such as writings and recordings) that the investigator deems relevant and reliable. The
728 investigator has the discretion to determine the relevance and reliability of any expert testimony and
729 materials, and, accordingly, the investigator will determine what, if any, expert testimony and materials
730 will be included in the investigative record. Requested expert testimony or materials not included in the
731 investigative record will not be considered by the Hearing Panel. The results of polygraph tests and other
732 "lie-detection" techniques are inadmissible in proceedings under these procedures.

733 **18.6 Evidence to be Excluded or Redacted from the Record**

734 At the request of a party or witness, the investigator during the investigation or the Panel Chair during the
735 hearing process, may exclude and, as necessary, redact the following content:

- 736
- 737 1. Past Findings: During both the investigation and any hearing to determine responsibility,
738 participants in this process may request exclusion of evidence of their own past school
739 disciplinary findings. Such past findings may be probative and thus admissible, however, to
740 demonstrate a pattern of misconduct, at the discretion of the Panel Chair. Such findings are
741 regularly admissible at the stage of the hearing for determining sanctions.
 - 742 2. Mental Health Treatment and/or Diagnosis: Generally, during both the investigation and any
743 hearing to determine responsibility, participants in this process may exclude evidence of their
744 own mental health diagnosis and/or treatment. However, any party who wishes to have the
745 Hearing Panel consider mental health information that the party considers favorable and relevant
746 to their case, must voluntarily share such information with the investigator for inclusion in the
747 investigative record.



Cornell University Student Assembly

748 3. Sensitive Personal Identifying Information and Medical Records: Throughout these proceedings,
749 sensitive personal identifying information, such as Social Security numbers and irrelevant
750 information contained in medical records, will be excluded.

751
752 Exclusions and redactions will be noted and thereby become part of the investigative record.
753 Excluded or redacted content not included in the investigative record will not be considered by the
754 Hearing Panel. The parties should make all requests for exclusions and redactions to the investigator
755 during the investigation prior to the issuance of the final investigative record and report.

756 **18.7 Draft Investigative Record and the Parties' Review**

757 Upon completion of the investigation, the investigator will prepare and provide to the parties an electronic
758 or hard copy of a draft investigative record. The investigative record is a compilation of the investigative
759 interviews, evidentiary materials, and expert testimony and materials, if any, and includes:

- 760
- 761 · transcripts (but not audio files) of all interviews by the investigator with the parties and
 - 762 any witnesses, if applicable; and
 - 763 · copies of any documents, electronic records, and media and photographs or descriptions
 - 764 of physical materials collected during the course of the investigation and not excluded from the
 - 765 investigative record under these procedures.

766
767 The parties will have five (5) business days to review the draft investigative record and submit in writing:

- 768
- 769 · comments about content, including requests for redaction;
 - 770 · requests for additional meetings with the investigator; and
 - 771 · requests for the investigator to conduct further investigation or questioning.

772
773 The parties may request extensions in the review period that will be granted, if reasonable, at the
774 discretion of the investigator. Any extension granted to one party will be granted to the other party.
775 Delays simply to prolong the process will not be permitted and failure to make submissions within five
776 (5) business days or any approved extensions will result in a forfeiture of the right to do so later.

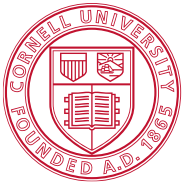
777
778 The parties' written comments and requests will become part of the final investigative record.

779
780 The investigator has discretion whether to conduct any additional requested meetings, interviews, or
781 questioning.

782 **18.8 Final Investigative Record and Report**

783 The investigator will issue a final investigative record and an investigative report.
784 In the report, the investigator will explain the scope of the investigation and summarize the information
785 gathered during the investigation. At their discretion, the investigator may identify contested and
786 uncontested facts, highlight inconsistencies, credibility issues and observations and address relevancy of
787 evidence. The investigator will not render an opinion on responsibility, other than to make the
788 determination as to whether there is sufficient evidence to proceed to a hearing (see below).

789 **19 DISMISSAL OF A FORMAL COMPLAINT**



Cornell University Student Assembly

790 The Director may dismiss a Formal Complaint and close a case at any stage of proceedings where the
791 Director determines:

- 792
- 793 · the subject matter of the complaint or the individual against whom the complaint has
- 794 been filed are not subject to the University's jurisdiction under these procedures; or,
- 795 · the facts set forth in the Formal Complaint do not constitute prohibited conduct under the
- 796 Code; or,
- 797 · the Complainant fails or refuses to cooperate with the investigation such that the
- 798 investigator is materially hindered in their ability to investigate, including where the Complainant
- 799 cannot be located, the Complainant fails or refuses to be available for interviews or meetings, or
- 800 the Complainant fails to provide necessary information; or,
- 801 · the investigator concludes, after appropriate investigation, that a Hearing Panel would not
- 802 have a reasonable factual basis on which to find that the Respondent committed the prohibited
- 803 conduct alleged.

804

805 If the Director determines that a Formal Complaint should be dismissed, the Director will provide the
806 Complainant with a written decision explaining the reasons for the dismissal and notify the Complainant
807 of the dismissal. The Complainant may ask the Hearing Panel to review the Director's decision to
808 dismiss. Such review must be requested within ten (10) business days in the form of a letter explaining
809 why the dismissal is erroneous, and shall include any written evidence in support of the Complainant's
810 position. The materials are to be submitted to the Director, who will forward them to the Hearing Panel
811 and the Panel Chair.

812

813 The Director will also notify the Respondent that a request for review has been filed and provide a copy
814 of the Complainant's letter and any supporting materials to the Respondent. The Respondent may respond
815 in writing to the Complainant's request for review of the dismissal in a letter to the Hearing panel no later
816 than ten (10) business days from the date of such notification.

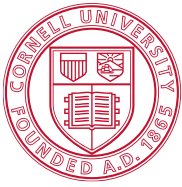
817

818 The Panel Chair, in consultation with the Hearing Panel, will establish a reasonable process and timeline
819 for handling the matter. The Hearing Panel may review the matter absent a hearing and based solely upon
820 the written materials prepared, including the Director's reasons underlying the decision to dismiss. The
821 Panel Chair may request a hearing on the respective oral positions of the parties only where the Panel
822 Chair feels it is necessary in advance of a Board decision. The Hearing Panel shall not disturb the
823 Director's decision by substituting its own judgment for the judgment of the Director unless the Hearing
824 Panel determines that the dismissal was clearly in error. If the Hearing Panel determines that the dismissal
825 was clearly erroneous, the Formal Complaint will be reinstated and resolved according to these
826 procedures without further appeal of the decision to reinstate. If the Hearing Panel determines that the
827 dismissal was not clearly erroneous, it will affirm the dismissal, which action is final and not subject to
828 further review.

829 **20 HEARINGS**

830 **20.1 Overview of Hearing Process**

831 Findings of responsibility and determinations regarding sanctions and remedies are made through a
832 hearing process conducted by the five (5) member Hearing Panel and a non-voting Panel Chair. At least
833 four members of a five-person Hearing Panel must sit for a given case, in addition to the nonvoting Panel



Cornell University Student Assembly

834 Chair, and at least three votes shall be required for any decision. The hearing is intended to provide the
835 parties with a fair opportunity to present relevant information and to enable the Hearing Panel to make
836 informed decisions regarding responsibility and sanctions/remedies.

837
838 A member of the Hearing Panel may be asked to withdraw from participation for good cause (including a
839 valid conflict of interest), which shall be determined by the Panel Chair. Mere knowledge of the events at
840 issue shall not disqualify a member. In the event that a member withdraws or is excused, an alternate
841 member shall be randomly selected by the Panel Chair.

842 **20.2 Presumption of Non-Responsibility and Standard of Proof**

843 The Respondent is presumed “not responsible” unless and until a Hearing Panel finds the Respondent
844 responsible for prohibited conduct under the Code by a majority vote using a preponderance of the
845 evidence (i.e. more probable than not) standard of proof^[A2].

846
847 If the Hearing Panel does not find the Respondent responsible for any prohibited conduct under the Code,
848 it will dismiss the case. If the Hearing Panel finds that the Respondent is responsible under the Code, it
849 will consider appropriate sanctions and remedies.

850 **20.3 Responsibilities of the Panel Chair and Hearing Panel**

851 The Panel Chair provides procedural oversight and guidance to the process and the Hearing Panel.
852 However, the Hearing Panel makes all findings and issues any sanctions or remedies. The Panel Chair
853 will draft the Hearing Panel’s decision, including findings of fact and rationales for their determinations
854 regarding both responsibility and sanctions or remedies. The Panel Chair will obtain the Hearing Panel’s
855 review and approval before issuing a written decision.

856 **20.4 Notice of Hearing**

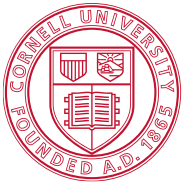
857 Hearings are scheduled as timely as possible after completion of an investigation. A timely Notice of
858 Hearing is sent to the parties which includes the charges at issue; a brief summary of the alleged
859 prohibited conduct; the date, time, and place of the hearing; the name of the Panel Chair; and, if
860 determined, the Hearing Panel members. If the notice does not include the name of the Hearing Panel
861 members, the parties will be so notified, in writing, at a later time, prior to the hearing. All efforts will be
862 made to provide the Notice of Hearing no later than ten (10) business days prior to the hearing.

863 **20.5 Request to Reschedule Hearing**

864 Either party may request that a hearing be rescheduled. Absent extenuating circumstances, requests to
865 reschedule must be submitted at least three (3) business days prior to the hearing. A request to reschedule
866 a hearing must be supported by a compelling reason for the delay. Given the number of individuals
867 involved in a hearing, and the attendant difficulty of scheduling and rescheduling them in a timely
868 manner, it may not be possible to accommodate all scheduling requests. The Panel Chair may also
869 reschedule a hearing, without a request by the parties, when there is reasonable cause to do so.

870 **20.6 Newly Discovered Evidence**

871 If after the issuance of the final investigative record and investigative report and prior to the hearing, a
872 party seeks to present a witness or introduce evidence not requested prior to the hearing and not disclosed



Cornell University Student Assembly

873 to the investigator, the Panel Chair may grant admission of a witness or evidence only upon a sufficient
874 showing that the witness or evidence is highly relevant, material, and could not have been discovered
875 during the investigation with reasonable due diligence.

876
877 Where a Panel Chair permits a party to introduce a newly discovered witness or evidence, to prevent
878 surprise to the other party, the Panel Chair will reschedule or adjourn the hearing for the investigator to
879 review the newly discovered witness or evidence. The Panel Chair may also re-open the pre-hearing
880 submission process, as appropriate, so that the parties may respond to the new information.

881 **20.7 Pre-Hearing Submissions by the Parties**

882 Prior to a hearing, the parties will be asked in writing by the Director to make certain decisions and
883 requests regarding the conduct of the hearing. This process is designed to ensure that the hearing is
884 conducted in as equitable, respectful, and efficient a manner as possible.

885
886 There are two stages at which the parties will be asked to make Pre-Hearing Submissions.

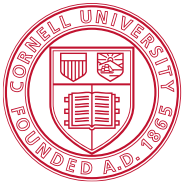
- 887
- 888 · First, the parties will be asked to submit in writing an opening statement (describing their
889 views on the allegations in the Complaint) and names of any requested witnesses.
- 890 · Second, once witnesses are approved and finalized, the parties will be asked to submit in
891 writing any proposed questions or topics for individuals who might testify, including themselves,
892 as explained below.

893
894 All Pre-Hearing Submissions are optional and are waived if not completed by the stated deadlines. Prior
895 to the hearing, the Director will distribute each party's Pre-Hearing Submissions to the other party for
896 their review.

897 **20.7.1 First Pre-Hearing Submission – Written Opening Statements and Witness Requests**

898 Upon providing the parties with copies of the final investigative record and report to be transmitted to the
899 Hearing Panel, the Director will instruct the parties, in writing, that they have the opportunity to submit a
900 written opening statement (not to exceed 2500 words) and a written list of proposed witnesses. The
901 parties may not add or address information in the opening statement not contained in the investigative
902 record, as the Hearing Panel will not consider new information. The parties should include specific page
903 citations to the final investigative record. All interview statements contained in the final investigative
904 record become part of the hearing record and are before the Hearing Panel. If a party wants the Hearing
905 Panel to hear directly from a witness, the party must submit a written witness request with their opening
906 statement. Such a request should include:

- 907
- 908 1. The names of proposed witnesses, including the investigator, if the party requests that the
909 investigator testify.
- 910 2. For each proposed witness an explanation of why the individual's presence is relevant
911 and helpful to the Hearing Panel in determining responsibility. For example, the party should
912 explain why a witness's interview statement contained in the final investigative report is not
913 sufficient for the Hearing Panel to make its finding.
- 914 3. The parties are encouraged to include proposed questions for or general topics to be
915 addressed by each witness. The parties will have an opportunity to supplement and revise their
916 requests for questions and topics once they learn who will testify at the hearing. However, by
917 indicating proposed questions and topics at this juncture, the parties will help the Panel Chair and



Cornell University Student Assembly

918 Hearing Panel understand why the parties would like to hear from specific individuals. The
919 parties may request only witnesses who were interviewed by the investigator during the
920 investigative process.

921
922 The Panel Chair will establish a reasonable deadline for these submissions, typically no longer than five
923 (5) business days. The Panel Chair, in consultation with the Hearing Panel, will review the parties'
924 opening statements (for relevance and admissibility) and requests for witnesses, and the parties will be
925 provided with those decisions in writing. This triggers the opportunity to file a second pre-hearing
926 submission:

927 **20.7.2 Second Pre-Hearing Submission – Questions and Topics**

928 The second pre-hearing submission affords both parties the opportunity to submit a succinct proposal
929 with:

- 930
931 1. Questions and topics for the witnesses.
932 2. Questions and topics for themselves and the other party. The parties are not required to
933 commit to testifying at this juncture, but are encouraged to prepare for the eventuality that
934 they and the other party would testify by submitting proposed questions and topics.
935

936 The Panel Chair will establish a reasonable deadline for these final submissions, typically no later than
937 five (5) business days prior to the hearing. The Panel Chair, in consultation with the Hearing Panel, will
938 review and rule on the parties requested questions and topics to be permitted at the hearing, approving
939 those deemed relevant and that are not prohibited by these procedures or applicable laws, prejudicial, or
940 duplicative of other evidence.

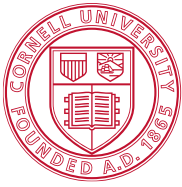
941 **20.8 Hearing Process and Format**

942 **20.8.1 Overview of Hearing Process and Format**

943 All hearings will be private. The only persons present will be the parties, their Counselor/advisor and
944 support person, witnesses (when testifying), the Hearing Panel and Panel Chair, (and, at the Board's
945 discretion, its counsel), the investigator, and any staff necessary for the conduct of the hearing. Witnesses
946 may be present only for their own testimony.
947

948 In cases of interpersonal misconduct such as assault, harassment or hazing, either party may request that
949 the parties with their advisor(s) and support person, if applicable, will be in separate rooms. If separated,
950 the parties will participate remotely via a secure audio-visual connection, with the exception that when a
951 party testifies and gives their oral closing statement, generally, they should do so in the presence of the
952 Hearing Panel and Panel Chair; they may be accompanied by their Counselor/advisor and support
953 persons.
954

955 The Panel Chair, in consultation with the Hearing Panel, may establish reasonable time limits, rules, and
956 format. The Panel Chair may adjourn the hearing, once commenced, and later reconvene the hearing in
957 consideration of factors including, but not limited to, the unavailability of a witness, party, Panel Chair,
958 Hearing Panel member, or needed personnel; inclement weather; late hour; or in order to make an
959 evidentiary or procedural ruling.
960



Cornell University Student Assembly

961 Formal rules of evidence do not apply, the Panel Chair shall make all determinations regarding the
962 admissibility, probative value, prejudicial effect, repetitiveness, redundancy, relevancy, etc., of evidence
963 presented. Evidence that was excluded or redacted from the investigative record as impermissible will not
964 be admissible at the hearing. Typically, the format of the hearing will be as follows:

- 965
- 966 . Introduction by the Panel Chair. The Panel Chair will explain the hearing process,
967 address any necessary procedural issues, and answer questions.
- 968 . Testimony by the Complainant.
- 969 . Testimony by the Respondent.
- 970 . Testimony by any witnesses.
- 971 . Closing statements by the Complainant followed by the Complainant.

972 **20.8.2 Testimony**

973 Testimony is conducted through a question-and-answer format. Questioning will primarily be conducted
974 by the Hearing Panel, but the Panel Chair may supplement the Hearing Panel's questioning. The Panel
975 Chair will ask persons being questioned to affirm that they will testify truthfully. Both the Complainant
976 and the Respondent may testify or decline to testify and may make their election when their turn to testify
977 arises. If a party testifies, they are expected to answer all questions asked. A party who testifies may
978 propose supplemental questions that they wish to answer. Counselors/advisors participate in this process
979 as set forth in Section 11 of these procedures.

980
981 The Panel Chair, in consultation with the Hearing Panel, may call a witness not on the witness list but
982 previously interviewed by the investigator, and ask any question. In such cases, the parties will be given
983 time to propose questions for the witness.

984 **20.8.3 Closing Statements**

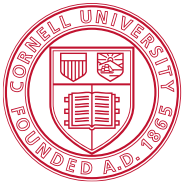
985 The parties may provide both oral and written closing statements. This is the opportunity for the parties to
986 marshal the evidence in the hearing record and suggest inferences and conclusions. The parties may not
987 add or address information not contained in the hearing record, as the Hearing Panel will not consider
988 new information. Nor may the parties address issues that pertain to sanctions and remedies. The Hearing
989 Panel does not consider these issues when determining responsibility. The parties may appropriately raise
990 such issues in their Impact/Mitigation Statements.

991
992 The Panel Chair will establish a time limit for brief oral closing statements, typically around five (5)
993 minutes. The Panel Chair will also set the schedule for submission of written closing statements. The
994 parties should assume that deliberations will commence immediately following the hearing, in which case
995 the parties will be expected to submit written closing statements shortly after the oral closing statements.
996 If there is an adjournment for deliberations, the Panel Chair may provide the parties with limited
997 additional time to submit their statements.

998
999 Each party's signed closing statement will be limited to 2000 words and to the evidence contained in the
1000 investigative record and hearing. The written statements will be distributed to the other party, Panel Chair,
1001 and Hearing Panel for their review.

1002 **20.8.4 Impact/Mitigation Statement**

1003 The parties are permitted, but not required, to prepare a written Impact/Mitigation Statement relevant to
1004 any sanctions. The parties may submit the statement up until the end of a hearing, but are advised to begin



Cornell University Student Assembly

1005 to compose such statements in advance. The statements are distributed to the Hearing Panel only upon a
1006 finding of responsibility and are included with the Hearing Panel's written decision to the parties.

1007 **20.9 Deliberations on Findings of Responsibility**

1008 After closing arguments, the Hearing Panel may begin its deliberations. Deliberations will be completed
1009 as expeditiously as possible. Deliberations are conducted in private and they are not audio-recorded.

1010 **20.10 Sanctions and Remedies**

1011 A Hearing Panel that finds the Respondent responsible will continue its deliberations to consider
1012 sanctions and remedies. It will issue its findings on responsibility and sanctions/remedies simultaneously.
1013 Prior to deliberating on sanctions and remedies, the Panel Chair will distribute to the Hearing Panel any
1014 written or recorded Impact/Mitigation Statements previously submitted by the parties.
1015

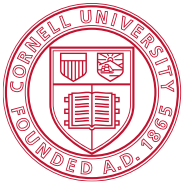
1016 If the Respondent has a Cornell disciplinary record, a known disciplinary record from another institution,
1017 or a known criminal conviction, the Panel Chair may distribute to the Hearing Panel a copy of such
1018 disciplinary and/or criminal records prior to deliberating on sanctions and remedies. (Where an
1019 educational record, including a Cornell disciplinary record, is being considered solely for sanctions, it will
1020 not be shared with the Complainant.)
1021

1022 The Panel Chair may support the deliberations but may not express views on the merits and may not vote.
1023 The Hearing Panel will determine sanctions and remedies by a majority vote. In determining sanctions
1024 and remedies, the Hearing Panel will consider:

- 1025
- 1026 . the severity of the prohibited conduct;
 - 1027 . the circumstances of the prohibited conduct;
 - 1028 . the impact of the prohibited conduct and sanctions and remedies on the Complainant;
 - 1029 . the impact of the prohibited conduct and sanctions and remedies on the community;
 - 1030 . the impact of the prohibited conduct and sanctions and remedies on the Respondent;
 - 1031 . prior misconduct by the Respondent, including, the Respondent's previous disciplinary
1032 record at Cornell University and if known, other disciplinary records or criminal convictions;
 - 1033 . the goals of the Code and these procedures; and
 - 1034 . any other mitigating, aggravating, or compelling factors.
- 1035

1036 The Hearing Panel may impose one or more of the following student sanctions and remedies:

- 1037
- 1038 . Measures similar in kind to the interim measures specified under these procedures.
 - 1039 . Appropriate educational steps (such as alcohol or drug education, reflection exercises,
1040 counseling, or directed study).
 - 1041 . Community work, which shall not be more than 80 hours per violation, and must be
1042 performed in a manner acceptable to the Director.
 - 1043 . Restitution to the Complainant.
 - 1044 . Fines of not less than \$20 nor more than \$500 payable to the University Treasurer.
 - 1045 . Restrictions or loss of specific or all privileges at the University for a specified period of
1046 time.
 - 1047 . Oral warnings.
 - 1048 . Written reprimands.



Cornell University

Student Assembly

- 1049 · Disciplinary probation for a stated period.
1050 · Suspension from the University for a stated period not to exceed three (3) years.
1051 · Dismissal (i.e., expulsion) from the University.
1052
1053 The Hearing Panel may impose one or more of the following sanctions and remedies on University-
1054 registered organizations:
1055
1056 · Measures similar in kind to the interim measures specified under these procedures.
1057 · Appropriate educational steps for organization members (such as alcohol or drug
1058 education, reflection exercises, counseling, or directed study).
1059 · Community work performed by organization members, which shall not be more than 80
1060 hours per violation, and must be performed in a manner acceptable to the Director.
1061 · Restitution.
1062 · Fines of any reasonable and appropriate amount payable to the University Treasurer.
1063 · Restrictions or loss of specific or all privileges for the organization at the University for a
1064 specified period of time.
1065 · Written reprimands.
1066 · Dismissal, i.e., rescission of permission to operate on University property and/or
1067 termination of the organization's agreement and relationship with the University.
1068

1069 Ordinarily, the penalties for subsequent or repeated violations, whenever such violation(s) occur, should
1070 be more severe than for a first violation. Further, certain types of violations are so fundamentally
1071 inconsistent with the University's educational mission that, absent unusual mitigating factors, a sanction
1072 of substantial suspension or dismissal ordinarily will ordinarily be imposed. Such violations include acts
1073 of violence or other violations that substantially threaten the University's educational mission or property,
1074 or the health or safety of University community members. The Hearing Panel may also recommend to the
1075 Director that the University take measures on campus to remedy the effect or prevent the reoccurrence of
1076 such prohibited conduct. Sanctions and remedies will be effective immediately unless otherwise specified
1077 by the Hearing Panel.

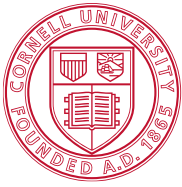
1078 **20.11 Decision of the Hearing Panel**

1079 The Hearing Panel will issue a written decision as expeditiously as possible upon completion of
1080 deliberations. The Director will provide the written decision to the parties simultaneously and as soon as
1081 practicable. The decision will include:

- 1082
1083 · The specific prohibited conduct for which the Respondent was found responsible and not
1084 responsible; and
1085 · the findings of fact and the rationale for the Hearing Panel's determinations regarding
1086 both responsibility and sanctions.
1087

1088 The decision may incorporate and reference any portions of the proceedings, including the investigative
1089 record and report, as the Hearing Panel deems appropriate. The decision will include instructions and time
1090 limits for appeals. Both the Complainant and the Respondent will be informed simultaneously of the
1091 decision and any sanctions and remedies, the date by which the requirements must be satisfied (if
1092 applicable), and the consequences of failure to satisfy the requirements.

1093 **20.12 Hearing Record**



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Student Assembly

1094 The hearing record will include: the audio recording of the hearing, the Hearing Panel's decision, the final
1095 investigative record and report, the parties' pre-hearing submissions, the written witness lists, written
1096 opening and closing statements, written submissions permitted by these procedures made to the Panel
1097 Chair or during the hearing, and the parties' Impact/Mitigation Statements (if considered by the Hearing
1098 Panel). The hearing record may also include a transcript of the hearing.

1099 **21 APPEAL OF A HEARING PANEL DECISION**

1100 Both the Complainant and the Respondent may appeal a decision of the Hearing Panel to a three (3)
1101 member Review Panel. The faculty member appointed to the Review Panel serves as its Chair. No person
1102 who served on the Hearing Panel will sit on the Review Panel in the same case. A member of the Review
1103 Panel may be asked to withdraw for good cause upon request of either party, which determination shall be
1104 made in the Review Panel Chair's sole discretion. If the Review Panel Chair is reasonably challenged by
1105 a party, the Director shall appoint another member. In the event that a member withdraws or is excused,
1106 an alternate member shall be randomly selected by the Review Panel Chair.

1107
1108 Appeals will be based solely upon the hearing record except that when relevant to a stated ground for
1109 appeal, the Review Panel may supplement the record on appeal with evidentiary materials excluded or
1110 redacted from the investigative record or newly discovered evidence. If the Review Panel reverses a
1111 finding of not responsible, the record on appeal will be supplemented with the parties' Impact/Mitigation
1112 Statements. Findings of fact will not be set aside unless clearly erroneous. Harmless error will be ignored.

1113
1114 Appeals may be brought only upon one or more of the following grounds:

- 1115
1116 1. A University official or officials, including the Hearing Panel, assigned responsibility for
1117 performing specific functions by these procedures, committed an error in interpreting or applying
1118 the Code of Conduct or these procedures, and such error had a prejudicial effect upon the
1119 outcome.
1120 2. The Hearing Panel rendered a decision that is clearly erroneous.
1121 3. New evidence was discovered after the decision that could not have reasonably been
1122 discovered before the decision and that would with high probability, have changed the outcome.
1123 4. The sanctions or remedies are substantially disproportionate to the severity of the
1124 injury/violation or are otherwise manifestly unjust.

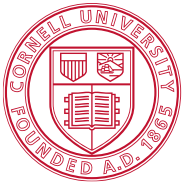
1125
1126 The appealing party commences an appeal by submitting a written statement to the Director within ten
1127 (10) business days of service of the Hearing Panel's decision.

1128
1129 The appeal statement will be limited to 3500 words and must set forth:

- 1130
1131 · the determination(s) being appealed,
1132 · the specific ground(s) for the appeal, and
1133 · the facts supporting the grounds.

1134
1135 Failure to submit an appeal within the ten (10) business days or any approved extension constitutes
1136 waiver of the right to appeal. The Review Panel has discretion to grant any such request upon a finding of
1137 good cause for the delay.

1138



Cornell University Student Assembly

1139 A copy of the appeal statement will be provided to the other party, who, within ten (10) business days
1140 may submit a written response to the Director. The response should address both the specific ground(s)
1141 for appeal set forth in the appealing party's statement and the specific facts asserted by the appealing
1142 party. The response will be limited to 2500 words.
1143

1144 The Review Panel will issue a timely written decision, typically no later than thirty (30) business days
1145 after receipt of the non-appealing party's submission or the time for submission has expired. The decision
1146 is final and binding on all parties. The decision must be by a majority vote of the Review Panel and will
1147 include the rationale for the Review Panel's decision and any dissenting opinion.
1148

1149 The Review Panel may affirm the decision of the Hearing Panel or sustain any of the above-specified
1150 grounds for appeal, in which case the Review Panel may:

1151 · reverse a finding;

1152 · change a sanction or remedy;

1153 · remand a case to the original Hearing Panel for clarification or reconsideration consistent
1154 with the Review Panel's decision, if doing so would assist with a timely, practicable, and efficient
1155 resolution of the case;

1156 · remand a case for a new hearing to either the original Hearing Panel or a newly
1157 composed Hearing Panel; or

1158 · remand a case for a new or additional investigation, followed by an adjudication
1159 consistent with these procedures, to either the original investigator or to a new investigator.

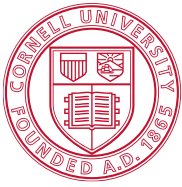
1160 **22 REQUEST FOR A STAY PENDING APPEAL**

1161 The Review Panel has discretion to stay (i.e. postpone implementation of) any sanctions pending a final
1162 decision on the appeal. It may, but is not required to, stay a sanction where the appealing party
1163 demonstrates the need for a stay by a clear showing. An application for a stay must be submitted to the
1164 Director. The Director will provide a copy of the stay application to the Review Panel and the other party,
1165 who is entitled to respond to the stay application by submitting to the Director a written response. The
1166 Review Panel will set a reasonable timeline for handling the stay application, including a deadline for the
1167 other party to respond to the stay application. The Review Panel has discretion to reconsider its decision
1168 on a stay at any time during the appeal. The stay expires at the conclusion of the appeal.

1169 **23 CONSISTENCY OF INTERPRETATION**

1170 Because the student conduct system utilizes the decision of the University Hearing and Review Panels to
1171 define or interpret violations, summaries of all decisions of those boards shall be kept on file in the
1172 Director, including a brief description of the nature of the case and its disposition, but with names of
1173 individuals and other identifying information redacted.
1174

1175
1176 [1] Complaints against a student organization are addressed so long as the organization remains registered with the
1177 University or is deemed to be operating even without approval or recognition.



Cornell University Student Assembly

- 1178 [2] Throughout these procedures, various University officials, such as the Director, are assigned responsibility for
1179 performing specific functions. Named officials are authorized to delegate responsibility to other appropriate
1180 University officials and non-University consultants except where such delegation contravenes University policy.
1181 Additionally, named officials and their designees may always consult with appropriate University administrators, the
1182 Office of University Counsel, and subject-matter experts.
1183
- 1184 [3] For example, the Vice President for Student and Campus Life, or the Dean of Students.