

Report of the Office of the Student Ombudsperson for Winter and Spring Quarters 1997

By James Marquardt and Claudia Flores

In this, our second report, we focus attention on problems with the operation of the student disciplinary system, student employment, health care, and housing, drawing upon general trends from a variety of cases brought to our attention in the course of the 1996–97 academic year. The purpose of this report, like that of first report, is to educate the University community about important academic and non-academic issues germane to the day-to-day operation of this diverse institution.

We address five main questions: What is the issue in dispute? Why is it important? What are main arguments? What was the nature of our involvement? What, if any, are our recommendations for changes in policies and procedures?

Shortcomings of the Disciplinary System

We detail cases of alleged academic fraud, harassment, and other matters to highlight what we consider some shortcomings of the student disciplinary system.

Allegations of Academic Fraud against College Students

We investigated several grievances of alleged academic fraud. One case involved a third-year student who received a failing grade in a course after his professor determined that his term paper did not meet basic criteria for academic honesty. The professor alleged that the student improperly cited secondary sources and arranged verbatim passages from them in such a way that main arguments and data were misrepresented. In addition, the professor held that the paper was poorly written and argued; independent of the allegation of fraud, then, the student would have failed the paper (and the course), the professor concluded. The professor argued that her objective in bringing the allegation of fraud to the attention of the College and in recommending that a disciplinary committee take up the matter was twofold: first, to penalize the student for failing to employ basic research standards; and, second, to draw attention to the failure of the College to educate its students about these standards.

The student denied the charge, saying the procedure he used in writing the paper is one he has followed—without incident—for term papers in other College courses. He sought to have the charge retracted and the paper and course grades changed.

College officials agreed with us that fraud had not been committed and communicated this finding to the student. They also agreed with us that, independent of the professor's charge of fraud, the paper was poorly written and

argued. Yet they disagreed with the professor's claim that the College was to blame for the student's lack of knowledge of basic research standards.

The second case involved a first-year student whose instructor for a common core course decided not to give her a grade for a short, five-page review essay, since the instructor believed that the ideas expressed in it were not the student's own. The instructor declined to report his suspicion to a higher authority and decided instead to disregard the first essay altogether and double-count the next writing assignment. According to the student, the instructor based his finding of fraud, in part, on the observation that the first essay was far too original to have been written by a first-year student. The student said that the ideas expressed in the essay had not been appropriated from some other source. The student also opposed the instructor's solution, saying she should not be penalized for mere suspicion of fraud. We spoke with the course's faculty coordinator, who agreed to look into the matter. In the meantime, however, the student received the grade of A for the second essay, and, later, the instructor retracted the charge of fraud and gave the student the same grade for the first essay.

These cases highlight a widespread concern in the College (as well as in other undergraduate programs throughout the country) about academic fraud. They also bring to light the frustrations many students face as a result of the profound imbalances of power and authority inherent in the instructor-student relationship. Instructors who suspect students of fraud can penalize students in several different ways. First, short of leveling accusations of fraud, they can give students bad grades. Second, they can bring formal charges to the dean of students. If the dean of students considers the charges serious, she will initiate disciplinary proceedings. If she does not consider them serious, she will issue warnings to students instead and open files documenting the allegations in the event of possible future problems. It is important to note two things: first, only the dean of students can initiate disciplinary proceedings; and, second, when the dean of students decides against disciplinary proceedings, she is not dismissing allegations of fraud. Finally, when instructors suspect fraud they can, short of going to the dean of students, communicate their concerns to their students and either take punitive measures, such as giving students failing grades, or redemptive measures, such as making students retake examinations or rewrite papers.

Students who consider themselves innocent of charges of fraud leveled against them have few options to defend themselves. The dean of students or another College official can neither compel instructors to change their thinking nor require them to change grades, and only on rare occasions will the College take a position, as it did in the first case described above. Students are also deterred from directly challenging the charges of fraud levelled against them given that they run the risk of further alienating their instructors and making a bad situation worse. In the second case described above, for instance, the student reluctantly accepted the instructor's decision to double-count the second essay, given that by complaining to a higher authority, such as the dean of students, the student feared additional

penalties and a further deterioration in her relationship with the instructor.

Some officials believe that a change in policy is unnecessary because the suspicions instructors have about academic fraud are usually correct and that instructors are considerably more likely to give students poor grades than to either report allegations of fraud to the dean of students or to confront their students. We agree but do not believe that this argument offers sufficient justification for the current policy. It stands to reason that instructors, inexperienced ones especially, will occasionally make the wrong call. Yet there is no easy solution to this problem. At the very least, though, students should be granted the opportunity to discuss the charges against them with their instructors in the company of the dean of students.

Harassment

Several cases of harassment were brought to our attention. One particularly complex case involved two students who leveled charges of sexual harassment against each other. The disciplinary committee convened to look into the allegations expelled one student, the female, and exonerated the other, the male. This office involved itself in the case after information was brought to it by the expelled student and others (some who were supporters of the expelled student, others who, prior to the hearing, had little or no connection with the expelled student) concerning alleged violations of rules governing disciplinary proceedings. They indicated that an unidentified representative of the University's legal counsel attended the proceedings. The rules explicitly limit the disciplinary hearing to the students involved, their advisers, the three faculty members who comprise the committee, the dean of students, an assistant, and witnesses. (The legal office maintains that a University lawyer will observe—but not participate in—a disciplinary hearing should one or both students have an attorney as an adviser. Yet this information is not published in the rules. Neither was it apparently communicated to the students involved.) Also, records indicate that information related to the expelled student's health records was introduced as evidence by some other party. If this information was divulged by a University official, either to the exonerated student or to another official involved in the matter, then the expelled students' privacy rights may have been violated.

Irregularities were also noted. The expelled student was notified of the pending disciplinary hearing just days before graduation and after a letter was sent by the academic dean extending his congratulations on the student's having completed all degree requirements. The hearing convened the day before proceedings were to begin in criminal court on the allegations brought forward by the expelled student against the exonerated student. That the exonerated student worked for the dean of students, who according to the rules has principal responsibility for organizing disciplinary proceedings, led some to conclude that this administrator allowed personal bias to stand in the way of a fair inquiry. Moreover, even though the expelled student's legal counsel was unable to attend the hearing on the scheduled date, the dean of students declined to move the hearing to another day, and the expelled student had no recourse but to accept the counsel of a different

attorney.

While remaining silent on the nature and veracity of the charges on both sides, we believe that something went wrong with the handling of this case. We recommend the following changes to the rules on discipline to prevent similar problems in the future. First, an official, in particular a dean of students, should have no role in a disciplinary matter involving a student with whom he or she has professional and/or personal ties. This mandate takes on greater urgency when the other student involved is critical of that official's handling of a complaint, as was evident in the case described above. It stands to reason that the University disciplinary system needs to be equipped with special provisions to accommodate potential conflicts of interest on the part of officials who are responsible for organizing disciplinary proceedings. For instance, one option might call for a dean of students from another academic unit to assume the responsibilities normally performed by the dean of students whose actions, rightly or wrongly, may stand under a veil of suspicion. Some have made the argument that University officials should not be so sanctioned, given that they would not hold high-ranking positions if they had not proven themselves capable of acting in a fair manner. This argument is tautological, and we believe it offers little comfort to students whose futures hinge on the outcome of disciplinary proceedings against them.

Second, the University may need to give greater attention and publicity to what kind of information is permissible as evidence in the context of disciplinary actions involving charges of sexual harassment. How individuals go about defending themselves against charges of sexual harassment has long been an issue of heated debate in this country, and several high-profile cases in the national limelight today illustrate just how controversial this issue is. In the case described above, the exonerated student presented as evidence information about the expelled student's "sexual history" so as to establish a pattern of harassment against others. Should this information be admissible as evidence in the course of a disciplinary action? If so, under what conditions? Who decides? The dean of students? The legal office?

Third, this difficult and disturbing case also raises questions about the disciplinary review process. The rules stipulate that the student can request a review of a disciplinary action on any one of three grounds: disciplinary procedures were not followed, new and significant evidence has become available, and the consequences of the sanction imposed by the original committee have proved harsher than intended. The rules further stipulate that the student has fourteen days from the date of the initial disciplinary action to submit, in writing to the dean of students in the University, a request for review as well as all supporting documentation. (Also upon request, this deadline may be extended an additional fourteen days.) Yet the rules do not require the review committee to initiate and conclude its activities within an equally specific amount of time, let alone in a timely manner. In the case described above, months passed before the review committee ruled on the expelled student's request for the reopening of the

case. This unreasonable delay greatly complicated—indeed, for all intents and purposes thwarted—that student’s efforts to gain admission to graduate programs at other institutions, given that the expelled student’s applications elsewhere remained in limbo pending the ultimate outcome of the disciplinary action taken against her at Chicago. The University disciplinary system should adopt explicit language to the effect that swift action will be taken in response to a request made by a student for the review of a disciplinary action. Moreover, the review committee should not include individuals from the student’s academic unit, as is the current practice; and if the review committee concludes that the decision of the first committee requires reevaluation, the case should not return to the student’s academic unit but go instead to a University-wide committee comprised of individuals other than those of that unit. In this way, the likelihood of local politics or a conflict of interest affecting the review of an earlier disciplinary action will be greatly reduced, if not altogether eliminated.

This alternative has been in practice for some time in cases of disciplinary action against University employees. For obvious reasons, when an employee challenges the sanctions imposed against him by an official of Human Resources Management, a review board comprised of persons from across the University is convened, rather than one comprised of those from the employee’s workplace, who may enjoy “local knowledge” but may also suffer from certain biases or feel pressure from colleagues or supervisors to uphold the status quo.

In sharp contrast to this case, a second case of harassment brought to us played itself out much differently, in large part due to the swift and even-handed intervention by the local dean of students. Immediately after receiving a complaint by one student against another, the dean of students gave each the clear message to avoid all contact with the other. The only potential problem with the dean of students’ intervention in this other case is that it called upon the male student accused of harassment to take actions not requested of the female student making the accusation of harassment. Though willing to comply with the dean of students’ request, the male student, who denied any wrong-doing, believed that the disproportionate burden of responsibility he was being asked to assume for reducing tensions between himself and his accuser was tantamount to a tacit accusation against him of wrongdoing by his dean of students. The dean of students did not consider the request burdensome and reassured him that she had not accused him of harassment.

Counseling as a Condition of

Enrollment

On several occasions, we were called upon to answer this question: can a student’s continued good standing in an academic program be predicated on his/her receiving counseling?

One case involved the decision of a dean of students to require a student who had engaged in disruptive behavior to enter counseling as a condition of continued

enrollment. The student came to us, asking if in fact his dean of students could require him to enter counseling. Our conversations with several University officials lead us to draw the following conclusion as to what actions a dean of students can rightfully take. A dean of students can strongly advise a student to enter counseling if the dean of students has come to the conclusion that a student's behavior is disruptive or dangerous. A dean of students can request that, once in counseling, the student provide verification that he/she is attending sessions and making reasonable progress. This information is communicated to a dean of students through an official at the Student Counseling and Resource Center (SCRC), who acts as an intermediary between the student's therapist (who may or may not be affiliated with SCRC) and a dean of students. A student can refuse to enter counseling, but if the dean of students determines that the behavior that prompted the initial recommendation for counseling continues, then the dean of students must act, usually by convening a disciplinary hearing, which may result in the student's probation, suspension, or expulsion. In the case introduced above, the dean of students may have acted in the student's best interest by calling for a non-punitive measure—counseling—rather than convening a disciplinary hearing. Yet the dean of students was wrong to predicate the student's continued enrollment on counseling. The dean of students later withdrew this demand.

Student Employment

Students attend this University to acquire knowledge. To support themselves financially, many hold part-time academic and non-academic employment on and off campus. If it were not for this large, highly skilled, and low-wage pool of student labor, the University would have a difficult time making ends meet while delivering a wide variety of quality services to the University community.

We were involved in a number of employment-related disputes involving students. One case concerned a student's request for help in challenging her immediate supervisor's decision to fire her from her part-time job after she failed to report for a single morning shift. The student maintains that at the time she was hired for the job—as well as many times thereafter—she informed her supervisor that she would miss one week of work because of a family obligation out of town. She claims to have been told by her supervisor that this did not present a serious problem. (Had it been a problem, she says, she would not have taken the job.) Several days before her departure, the student says that she notified a night-time supervisor that other employees had agreed to cover all but one of her shifts. Together, they contacted some three dozen student-employees but were unable to get anyone to commit to the remaining shift. The next day, she brought the problem to the attention of her department head, who told her that she was responsible for covering the shift and would be subject to termination if she failed to find someone to work for her. The student left town the next day without filling the shift.

When she returned a week later, she learned that her name had been removed from the work schedule. She called her supervisor at home and was told that she

had been fired. Several days later, she met with her supervisor and a human resources administrator. They informed her that she had been officially terminated and that a letter of reprimand had been placed in her file. Moreover, consistent with student employment policy, because of her termination they prohibited her from taking the new job she had obtained elsewhere, in the same administrative unit, just prior to her week-long departure. (This decision was later rescinded.) The student argues that she acted in good faith and should not have been punished, that the policy on termination is inflexible and arbitrary (students regularly miss their shifts but are not systematically fired, she claims), and that her immediate supervisor and the human resources official acted improperly in dismissing her and preventing her from taking the new job given that she had, several weeks prior to her termination, submitted her resignation.

The student attributes her firing to ethnic discrimination. She alleges that on at least two separate occasions her supervisor made inappropriate comments about her ethnic background. The student reported these comments to a night-time supervisor, who suggested she talk to a University official. She came to us.

We determined that the student had two related grievances: a student employment grievance and a harassment grievance. We advised the student to follow established procedures to address these grievances with the appropriate University officials. We directed her to the dean of students in the University, who is responsible for handling matters related to student employment. He concluded that her supervisor acted improperly and ordered that the formal termination notice be removed from the student's file. We also directed the student to an associate provost who deals with harassment issues. She turned the case over to a labor relations official at University Human Resources Management. A formal investigation of the student's charges was undertaken, which resulted in the supervisor's termination.

This case highlights important information about student employment issues. First, there are well-established channels for students to air grievances against their supervisors. Students should first contact their department head or an individual with greater authority than their immediate supervisor. If internal mechanisms prove unsatisfactory, students should address their concerns to the dean of students in the University. Second, in the case described above the established procedures worked, but the student involved concluded that her complaint was not taken seriously because of the slow pace with which University officials acted. We sympathized with the student but believe that the months that passed between the time she lodged her complaint and the termination of the supervisor speak to the seriousness of University officials' response to her charges as well as their determination to assure the accused that the charges against him would receive a full and fair hearing. Third, we attribute a remote cause of the problem between the student and her supervisor to the turbulence that resulted from the restructuring of the academic unit in question, which resulted in the replacement of experienced personnel with relatively inexperienced ones. Human resources problems are an inevitable—yet frequently

overlooked—consequence of University-wide cost-cutting measures.

Hospitals and Insurance

We found that many students are poorly informed about the variety of health services available to them at the University of Chicago and that they are not aware of how to navigate and benefit from the University's extensive health care system. Some students turned to us for basic information, such as who to contact with a billing question. Others called to voice their frustrations about more serious matters, such as unforeseen costs resulting from examinations and procedures.

One especially troubling case involved a student who alleged that the student insurance office mishandled the processing of her husband's request for coverage under the University's student health insurance plan. She claims that the insurance office added her husband to the student insurance plan at her request, when she matriculated at the University. Several years passed, and when she went to cancel his coverage she was told that her husband had never been on the plan. Had he required medical attention during that time, she argues, his claims would have been rejected, possibly placing them in dire financial straits. We contacted the insurance office, and an administrator concluded that the student mostly likely did not follow or understand the enrollment procedure. The upshot of this case is that, soon after this incident was reported to us, the University introduced a new, easier procedure that allows students to enroll family members for insurance coverage during the normal course registration period, eliminating the need for students and their spouses, domestic partners, and dependents to go to the insurance office and fill out applications. This new procedure should greatly reduce the likelihood of problems such as the one described above.

Another case brought to our attention concerned information about out-of-pocket expenses for medical procedures. A student complained that the bill he received for medical treatment at the University of Chicago Hospitals included unexplained charges. He was unaware that some procedures were not covered under the student health insurance and that he could have received the same services at a much lower price had he gone to a public clinic. This case points to the need for students to contact their insurer and obtain information about coverage and out-of-pocket expenses before they undergo treatment. In the age of managed care, students need to be smart health-care consumers.

Several other cases involved students who had problems obtaining prescription reimbursements in a timely manner (in one case the student waited nearly four months for a reimbursement check.) It is our understanding that, beginning in 1998, a new company will be contracted to provide insurance coverage to students and their families. This welcome development will reduce the amount of time it takes for students to receive prescription reimbursement checks. Yet we wonder why this cumbersome system persists. We encourage the University and the new insurance company to negotiate agreements with area drugstores so that reimbursements can be deducted from the cost of prescription drugs at the time

students purchase them. The practice of requiring students to collect and periodically submit paper receipts to the Insurance Office belongs to an earlier time. We have the technological know-how at our disposal to end this practice. Let's use it. Many managed care systems have already done so.

Housing

One of the most common complaints students brought to our attention concerned problems with landlords. We detail a number of cases in order to inform students of some of their rights and remind them of their basic responsibilities as tenants, whether they rent from the University or from a private agency or individual.

Neighborhood Student Apartments and Lease Termination

The most common housing problem brought to our attention involved the termination of apartment leases. Five graduate students complained that Neighborhood Student Apartments (NSA), the University's housing office for many graduate students, had acted unfairly when it prevented them from moving out of their apartments before the end of their lease periods.

One case involved a student who completed his degree and informed his area office that he would soon relocate to another city and start a new job. He was told by the office manager that he had missed the vacancy deadline for that quarter by several weeks and would not be released from the terms of the lease. The four other cases involved matriculating students who wanted to move out of University housing; they, too, were similarly instructed that they could not break their leases. (Several students had already rented new apartments at the time they informed the area office of their intentions.)

The area manager referred the students to the tenant handbook that details rules and regulations on University housing. (It is standard policy for each student to receive a copy of this pamphlet at the time they sign a lease with NSA.) The guidelines establish two criteria for lease termination. One criterion is a student's academic status. A lease can be broken if a student graduates, is temporarily leaving the University to study elsewhere, or has withdrawn from the University altogether. The other criterion is the timing of the termination. In most cases, a student who meets the above conditions can terminate his or her lease at the end of the Autumn, Winter, or Spring quarter by giving (approximately) thirty days notice prior to the end of the quarter. Also, prior to the end of the lease period, almost every student is given the option of either leaving the apartment or signing a new, one-year lease. NSA routinely posts notices in each building that indicate when and how a student can terminate a lease. That all five students lived in the same building and brought their complaints to us within a brief period suggests that vacancy notices may not have been posted in their building.

The area manager and the manager's supervisor defended the policy, arguing that the University's termination policy is considerably more flexible than the policies of most rental agencies. They further explained that NSA would assume an

enormous financial burden by routinely releasing students from their leases whenever students decided to vacate their apartments. The consequence of a high vacancy rate, they added, would ultimately be reflected in rents, which would amount to a tax on students who remained in student housing. Finally, they said that whether or not notices had been posted in the building, the five—as well as all other students renting with NSA—should be familiar with the termination policy.

We agree with NSA to the extent that students are ultimately responsible for knowing the termination policy. Students should be more cognizant of the terms of their leases and mindful of their legal obligations. However, we do have several recommendations on what NSA can do to reduce the likelihood of this problem in the future. First, explicit reference to the policy on lease termination should be made when a student signs a lease. Second, the handbook should dispense with legal jargon and be rewritten in clear, simple language. Third, at the beginning of each academic year, NSA should indicate the specific termination dates that apply for each academic quarter of that year, in the form of a handout or an insert in the handbook.

Off-Campus Housing

We also detail disputes between students and private rental agencies so as to address several persistent myths about the relationship between the University and Hyde Park rental agencies. One myth says the University has a policy of maintaining a list of approved landlords. It does not. Another myth says that, by virtue of being such a dominant force in the Hyde Park/Kenwood community, the University is able to get landlords to comply with its wishes, especially as they relate to the market for affordable and safe student housing. It cannot.

We also want to inform students about some of their rights as tenants. One case involved a student whose landlord refused to return her security deposit, arguing that, because she had not given adequate prior notification of her intention to vacate the apartment, it would be difficult to rent to a new tenant the following month. Our investigation concluded that a landlord can withhold a tenant's security deposit for only two reasons: damage to the rental property and the failure to pay rent. We suggested the student ask a non-profit tenant's rights organization to try and broker a solution. She did, and within a fairly short period of time the landlord issued her a check for the entire amount of the security deposit. Some cases did not end so well, either because the landlords refused to respond to and cooperate with us or because we were unable to give students answers to the questions they posed to us.

Some in the University community have begun to pay greater attention to problems between students and their landlords. We applaud the recent effort by Student Government to inform students of their legal rights regarding the heating of apartments during the winter months. We recommend that it consider expanding its involvement in tenant-landlord relations by collecting and disseminating information about disputes between students and agencies that rent

properties in Hyde Park. With detailed, up-to-date information about the quality of services provided by local agencies, students will make better choices about housing.

Culture

We found University administrators open to discussing with us ways to better understand how students from non-Western cultures might see their problems with the University differently than many Western (primarily American) students. Yet we saw mixed results when it came to how this sensitivity played itself out in practice. In one instance, a student was removed from the College after her parents objected to her living arrangement. The student came to us for help after College officials determined that there was nothing more that they could do. We contacted several professors with understanding of the cultural (and generational) dynamics involved. They spoke with the student and the parents and helped resolve the problem between them, which kept the student in the College. In another instance, an official of the College Housing Office was quick to remedy a problem with a non-Western student who, because of pending medical treatment, did not want to remain in a dorm. In light of ongoing plans to expand the College, including the continued increase in enrollment of women, minority, and international students, these and other cases involving issues of culture require the closer attention of University officials.

James Marquardt was Student Ombudsperson and Claudia Flores was Assistant Ombudsperson for 1996–97.

	Winter	Spring	Total
Academic Affairs	4	15	19
Grade Appeals	1	3	4
Policy Inquiries	3	12	15
Student Affairs	15	4	9
Athletics	0	0	0
Computer Services	0	0	0
Employment	4	1	5
Hospitals and Clinics/Health Insurance	3	1	4
Housing	8	1	9
CollegeHouse System	2	1	3
Neighborhood Student Apartments	1	0	1
Other	5	0	5
Legal Problems	0	1	1
Organizations	0	0	0

Administrative Affairs	1	5	6
Bursar	0	1	1
Discipline	0	3	3
Facilities and Security	0	11	1
Financial Aid	1	0	1
Graduate	0	0	0
Undergraduate	1	0	1
Libraries	0	0	0
Registrar	0	0	0
Sexual Harrasment	1	0	1
Descrimination	0	0	0
Miscellaneous	5	4	9
Total Cases	26	28	54

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