Dormitory Council Judicial Committee Code

This document addresses the membership, rules and procedures of The Dormitory Council's Judicial Committee, hereafter referred to as DormCon JudComm.

I. Function

DormCon JudComm shall have the authority to undertake judicial proceedings concerning activities in the immediate environs of undergraduate dormitories, which may violate MIT rules and regulations, rules established by the Dormitory Council, and rules established by individual dormitories. DormCon JudComm shall have the authority to conduct hearings and adjudicate disputes according to the rules and procedures contained within this document.

II. MIT's Educational Objective

As an Institute disciplinary entity, DormCon JudComm must conform to Institute procedures and processes that reflect the necessary elements of fair process while rendering decisions consistent within an educational framework and that of Institute-wide community standards.

III. Institute Requirements

A. Requirements for a Hearing

1. No hearing body can hear a case until their procedures are reviewed and approved by the OSD.
2. No individual may sit on a hearing panel without having been trained by the OSD.
3. No complaint may be heard by a hearing panel until the complaint has been reviewed by the OSD and a determination has been made that it is appropriate for the complaint to be heard by DormCon JudComm. Specifically, cases of sexual harassment, sexual misconduct, acts of violence, criminal acts and incidents of academic dishonesty and cases involving “individual repeat offenders” cannot be heard by DormCon JudComm. However, “repeat offender” cases concerning allegations against undergraduate dormitories (including floors, entries or similar living units) may be heard by DormCon JudComm.
4. All judicial hearing bodies must render decisions regarding alcohol and drug use that are consistent with MIT’s alcohol and drug use sanctioning protocols. It is important to the Institute and required by federal law that disciplinary bodies are consistent in rendering decisions regarding alcohol and drug violations. In addition, MIT has established disciplinary protocols for cases where harassment is evident, which a hearing board must also comply with.
5. All disciplinary decisions rendered must be in writing and filed with OSD.
6. The Assistant Dean for Residential Programs, or other OSD designee approved by the DormCon JudComm Chair, will serve as procedural officer for each DormCon JudComm hearing panel convened.

B. Rights of individual or organization charged (hereafter referred to as the respondent)

1. The respondent will be provided with a letter outlining the charge(s), and a description of the hearing process.
2. The respondent will be notified in a timely manner (and if an investigation is underway, once it has concluded) regarding the imposition of charges and the scheduling of a hearing.
3. The respondent (and complainant) may have an advisor, who may provide advice and assistance. Advisors must be registered students, faculty or staff members at MIT. Advisors may speak only with the respondent (or complainant) and may not present evidence or statements themselves to the hearing
or appellate panel. Family members, legal counsel and reporters are not permitted to attend Institute disciplinary proceedings.

4. The respondent shall be afforded the opportunity to make statements, bring witnesses and ask questions of the complainant or any witness present. Character witnesses are limited to one, and may speak for no longer than five minutes. No questions may be asked of a character witness.

5. The written decision of the hearing board will be provided to the respondent, complainant, the OSD and any other need-to-know parties in a timely manner. A decision is based on a preponderance of evidence and is supported by the evidence presented at hearing, and all other matters of record.

6. Students shall be afforded the right to appeal a hearing board’s decision. There shall be only one level of appeal.

Although these rights are guaranteed, all participants in the disciplinary process should understand that there is a fundamental difference between the nature of Institute disciplinary proceedings and the proceedings in a court of law. The discipline of students within the Institute community is primarily a part of the educational process. The exact processes of criminal and civil law do not apply because they are designated for circumstances unrelated to the academic community. Specifically, they are separate processes.

IV. Jurisdiction

A house judicial committee has original jurisdiction in all cases arising within the house and its immediate environs involving violations of house rules or polices, provided that the respondent is a resident of that particular house. DormCon JudComm has appellate jurisdiction over these cases.

DormCon JudComm has original jurisdiction over cases involving individuals living in undergraduate dormitories in which the alleged misconduct took place in a dormitory other than the one in which the respondent resides. DormCon JudComm also has original jurisdiction in all cases in which a Dormitory (including floors, entries or similar living units) is named as the respondent.

Additionally, DormCon JudComm will hear cases in which a house Judicial Committee has original jurisdiction if the dormitory’s JudComm cannot convene or the dormitory’s JudComm is not established. However, if the dormitory does not wish for such cases to be heard by an all peer disciplinary body, the case shall be referred to a Dean’s Office Panel.

V. Membership and Selection of Panelists

A. Membership

1. Each undergraduate dormitory may elect/appoint, in accordance with their house rules, one representative from their building to DormCon JudComm for a term of one year.

2. Panelists must be trained by the OSD before they serve on any panel (hearing or appellate).

3. Panelists must maintain confidentiality as student disciplinary proceedings are a part of the student educational records.

B. Panel Composition

A five-person panel is convened in the following manner:

1. The panel shall be chaired by one of the DormCon JudComm chairs on a rotating basis. If neither is available, the chairs may appoint another committee member to chair a panel.

2. The second seat on the panel shall be filled by the other DormCon JudComm chair if he or she is available.
3. The remaining panelists shall be selected on a random and rotating basis from the remaining members of DormCon JudComm.

Conflict of interests issues must be addressed as they arise and resolved in the following manner. The details of a case will be provided to panelists prior to the hearing, which will afford panelists the opportunity to recuse themselves from the panel and to notify the Chair accordingly. Complainants and respondents need to bring any concerns over conflicts of interest to the Chair’s attention prior to the hearing. The Chair of the Panel can consult with the procedural officer before rendering a final decision on whether or not a conflict of interest exists.

The Chair reserves the right to convene three person panels during the summer if there are not enough panelists available to convening a five person panel. Summer is defined as beginning the day after spring finals and ending the day before Fall Registration. If a DormCon JudComm panel cannot be convened due to unavailability of panelists, cases will be referred to a Dean’s Office Panel.

**VI. Disciplinary Procedures**

The Dormitory Council, as a governance body of the MIT community is generally responsible for the conduct of its residents. The unique advantage of a student judicial board lies in the ability of its residents to influence the attitudes and subsequent behavior of other students through a formally constituted judicial mechanism. These procedures have been developed by Dormitory Council and are approved by the OSD to ensure that all disciplinary cases are adjudicated in a fair, objective, consistent and orderly manner, protecting the rights of all parties to fair process.

**A. Rules of Procedure**

1. Because of privacy concerning student records, no taping (audio or video) is permitted by participants. All hearings are closed to the public. Members of the panel, the procedural officer, the complainant, respondent and witnesses are the only individuals who may attend the hearing. Lawyers and members of the press are not permitted to attend disciplinary hearings.

2. Any allegation of reprisal prior to a hearing will be considered at the hearing as an addition to the complaint (or will become a counter complaint).

3. If the respondent fails to appear at a hearing after receiving proper notification the panel may, should it choose, hear the case without the respondent present.

4. The Chair of the panel shall warn any participant that he or she deems disruptive or to be harassing or intimidating any other participant. The Chair of the panel may, if the warning is ignored, close or postpone the hearing, terminate that person’s participation in the hearing, or take any other action deemed necessary by the panel and procedural officer to ensure an orderly hearing.

5. Both parties are expected to offer their own testimony and the testimony of witnesses, if any, concerning the matters alleged in the complaint. Both parties have the right to question the testimony of the other party and the witnesses.

6. The members of the panel shall determine what weight to give to testimony and other evidence; decide whether, and if so how, to consider additional alleged offenses that come to light in a hearing; resolve questions of fact; and determine which MIT and/or dormitory policies and/or standards are applicable and how they are to be interpreted.

7. The Chair of the hearing may decide to permit witnesses to be present at the hearing only during their testimony.

8. Members of the Panel may question any participant in a case after that individual has made a statement to the hearing panel.
9. Dishonesty before a Hearing Panel by any participant is considered an independent violation of the MIT standard of conduct and may result in appropriate disciplinary action.

10. The Assistant Dean for Residential Programs (If unavailable, the Associate Dean for Student Discipline will appoint another procedural officer with approval by the hearing panel chair) will serve as procedural officer for the hearing panel and will rule on procedural matters in the hearing and during private deliberation.

B. Order of Business for Disciplinary Hearings

Unless otherwise determined by the Chair of the Hearing Panel, the hearing will generally follow the order described below:

1. Members of the Hearing Panel introduce themselves and ask all present to do the same.
2. The Panel Chair briefly reviews the hearing procedures as outlined here.
3. The charges are read and the respondent is given the opportunity to admit or deny responsibility for the violations of MIT policies/standards alleged in the complaint.
4. The complainant will first present his/her testimony. Members of the panel may question the complainant at any point during this presentation. The respondent will have the opportunity to question the complainant after this testimony is finished.
5. When the complainant has finished, the complainant’s witnesses will each present testimony, with the panel and the respondent permitted to ask questions.
6. When the complainant has produced the evidence he/she wishes to present, the respondent will be given the opportunity to present his/her testimony. Members of the panel may question the respondent at any point during this presentation. The complainant will have the opportunity to question the respondent after this testimony is finished.
7. When the respondent has finished, the respondent’s witnesses will each present testimony, with the panel and the complainant permitted to ask questions.
8. When the respondent has produced the evidence he/she wishes to present, the panel may ask further questions of either party or any witnesses present.
9. The panel may call a brief recesses at any time to discuss the proceedings, and may ask further questions upon return from any such recess.
10. The Chair may call witnesses, including expert witnesses, to aid the panel in its consideration of the case.
11. Open discussion period for any final comments or questions by respondent(s), complainant(s) and/or panelists.
12. When the panel’s questions have concluded, the Chair should inform the parties that a written decision will be sent to them, when it is expected to be sent, and advise them of applicable appeals procedures. The Chair should reiterate that all information presented at the hearing should be treated as confidential. The hearing will then be adjourned. The members of the Panel will meet in executive session to make their decision.

C. Sanctions and Special Conditions

Although each case is considered on its own merits and circumstances, there are certain guidelines useful in determining a sanction for a specific offense. In determining sanctions, panels may consider precedents of similar circumstances, but it decision will be based upon the particular circumstances of the case itself, including the student’s or student organization’s past record, the seriousness of injury inflicted, malice or intent. Impairment of judgment due to alcohol or drug use is not a defense and will not be considered as an excuse in determining sanctions.

Types of Sanctions include, but are not limited to, the following:
1. Informal/Formal Probation: A student or student organization may be placed on probation, with or without loss of designated privileges, or with deferred sanctions for a specified period of time. Probation is a time during which the student or student organization will be subject to critical evaluation and examination by the Institute and whose conduct is expected to be free from further violations of Institute policies/standards (Formal probation includes notation on the student’s academic record).

2. Disciplinary Warning: The student is given written notice that the conduct engaged in is inconsistent with Institute policies/standards, and informed that future violations may result in the imposition of more serious sanctions.

In addition special conditions may also be included as a part of a sanction. Special conditions include but are not limited to:

1. Notation on Transcript: Entry of the disciplinary action may be noted on the student's permanent academic record. The entry may be removed at the student’s request after a period of time specified by the Hearing Panel.

2. Loss of Housing Privileges: In appropriate cases, the panel may recommend to the Dean of Student Life that a respondent be banned from a specific undergraduate dormitory or removed from the entire Undergraduate Dormitory System.

3. Community/Institute Service: The respondent is required to render a designated number of hours of labor in service of the Institute or the community.

4. Restitution (compensatory damages): The student is required to replace or restore damaged, stolen or misappropriated property, or otherwise make amends for the behavior that led to the sanction.

5. Fine: Punitive monetary sanctions may be imposed.

6. Referral: The student may be required to seek counseling or educational programming on or off campus.

7. Written Work: The student may be required to write a paper on a topic relevant to the case.

In addition, all judicial hearing bodies must render decisions regarding alcohol and drug use that is consistent with Institute's alcohol and drug sanctioning protocols. The same holds true regarding minimum standards for sanctioning in (non violent and/or non-sexual) harassment cases.

Decisions rendered by the panel are done so in writing to the respondent, complainant, the OSD and any other need to know parties.

VII. Appeals Heard Before DormCon JudComm

A respondent or complainant may wish to appeal a disciplinary decision of an individual dormitory’s Judicial Committee to DormCon JudComm. To initiate an appeal, the student must submit a written request for the appeal within five business days of receipt of the original decision to the Associate Dean of Student Discipline or to the Chair of DormCon JudComm. Both complainants and respondents may appeal a decision.

Grounds for appeal are limited to the following:

1. Question of Procedure: Appeals will be considered on the basis of “questions of procedure” by demonstrating that the procedural guidelines established in this document were breached, and that such departure from established procedure significantly affected the outcome of the case. For example, a delay of notification of a disciplinary decision could result in a procedural breach but would likely have had no impact on how the decision was initially rendered by a panel. Thus, the appeal would not be granted.

However, if for example, the chair of a the hearing panel failed to allow the respondent or complainant to ask questions during the hearing related to the charges imposed, this inaction may constitute a procedural breach that eventually affected how the panel reached a decision.
2. Question of New Evidence: The respondent or complainant may appeal on “questions of new evidence” by introducing new evidence that would significantly affect the outcome of the case. New Evidence shall be defined as information that was not known by or not available to the complainant or respondent at the time of the original hearing. Evidence that was withheld shall not constitute a “question of new evidence” and will not be considered upon appeal.

3. Question of Sanction: A respondent may appeal the sanction that has been imposed by presenting a statement that explains why he or she believes the sanction of the hearing panel was too severe. A complainant may also appeal the sanction that has been imposed by presenting a statement that explains why he or she believes the sanction of the hearing panel was too lenient.

The appellate board does not hold a new hearing of the complaint, but instead reviews the adequacy of the process, evidence and decisions of the original hearing panel. Only members of the appellate panel and the procedural officer attend an appeals review request. The complainant(s) and respondent(s) do not attend. The DormCon JudComm appellate panel will not make independent factual findings, but reserves the right to contact any person for the purpose of obtaining additional clarification before the appellate board renders a final decision. If there exist grounds to grant any form of appeal, the appellate board may make the following decisions:

1. If appealed on a question of procedure, the appellate panel may instruct the original Judicial Committee to rehear the complaint.
2. If appealed on a question of new evidence, the appellate panel may instruct the original Judicial Committee to rehear the complaint, or else dismiss the charges.
3. If appealed on a question of sanction, the appellate board may modify the sanction.

The decision of the Hearing Panel on all other issues, and the decision of the appellate board on these three issues is final, except where removal from campus residency is recommended, in which case the final decision rests with the Dean for Student Life.

Decisions rendered by the panel are done so in writing to the respondent, complainant, the OSD and any other need to know parties.

**VIII. Appeals of Disciplinary Decisions Rendered by DormCon JudComm**

Respondents and complainants whether students, staff, faculty, dormitories or living groups who have been sanctioned by DormCon JudComm in a disciplinary hearing (not an appeal decision) may appeal the decision to the Office of Student Discipline. To initiate an appeal, the respondent must submit a written request for the appeal within five business days of receipt of the original decision to the Associate Dean of Student Discipline. If granted, the appeal will be heard by a Dean’s Office Panel.

**IX Amendments**

As an extension of the Dormitory Council Constitution, this document may be amended according to rules and procedures set forth in that document. Final approval is granted by the OSD.

*Approved by DormCon and OSD: May, 2004*