

## I. OVERVIEW

In October 2010, President Taylor Reveley established a Committee to Review the Honor System, composed of undergraduate and graduate students, as well as faculty and administrators. The President's charge to the Committee read as follows: "It has been 13 years since our honor system was last reviewed by the campus community. It is time to take another look to ensure that the system remains alive and well. Thus, I am appointing an Honor System Review Committee (HSRC), as advisory to the President. HSRC will take a close look at the following matters and any others it finds useful: the Code itself, current Honor Council structure, procedures for responding to alleged honor violations and for conducting hearings, sanctions for honor violations, roles that faculty, staff and students (undergraduate, graduate and professional) have in the system, and how best to educate the William & Mary community about the system and nurture commitment to it. HSRC will make its findings and recommendations available to the campus community for comment and to the President for further consideration."

To fulfill this charge, the Committee examined the Code itself, Honor Council by-laws, select case documents and other materials on the College system; surveyed practices at thirty peer institutions; consulted those most directly involved in or by the process; sought broader input by surveying students and faculty; and held several open meetings to discuss its findings, as well as proposed changes. At the heart of this work was one key question: does the current Code offer the best possible system for helping ensure a climate of integrity on campus? The Committee recognized that other variables—admissions, teaching practices, technology, counseling—also shape that environment, but those factors lay beyond its purview. In line with the President's charge, this review was thus confined to the Code, including the procedures and bodies designed to uphold it, which in the event provided sufficient work for the time available

(though the Committee does recommend a broader assessment of the climate of integrity in the near future, with an eye to considering any needed changes beyond the system itself).

Based on campus input and its own assessment, the Committee agreed that the Code as it has evolved over time has many strengths and largely lives up to its historic mission. Half of those faculty who replied to the survey indicated willingness to rely on the system in dealing with infractions. A majority of students who responded expressed satisfaction with it. Participant surveys indicate that those involved in enforcing the Code generally take this responsibility seriously, a finding confirmed by the relatively small number of cases vacated on appeal.

At the same time, given that the system is so cherished a tradition, the Committee found more confusion and ambivalence than desirable, as well as pockets of criticism. Faculty report differing ideas or uncertainty about what sort of safeguards to deter cheating are consistent with the Code. Half who provided input (and a majority of those who instruct undergraduates) voiced at most conditional readiness to make use of the system when they suspect violations. Most of those felt they themselves could better handle suspected infractions directly with the student. While the Committee attributed this hesitance in part to lack of information or misperceptions based on second-hand or outdated reports of past cases, its own analysis of the system suggested that some of its features also contribute to a certain lack of faculty confidence and participation.

The Committee also discussed issues of student confidence in the system. In its survey, the share of undergraduates critical of or unsure about the Honor system was just below the number satisfied with it. A large majority reported qualms about the current sanctioning process. Peer reporting is very low even though nearly half of respondents rated infractions as a problem. The Student Assembly unanimously adopted a list of eleven proposed changes. Some students who have served on hearing panels voiced reservations about aspects of the process. Some

members of the Committee felt that this input reflects concerns among undergraduates in particular that should be addressed by this review, while others felt that it results mainly from lack of information and misperceptions, magnified by adverse media coverage of isolated cases. But all agreed on the desirability of greater student acceptance of the system.

Based on its analysis, the Committee is proposing numerous changes. Several are minor editorial or technical revisions, to assure clarity and consistency in the Code. Others are designed to codify accepted practices. Some are designed to bring it more into conformity with other rules or to address specific legal issues. A few take into account advances in technology. But the Committee is also suggesting substantive changes. Some address important questions on which the current Code is silent. Others reflect a sense that it is time for the community to discuss and possibly reconsider the validity of certain widely shared assumptions about the Honor system. A few recommendations also reflect the premise that, while not fundamentally flawed, the overall process can nonetheless be improved in several key respects so as to broaden and deepen confidence in its operation. Finally, the Committee has concluded that the organization of the Code as it has evolved over several decades has actually become an obstacle to understanding for and appreciation of the system; as a result, it will ultimately be proposing a new structure. In some areas, the Committee discussed proposed revisions without coming to a clear consensus.

Proposals for change in this report reflect and raise a number of questions: how to strike the proper balance between students' freedom from monitoring on one hand and reasonable precautions against violations on the other; how to provide definitions of academic infractions that are clear without being unduly narrow or quickly outdated; whether non-academic conduct should be covered, and if so in what areas and to what degree; what is the appropriate tradeoff between efficiency and fairness in the process for dealing with suspected infractions; how best to

reconcile rights of the accused, accuser and witnesses; where to set the level of sanctioning so as to protect the community while ensuring fairness, emphasizing education, and encouraging participation; how to make changes while maintaining a mainly student administered system; how uniform the system should be across campus constituencies, undergraduate and graduate.

The Committee was aware that some may see any proposed change as a break with tradition. But it should be emphasized that, despite ancient roots, the Code is a work in progress: other than the notion that students should be trusted to act with honor and report peers who cheated, little has remained constant. This includes the type of precautions that faculty may take consistent with the Code, the definitions of non-academic infractions, and the means of enforcing against violations. Most provisions in the current Code began to emerge in the 1950s, but even since then, much has changed in its language and practice, including whether failure to report violations is itself a violation, what forms of lying and stealing are infractions, etc. Each generation has taken the broad conception of an honor system and shaped it to fit the times. This report's proposed changes are thus fully within the tradition of the system's evolution.

The Committee also acknowledges that some of its proposals may seem to deviate from the cherished notion of a student run honor system. Yet contrary to what many might assume or prefer, the system has never been entirely student run. Even today, while students alone do indeed adjudicate cases and make an initial determination of sanctions, the Dean of Students provides training and oversight; a few faculty or other staff are involved in hearing appeals; the Provost's office decides on appeals; and all ultimate authority rests with the President, as a designee of the Board of Visitors. Where exactly to draw the line between student and non-student management of the system is one of those broad issues for the community to discuss.

At several points the Committee also dealt with what it means to have a unified system. Undergraduates and graduate programs had separate Codes until the 1997 review process merged them, maintaining (only) separate Councils, each with its own by laws to cover selection, administration and some procedural matters. While agreeing that all members of a university community should have the same rights, the Committee felt that this does not necessitate entirely uniform procedures. Undergraduates are at a very different stage of life and academic preparation than graduate or professional students. In surveying peer institutions, moreover, the Committee noted that many maintain separate systems for different schools within their university. It concluded that broadening the autonomy of separate Councils in procedural matters was a small price to pay if the net result was to help bolster the system as a whole.

Finally, the Committee agreed that, however important the role of the Councils and key administrators in managing the system, it only works well if fully embraced by all stakeholders in the campus community. Such a commitment in turn requires that their voices also be fully heard when decisions are being made about the system's goals and operation. That can be ensured by this report itself, but also—going forward—by some of the changes it recommends.

## II. AREAS OF DISCUSSION AND PROPOSED CHANGES

Generally the Committee agreed in its analysis and proposals. But in several areas its members drew different conclusions and/or favored different alternatives (denoted by capital letters).

## A. INFRACTIONS OF THE HONOR CODE

### *1. What conduct in an academic setting should be considered violations of the Honor Code?*

The Committee agreed that the current Code's adequately identifies some categories of cheating but lumps them together in an unclear manner and omits others. It proposes these subcategories

(1) plagiarism: presenting with intent to deceive or intent to disregard properly scholarly procedure any information, ideas or phrasing of another as if they were one's own without giving appropriate credit to the original source

(2) unauthorized assistance/collaboration: giving unauthorized aid to another student or receiving unauthorized aid from another person on tests, quizzes, assignments or exams;

(3) unauthorized materials: using or consulting unauthorized materials or using unauthorized equipment or devices on tests, quizzes, assignments or examinations;

(4) unauthorized dual submission: using any material portion of a paper or project to fulfill the requirements of more than one course unless the student has received prior permission to do so from the appropriate instructor(s);

(5) time constraint violation: intentionally commencing work or failing to terminate work on any examination, test, quiz or assignment according to the time constraints imposed.

(6) directions violation: failing to follow instructions for an assignment or examination despite knowing or having reason to know that such conduct would result in an unfair academic advantage

In addition, the Committee also agreed that the Code should define

- lying as an infraction when it relates to or affects in a significant way a student's academic a) activities, b) obligations, c) performance or d) qualifications
- lying as an infraction when it involves alteration of College credentials
- stealing as an infraction when it involves theft of a) another's work product, b) an instructor's materials, or c) library resources.

Beyond that the Committee concluded that it was unwise to define each category too precisely in the Code given that specific application of rules (e.g. on collaboration or citation) can vary by school or department, and rapid changes in technology may create new questions well before any future review. It thus agreed that the Code should explicitly

- encourage schools, departments, programs and/or faculty to make their policies known to all students under their supervision, and
- oblige students to be responsible for knowing school, departmental or faculty policies.

It also agreed to recommend that the Honor Council website contain more updated information based on actual cases (without identifying features) about how it has determined infractions.

Finally the Committee agreed to clarify two specific points:

- The current language can be read to require that the accused must have “used” or “taken” ideas so as to “gain an unfair advantage.” Cases have been appealed on the basis that no advantage was ultimately gained because the effort failed. The Committee agreed that even an unsuccessful attempt should constitute an infraction.
- The current language on plagiarism extends the term to cover cases of “reckless disregard for scholarly procedure,” which has been the basis of difficulty in Council deliberations. The Committee agreed that a finding of plagiarism must be based not solely on sloppiness, but on indication of the accused’s intention to deceive or to disregard proper scholarly procedure,. At the same time, it agreed that intent may be presumed if a significant amount of improperly attributed material is submitted as if it

were the student's own, a citation is falsified, or original source material is manipulated so as to avoid detection

## ***2. What conduct outside an academic setting should be a violation of the Honor Code?***

Non-academic infractions were a subject of considerable discussion, following a long tradition. In the early 20<sup>th</sup> century, provisions against lying covered telling mistruths to anyone, including a fellow student, while sections on stealing focused on library materials. In the 1980s, lying to faculty, administrators or police was defined as an infraction, as were forgery and possession of false identification. By contrast, the definition of stealing was explicitly confined to academic stealing (e.g. books or another student's work). In 1997, when one Code was established for undergraduate and graduate students, its definition of stealing was broadened beyond the academic realm. By contrast, in its practice, the Council began defining lying more narrowly, so that possession of a fake ID was no longer sanctionable, just use of one.

- Under the current Code, lying is an infraction if it “relates to or affects in a significant way...non-academic activities of legitimate concern to the College community [including] forgery or the use of false identification,”
- Under the current Code, stealing “property of any kind” is proscribed. Some cases may also fall under the Student Conduct Code, which bars “failing to comply with the directions of College officials or law enforcement officers” and “possessing... property of another person, the College or another entity without proper authorization.” The basis for determining which system covers such cases is uncodified; the decision is made by the Vice-President for Student Affairs.

There were two assessments of this issue, and thus two perspectives on change:

- Most Council members and a majority of students who offered input continued to support defining Honor infractions to include more than academic misconduct. Some members of the Committee agreed, holding that the Code should be fostering honorable conduct overall, not just in academics. Members of the graduate school community felt especially strongly that those on the cusp of entering their professions should be held to high standards of conduct in all areas, including beyond classroom matters. All the graduate schools have found the current definitions work in practice in their communities, fostering a professional and collegiate atmosphere, and there are concerns about the practicality of handling non-academic infractions outside the Honor System.

[B] But most members of the Committee saw problems in basing the system on a broad notion of honor but restricting infractions (and often redefining them as practicality requires) to just certain types of lying and stealing, omitting all others as well as harassment, bullying, discrimination, etc. They believe it would avoid confusion, controversy and credibility problems to apply the Code solely to the one essential feature of college life, academics. Other types of infractions would be referred to the Conduct system (which assures the right to a student hearing panel).

As a result, the Committee proposes preserving the Honor pledge in its current form, but restricting sanctionable offenses under the Code itself to lying, cheating and stealing in the academic realm for undergraduate students, while referring other types of infractions to the conduct system.

### ***3. What steps to prevent violations should be considered consistent with the Honor Code?***

Based on faculty and student input, the Committee saw a need to clarify the purpose of the Code in terms of the “freedom” it permits. In principle, honor systems are distinguished from other sets of academic rules in part by the fact that they make it possible for faculty to dispense with strict monitoring; some even explicitly restrict such steps as proctoring, while others do not.

There is no record of what practices the College followed in the 19<sup>th</sup> century. In the early 20<sup>th</sup> its materials do say that faculty take a student at his or her word and that exams are not proctored (though neither is phrased as binding), but they add that it is also reasonable for faculty to separate those taking tests and that students should only leave the room briefly.

Neither the current Code nor materials accompanying it speak to such issues. At their orientation new faculty are told that reasonable precautions to minimize temptations to cheat are consistent with the system, But nowhere is the notion of reasonable precautions stated, defined or illustrated. Moreover, feedback suggests confusion and differences on this point. Some faculty feel proctoring is inconsistent with the Code and thus College policy, while others do not, stressing their latitude to run their own classes. Some students are fine with precautions while others see proctoring or other measures as incompatible with the spirit of the Code.

The Committee agreed that the Code should be understood as *creating and permitting* greater opportunity for faculty to dispense with supervision, but should not be interpreted as excluding it. For the benefit of faculty and students, the Code should thus explicitly affirm that reasonable faculty precautions to deter infractions are not incompatible with its letter or spirit, provided that they respect every student’s right to privacy and non-discrimination.

## B. PRELIMINARY STEPS IN DEALING WITH INFRACTIONS

### ***1. What is the extent of the obligation to report an Honor infraction?***

As at some other institutions, failure to report an infraction was itself an infraction at the College until the 1980s, when it was decided that being coerced into this step violated the spirit of a Code under which students should be trusted to uphold honor as a matter of inner conviction. Yet the current Code's language ("all Community members must report infractions") creates uncertainty.

The Committee thus proposes new language making clear that students, faculty and administrators should report suspected infractions so as to sustain the Honor system but that failing to do so is not itself a violation of the Code.

### ***2. How should a student be confronted with a possible infraction?***

The Committee agreed that any member of the community who suspects that an infraction has occurred should inform the student in question in person, but also agreed that circumstances may justify electronic communication. It also agreed that the accused student should be made aware of the potential seriousness of this conversation, but also understands that it is an opportunity to explain and clarify the circumstances.

### ***3. Should faculty have the option of reaching a resolution directly with the student?***

The Committee agreed that the current multistage process functions fairly well in most cases, but has real and perceived drawbacks. Its one-sized fits all format reduces the flexibility to treat infractions based on their level of seriousness and/or the stage of an accused student's academic

career, which can in turn contribute to ambivalence about the system. In addition, the process can be slow, cumbersome and problematic for participants, which is a major reason faculty cite for not reporting; that in turn reduces their participation in educating students about academic integrity standards.

The Committee thus agreed to propose instituting an optional expedited process in instances involving undergraduates. It would function as follows:

- A faculty member would first ascertain (e.g. in consultation with the Dean of Students) whether a student is eligible for an expedited alternative process by virtue of not having been sanctioned previously for an Honor or serious conduct offense.
- Upon consulting general guidelines , the faculty member would then assign the suspected infraction a degree of seriousness:
  - In what the faculty member designates a Level I case, he/she would issue a grade penalty, and there would be an educational sanction, but no investigation/hearing.
  - More serious Level II cases would result in the faculty member's grade penalty **and** a sanctions hearing before the Council, but with deliberation on sanctions to begin at probation rather than suspension.
  - The most serious categories of accusations, Level III, as well as any against a graduate student or an undergraduate who has already been sanctioned for an Honor offense, would not be eligible for resolution under this alternative. In all three of these cases a full investigation and hearing would be mandatory.
- The faculty member would report the suspected (Level I or II) infraction and proposed resolution to the Dean of Students. The accused would have the opportunity to consult

the Dean of Students and a Student Counsel. Should he/she thereupon decide not to contest the accusation, the sanction/sanction process would commence. Should the accused student nonetheless decide to contest the charge, he/she would have 24 hours to report to the Honor Council, triggering the regular process of investigation and hearings.

- Nothing in this policy would prevent an accused student from filing a grade review under existing College policy. Moreover, an accused student would retain the right to appeal any sanction imposed by the Council in cases of Level II infractions.

The Committee felt that such an expedited process might often have advantages for all involved:

- For faculty who currently a) do not follow up suspected infractions at all, b) deal with cases entirely on their own, and/or c) may be unsatisfied with the hearing process, this option may offer a better way to handle infractions yet do so within the Honor system.
- For students, resolving a charge directly with a faculty member may be preferable under certain circumstances, especially if the additional sanction is only educational in nature or (Level II) there is a hearing but with deliberations starting at probation not suspension.
- For the Council, this alternative would ease the case load of hearings as well as enhance the system's overall effectiveness by increasing buy-in from faculty and students.

The Committee was mindful that any such change might seem to depart from a student enforced system. Yet it would not entail faculty convicting a student: the accused would always be free to contest the charge and have it proved beyond reasonable doubt in a hearing. Nor if the student consented to this resolution would the faculty member be empowered to unilaterally impose any

sanction beyond a grade penalty: at Level I there would be only an educational requirement and at Level II a Council hearing with deliberations starting at disciplinary probation.

## C. COUNCIL INVESTIGATIONS AND HEARINGS

### *1. When might cases brought to the Honor Council not fall within its jurisdiction?*

The Committee agreed that the current Code's language needed to be clarified in these areas:

- **Triviality:** The Committee agreed that accusations should be dismissed as trivial if they are deemed to be a) irrelevant, that is outside the infraction definitions, or b) inconsequential, that is, of too minimal a scope to affect the community. The Committee also agreed that the Council would provide supplemental materials to illustrate what would or would not constitute trivial accusations. The Committee also agreed to recommend that, as a best practice, the Chief Justice make determinations of triviality but inform the entire Council of any such ruling,
- **Time Frame:** The Committee agreed no accusations should be investigated more than four months after an alleged infraction was discovered unless the Provost finds good cause.

### *2. What Council should hear cases where a non-degree seeking student is accused?*

The Committee saw no persuasive rationale for assigning all cases involving non-degree seeking students to the Undergraduate Honor Council. It suggests instead assigning them where possible to the Council associated with the level/school in which the accused student took the course.

***3. What happens when the Council investigation finds insufficient evidence to proceed?***

- The Committee agrees that documentation from the investigation and hearing as well as the recording all are to be destroyed.
- The Committee agreed a new investigation of the accusation could be held within four months at the Provost's direction if consequential new information comes to the Council.

***4. If there is agreement on sufficient evidence, should it be possible to move directly to a sanction hearing?***

The Committee agreed to propose that an accused student who (upon consulting a Student Counsel if he or she so chooses) agrees to the charge and accepts the facts in an Investigating Committee's report may, by signing that report, bypass the normal Sufficient Evidence hearing and verdict hearing, and instead submit within a week to a combined hearing. The latter would begin with testimony as to the details of the infraction, but dispense with the formality of deliberation on the charge and move directly to determination of the sanction. A student would still have the right to appeal the resulting sanction (but not the original verdict of guilty already accepted). The Committee felt that this option would spare students who have conceded guilt several time consuming hearings. A hearing panel should not be informed of an accused student's reluctance or refusal to sign a finding of fact, and it may not be part of any subsequent hearing

***5. What form of evidence should be admissible in a hearing?***

Currently "relevant hearsay evidence with adequate indications of reliability" is admissible in

hearings. But hearsay has many complex meanings under the law and carries a negative connotation. The Committee agreed to suggest substitute language in the Code:

- “relevant indirect information with adequate indication of reliability” is admissible
- but no finding of guilt may be based exclusively on such indirect information .

The Committee also agreed that the Council would provide supplemental materials from previous cases to illustrate what would or would not constitute indirect information with adequate indication of reliability..

#### ***6. How should the process approach the rights of students accused of Honor Code violations?***

Overall there were two different perspectives on this general issue and possible changes:

- Some members stressed that the Code has traditionally set up a truth finding process rather than an American style adversarial court system (i.e. the Council is not prosecuting the accused and the latter is not a defendant); they thus noted that it already offers ample guarantees of fairness to students being charged, few complaints or disputes have actually arisen pointing to a need for more protections, and additional ones would make the process less efficient in protecting the community.
- Others on the Committee noted that for a judicial system, adversarial or not, the current Code leaves too much to the discretion of the Council when more explicit terms could be spelled out and offers too few independent checks—Council members investigate charges, advise the accused, rule on the assertion of certain rights, conduct hearings and determine verdicts, working with the Dean of Students Office; they felt that little would be lost and much gained by adding additional safeguards to assure balanced adjudication.

As a result, while in several areas the Committee came to an agreement in its analysis and proposals, this was one area where there were a number of differences in that regard:

- ***What should be the role of the accused student's Student Counsel?***

The Committee agreed to propose that an accused student be made aware of his/her right to consult a Student Counsel immediately after the initial confrontation. It also agreed to propose that graduate students may consult an undergraduate Student Counsel.

- ***What is the accused student's right to request removal of a Council member?***

An accused student currently has the right to request that a Council member be removed from his/her case on grounds of a possible bias or conflict of interest. The Committee agreed that:

- the accused must provide reason as to why the Council member in question would be unable to fairly hear the case, and that
- the decision to grant or deny this request should be left to the discretion of each Council's Chief Justice, who (where such a request is rejected) will provide a written explanation

- ***When can an accused student's request for separate hearings be denied?***

Currently accused students have the right to separate hearings when two or more are charged in the same incident. There was agreement that separate hearings can make it difficult to determine whether one is a victim of another's copying, for example, or if in fact unauthorized collaboration is involved; separate hearings can also pose a major logistical burden for the Council. The Committee agreed that:

- requests for a separate hearing in such instances should be subject to review and approval by the Council, and that
- approval must be based on indication by one or more of the accused students that their matter is clearly distinguishable or that they have no connection with the others charged
- ***What is the extent of an accused student's right to an open hearing?***

Currently the accused has the right upon request to an open hearing. The Committee felt that the accused should retain this right in the interest of fairness and transparency, but that requests for an open hearing must be made at least 72 hours in advance. It also agreed that the Council may close a hearing

- upon the request of one or more of the accused where two or more are charged in the same incident,
- where an accuser or witness can demonstrate that an open hearing would violate his/her rights, or
- where the hearing being open results in disruption of the process or raises safety concerns

In addition, the Committee agreed that each Council in its by-laws would be free to determine how notice of an open hearing is provided.

There was agreement that the accused's right to a closed hearing is unconditional and should also be explicitly stated in the Code.

- ***What rules should apply where an administrator is the accuser ?***

Currently Dean of Student officials may serve as accusers when the person who first raises information resulting in the accusation serves as a witness instead. In order to

ensure that the process is and is seen as impartial, the Committee agreed to recommend codifying the practice that the administrator in such circumstances will play no further role in the same case at the hearing, review or appeal stage.

- ***What is the extent of an accused student's obligation to cooperate with the process?***

Currently the Code stipulates that a student must cooperate unless answers to a question could result in self-incrimination and he or she has invoked 5<sup>th</sup> Amendment rights. The Committee favored removing specific reference to the 5<sup>th</sup> Amendment and stipulating that the right not to answer questions in a hearing applies only where charges are pending in a separate criminal case arising from the same incident. Such circumstances should be clarified at the investigation stage,

In several areas, the Committee did agree to propose clarifying the rights of the accused:

- There should be a clear distinction between those rights that are automatically accorded a student and those that a student must explicitly assert .
- Currently an accused student has at least 72 hours to prepare for a hearing, but it should be either ten days from receipt of the original accusation or at least one week from a finding of sufficient evidence, whichever is the longer period of time.
- The Committee felt that the accused should be entitled to have a) a Student Counsel, b) a designated silent supporter/observer, and c) an immediate family member present for the entire hearing (open or closed), unless the latter are later to serve as character witnesses.

***7. How should the process approach the rights of accusers and witnesses?***

The Committee agreed that accusers and witnesses may too often be subject to inconvenience (or potentially worse) , undermining support for the system. It thus proposed revisions of the rights or duties of the accused or of the accuser and witness so as to ensure the following:

- Faculty accusers should retain more control over their own work product when it is part of case documentation: accused students should continue having access to such materials to prepare a defense, but should be required to sign a waiver ensuring they are not copied and to turn the materials back in when finished;
- Faculty accusers should not have to provide end of the semester course evaluations to students whom they have accused, regardless of the outcome of the case;
- All accusers should retain a right to be free of any harassment, and this should be amplified by providing more specific definition of behaviors that (employing similar language to that in the current Code of Student Conduct) constitute harassment;
- Accusers should have a right to be informed of case outcome before and after appeal;
- Faculty accusers should have a right to know the grounds for disposition of a case (but not of access to all case materials) if it serves a legitimate educational interest.

***8. Should an accuser be able to withdraw an accusation?***

Currently once an accusation is made, the Council proceeds to investigate on behalf of the entire community even if the accuser comes to a different view of the circumstances. [A] Seven members of the Committee felt the accuser should be able to withdraw an accusation and terminate a case if he/she comes to believe that there was a misunderstanding [B] Five felt that such an option would expose accusers to pressure to drop accusations and that where the Council

determines that there is not sufficient evidence to proceed the case would be dropped.

Additionally, these members felt that an accusation could not be withdrawn because cases are not adversarial matters between the accused and accuser, but instead a potential harm to the entire community.

***9. How might the process including hearings be made less inconvenient for witnesses?***

The Committee found that witnesses are often under-informed and inconvenienced. It thus recommended that all Councils adopt several best practices:

- swear in all material witnesses at the outset of the verdict hearing
- explain the accusation to the material witnesses
- allow at least a 30 minute break after the verdict hearing for character witnesses to arrive
- allow character witnesses if necessary to testify remotely (e.g. by skype)

**D. HEARING PANEL COMPOSITION**

***1. Should there be a faculty consultant in the investigative, hearing and deliberation stages??***

One issue that generated considerable discussion within the Committee was whether to increase faculty involvement in Honor investigations and hearings. Given the College tradition of a student-administered system, there was very little support for adopting the practice at some other institutions of having faculty members serve as voting members of panels. Despite some reservations, however, there was a broader consensus in favor of the suggestion that each Council have the option of selecting and drawing on a small pool of faculty consultants. In cases

involving academic infractions, the latter could provide input at the investigation and hearing stages. Proponents felt that this practice would have two advantages. First, faculty would be able to provide an informed but outside perspective in, for example, when the Council is determining charges and evaluating evidence. Second, faculty consultants would be better able to explain the outcomes of cases and the process generally to colleagues, resulting in broader acceptance of the system among their peers. At the same time, the Committee as a whole felt that this was one area in particular where some discussion with the broader community, faculty and students, would be helpful in deciding upon its final recommendation.

## E. PROCESS OF DETERMINING SANCTIONS

### *1. When should the sanction hearing be held?*

The Code requires that the sanction hearing be held as soon as possible after the verdict hearing, which in practice often means the same night. But the Code also allows (in extreme cases) a one week delay between hearings. The Committee proposed that the Council grant any request by an accused student (especially in order to make things more convenient for character witnesses) or panel member for a delay of no more than five business days, with the stipulation that the panel be composed of the same members who heard the case and that the student's right to speedy resolution of the charge be respected.

### *2. Should a student who is found guilty be entitled to argue for no sanction?*

The Committee could find no persuasive rationale for codifying such a right given a finding of guilt and given that there is already the option of a "warning" as a sanction anyway.

### ***3. Should deliberations on a sanction start at separation from the College?***

Under the Code, following a guilty verdict, all deliberations on sanctions begin at separation, with a possible lesser penalty requiring the accused to claim mitigating circumstances. Many Council members and some faculty responding to surveys agreed that any infraction warrants a presumptive sanction of separation and that it has a deterrent effect. But most student and some faculty respondents felt that this starting point for all infractions was both too harsh and also discouraged reporting. While some peer institutions retain a single sanction (separation only) or follow the College's current practice of separation as a starting point with possible lesser penalties, many others link various presumptive sanctions to the severity of the infraction, with possible mitigating (or aggravating) circumstances warranting a lesser (or higher) penalty.

The Committee agreed to propose adopting a tiered classification, with the presumptive initial level of sanctioning based on the severity of the infraction (as determined by the Council in the verdict hearing) and the level of student (graduate or undergraduate). This matrix would mirror the one suggested for faculty as part of the proposed expedited resolution option. It would be developed by the Advisory Committee proposed below in Section G, and subject to review and revision on an annual basis, at least during the first several years of operation. .

### ***4. How should "mitigating circumstances" that justify a lesser sanction be defined?***

Under the Code, the Council may reduce the presumptive level of sanction based on mitigating circumstances, defined as "the nature and circumstances of the offense" or "the circumstances of

the accused.” Members of the Committee agreed that students should have as clear a sense as possible of what if any circumstances could constitute grounds for a less sanction. To that end they agreed to the following recommendations:

- Change the term “mitigating” to “extraordinary,” and define such circumstances as those that would clearly distinguish the accused student’s situation from those of his/her peers
- Provide a set of FAQs describing in generic terms examples of those circumstances not normally defined as extraordinary (i.e. not likely to result in a lesser sanction);
- Provide with the FAQs a reminder that, while honesty is expected under the Code and thus full cooperation including a confession of guilt does not ensure a lesser sanction, the Council regards such an attitude as the first indication that an accused student has learned from the experience and is committed to restoring his/her honor.
- Define as best practice the current by-law provisions requiring that accused students be provided at least three days before a hearing with information necessary to define and document any circumstances that might be considered extraordinary in their own case
- Ensure that information in this regard is part of Student Counsel training.

***5. How should “aggravating circumstances” that warrant a higher sanction be defined?***

With separation as the current starting point for sanction deliberations, the only aggravating circumstance specified in the Code is a prior Honor or Conduct offense. If the tiered classification proposed above is adopted, additional circumstances might be considered aggravating. As a result, the Committee also agreed to recommend a set of FAQs describing in generic terms examples of those circumstances that might be considered aggravating, and ensuring that this information is part of Student Counsel training.

## F. REVIEW AND APPEAL OF VERDICT/SANCTION

### ***1. What should be the extent of the Dean of Students review of verdicts/sanctions?***

Currently the Dean of Students reviews the entirety of each case, including documents and recordings of hearings. It is time consuming and generally unnecessary given the Dean's limited power to overturn verdicts (the more extensive review should be in the appeal process). The Committee agreed that the Dean of Students should henceforth conduct a full review only on a discretionary basis, if there is concern about discrimination.

### ***2. What should be the extent of the Dean's authority to review and modify a sanction?***

Currently the Dean of Students reviews the sanction to confirm that it is authorized under the Code and, if it is not, to propose a modification of the penalty. The latter requires consent of the accused. Given past complications, the Committee agreed to propose the following:

- expanding the Dean's authority to include a determination of whether specific secondary sanctions can be practically and legally implemented
- removing the requirement that the accused consent to any change of sanction, and allow any concern on his/her part to be raised in a possible appeal instead
- codifying the practice that the Dean provide the accused a written explanation for any modification of a sanction and copy the Chair of the Council

### ***3. Should the grounds for appeal of a verdict or sanction be revised?***

Currently there are several grounds for appeal. The Committee discussed three changes:

- There was agreement on the need to ensure that the Code remains up to date with overall College policies defining categories to be protected from discrimination.
- Currently grounds for appeal include “material procedural error which significantly prejudiced the accused,” and actual appeals have been based on very minor matters of process. The Committee agreed that this grounds for appeal should be limited to a) “violation of rights” and b) “procedural error that significantly affected the outcome.” It furthermore agreed that a future Code should remove from the enumeration of Rights of the Accused (current Sec. 3) items that are solely items of process (there was agreement to remove the term “material”).
- There was agreement that any case resulting in a sanction of dismissal skip the appeal stage and be subject automatically to a full review by the Office of the Provost.

#### ***4. Should there be new guidelines on selecting appeals Committee and panel members?***

The Committee agreed on several proposals to ensure the integrity of the appeal process:

- All Councils’ governing bodies should adopt specific guidelines for nominating students to the appeals Committee, including grounds for excluding those with a conflict of interest or those with an Honor or serious conduct violation.
- The Vice-President for Student Affairs should ensure an accused student the right to review the entire list of appeals Committee members in advance and object to any who might be considered to have a conflict of interest relevant to the accused’s case.
- Propose a clause in the Code stipulating that all Appeals Committee members (student, faculty and administrators) should recuse themselves from service on any panel where there might be a real or perceived conflict of interest.

***5. Should the Provost's power to set aside a verdict be broadened?***

The current Code empowers the Provost to set aside a verdict if there is a determination that guilt has not been established beyond a reasonable doubt, but only to direct a new hearing where there is a finding of procedural error. [A] Five members of the Committee felt the Provost should also have the discretion to set aside verdicts entirely if the review has found procedural error. [B] Eight members of the Committee felt that there should (as hitherto) be a new hearing instead.

***6. What information about case outcomes should be made public?***

Current practice is for the outcomes of cases from all the Councils to be published in aggregate form rather than broken down by Council, and to publish very brief descriptions. The Committee agreed that more information about actual cases will be made public (with steps to protect an accused's identity) so as to provide guidance for students and faculty alike as to how infractions are defined in practice and so that they can better understand the basis for Council verdicts.

**G. ADMINISTRATION, REVIEW AND AMENDMENT**

***1. To what extent should different Councils within the Honor system have more latitude?***

While agreeing that all members of the College community should respect the same standards of honor and enjoy the same rights, the Committee agreed that each Council, undergraduate and graduate, should be permitted more latitude in matters of process and procedure

- The Committee thus agreed that the Code should explicitly spell at those matters that are binding on all Councils and those which can be left up to each Council's by-laws

- The Committee also agreed to recommend that each Council should indicate within its own by laws a) the process by which it will determine which such optional provisions to adopt, and b) which such provisions have been adopted.

## ***2. What should be the governing body of the Undergraduate Honor Council?***

Currently each Council has a “governing body” which determines how its members are selected and must approve changes to the Code. In all of the graduate and professional schools this body is a set of student officers; for the undergraduates, the Honor Council itself is identified as the governing body. The Committee could find no persuasive rationale for this anomaly and agreed that undergraduate members of the Student Assembly Senate serve as the governing body.

## ***3. How should members of the Undergraduate Honor Council be chosen?***

Selection of Undergraduate Honor Council members has often been debated. The Student Assembly recommended that the Committee consider provisions to permit campaigning, to set term limits and to hold open candidate meet-and-greets. In the feedback forms, some respondents suggested broader changes—an all appointed Council or, alternatively, a form of jury system to include one or more students from the general student body on hearing panels.

The Committee agreed that the current system of elections is problematic in that, among other things, turnout is modest, the basis for choice is unclear, and it rarely produces a very diverse Council. At the same time, there was no support for shifting to an appointed system or a jury system. But the Committee did agree to propose that the Undergraduate Council process involve:

- more outreach efforts to attract more candidates and enhance diversity

- some forms of campaigning, including video interviews posted online
- an additional non-Honor Council member on its Nominating Committee

#### ***4. What should be the future process for amending the Code and overseeing the system?***

Currently any student may propose amendments to the Code (though in practice most come from the Councils) to the Council of Chairs, and such amendments are then ultimately approved under a process set out by each Council's governing body. In the graduate and professional schools, the governing bodies themselves approve amendments. The Undergraduate Council's current by-laws call for a student referendum. Fuller reviews of the system that involve more stakeholders (such as the current process) currently occur on average only once every fifteen years.

Members of the Committee concluded that this process does little to earn support for the current Code yet also complicates efforts to revise it. While agreeing that each Council (and any student) should continue to be able to suggest changes, they felt that broader buy-in to the system could be attained by having an informed, representative body of other stakeholders—including elected student body representatives—decide on such proposals. At the same time, while the Committee agreed in principle that such recommended amendments should still be subject to broader student approval, their complex, detailed nature does not make them suitable for a referendum. Since the undergraduate school began using referendum votes, both proposals to revise the Code that were put forward for approval were approved by all five graduate schools' governing bodies on both occasions, while the referendum rejected both proposals. Both referendums had exceptionally low turnout, further calling into questions whether a referendum truly captures the opinions on various complex issues with a single "yes" or "no" answer to all the questions posed.

Without seeking to make frequent major changes to the Code easy, the Committee felt that a better system is warranted, without a referendum. While eliminating that option may seem to deprive students of their traditional say in shaping the system, it should be kept in mind that this provision is very recent. Moreover, to the extent that the referendum provision has discouraged revision, in practice it has had the effect of helping preserve the current system. Members of the Committee felt that there would be value to more regular reviews of the overall system, and that a way could be found that preserves broad student input and does not make change too easy.

As a result the Committee agreed to propose the establishment of a standing Honor System Advisory Committee (HSAC), with the following composition:

- Voting Members
  - 2 Student Assembly Senate approved undergraduate student appointees,  
one year renewable term
  - 1 Graduate Student Association approved graduate student appointee,  
one year renewable term
  - 2 Honor Council Chairs (one graduate, selected by graduate chief justices)
  - 1 Dean of Students Office representative
  - 2 Faculty Assembly approved faculty, one with role in graduate education  
two year renewable terms
  - 1 additional administrator (with experience in the appeals process)
- Non-Voting Members
  - Chairs of other four graduate school Councils

## Undergraduate Student Conduct Council Chair

The Committee agreed that HSAC's tasks would be to:

- receive/solicit feedback (from Councils, students, faculty, administrators)
- draft and approve proposals for Code changes to go on to the governing bodies
- review Code-related By-Law changes
- review concerns/grievances about the system based on actual cases  
(closed meetings if specifics of cases are being discussed)
- develop/review tiered classification of infractions and sanctions level
- assist in outreach to faculty and students on behalf of system

The Committee agreed that a revised version of the Code would delineate three sets of elements:

- Code/core provisions: e.g. infractions, enforcement options, basic rights, sanctions
- Code/procedural provisions: e.g. process of investigations and hearings
- Code-related by-law provisions: e.g. process for selecting Council members and best practices in administering investigations and hearings

Proposing changes to Code provisions:

- proposals may come from any Council, student, faculty member, administrator
- proposals should be accompanied by explanation/rationale
- proposals normally to be submitted to HSAC by start of second semester
- HSAC meetings to discuss and vote on proposed changes open
- preliminary approval of proposals requires at least 7 of 9 HSAC voting members

Ratifying proposed changes to Code provisions:

- each governing body's rules for approval/rejection will have been approved by HSAC
- all six governing bodies have at least one month in which to approve/reject
- proposed changes endorsed by all six governing bodies are sent to the President
- proposed changes rejected by any governing body are returned to HSAC
- HSAC may revise the proposed changes and resubmit them to all governing bodies
- governing bodies have a set time period within which to approve/reject revisions
- (core provisions) rejection by any governing body results in the proposal's failure
- (procedural provision) 7 of 9 HSAC voting members results in the proposal's passage

Reviewing Council By-Law Changes

- each Council must inform HSAC of any By-Law changes before they take effect
- if a majority of all HSAC voting members deem a By Law change to be Code-related and indicate reservations about it, the committee will convene to discuss it
- a majority of HSAC voting members may vote to reject a Code-related By-Law change or return it in revised form to the Council.