

CEU University Disciplinary Committee

Standing Rules

The present rules are adopted pursuant to Article 20 of the Code of Ethics “*Standing Rules - The Disciplinary and the Grievance Committee may create its own standing rules.*”

These rules apply to all proceedings of the Disciplinary Committee. Where there is any incompatibility between these rules and the CEU Code of Ethics, the Code shall prevail.

This document is a public document. It is also a ‘living’ document, revised and updated by the Disciplinary Committee as the need arises. Version number & date appears in the heading of the document.

This document does not contain legal advice. Where appropriate and/or required under the Code of Ethics, legal advice is sought on interpretations of the Code from University Counsel.

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Definitions

“The Code” refers to the CEU Code of Ethics.

“The Committee” refers to the CEU University Disciplinary Committee.

“The Chair” refers to the Chairperson of the Committee.

“Members” refers to the permanent members of the Committee, as appointed by the Senate. Members includes the Chair unless specified otherwise. It does not include ad-hoc members.

“Members of the CEU Community” is defined as per the Code.

“Parties” refers to the complainant(s) and respondent(s).

“In writing” means via email unless otherwise specified.

“Without prejudice” means that there is no implication of admission, liability or acceptance of the alleged misconduct having occurred.

1 Preliminary Investigations

1.1 Opening of a Preliminary investigation:

A preliminary investigation may be opened in the case of anonymous complaints/anonymous information regarding a possible breach of the Code of Ethics, Harassment Policy or other CEU policies over which the Committee has jurisdiction being provided in any form to the Committee (that is, the Chair or any Member), or in the case of a Member of the Committee personally becoming aware of information of a possible breach.

1.2 Decision on opening a Preliminary Investigation:

Upon becoming aware of the information outlined in 1.1 above, the Chair will take a decision within 5 (five) working days.

The Chair may decide (a) to open a preliminary investigation, or (b) to proceed to a formal complaint under the Code of Ethics if the information provided already meets the requirements of Article 27 of the Code, or (c) that the information provided does not warrant further action at this time (inadmissible). In all instances, the decision will be promptly communicated to the members of the Committee by the Chair.

1.3 Appointment of Preliminary Investigators:

Where a decision is taken to open a preliminary investigation, the Chair will appoint one or more Members of the Committee to undertake a preliminary investigation. The Chair may also be part of this preliminary investigation as an additional member, but will not be the sole member.

For preliminary investigations, the Chair and/or Members should recuse themselves if needed in line with Article 22 of the Code and these Standing Rules.

1.4 Purpose of a Preliminary Investigation:

The purpose of a preliminary investigation is to determine whether, on the balance of probabilities, there is sufficient evidence of a possible breach to initiate a formal complaint under the Code. The opening of a preliminary investigation does not indicate any finding of a breach.

1.5 Procedure for a Preliminary Investigation:

In undertaking a preliminary investigation, the preliminary investigator(s):

- Will review the initial information received.
- May speak to or request materials from any CEU unit that would assist in making a determination under 1.3 above, bearing in mind the requirements in paragraphs 1.6 and 1.7.
- Through the Chair, may seek information from the Ombudspersons Network in line with Article 21.3 of the Harassment Policy.
- Barring exceptional circumstances, such as where the information cannot be obtained in any other manner, the preliminary investigators should not speak to the person against whom the allegation has been made, or to others who might alert the respondent. When considered absolutely necessary, such approaches should be undertaken with extra care, bearing in mind the requirements in paragraphs 1.6 & 1.7 below.

As soon as possible, but maximum within 10 (ten) working days from the date of appointment, the preliminary investigators will report their determination to the Chair by way of a short, written summary containing their preliminary findings and recommendation either to proceed to a formal complaint or that no further action is warranted at this time. Within 5 (five) working days of receipt of this summary and recommendation, the Chair will determine, in line with Article 27 of the Code, whether or not to open a formal complaint. The summary and recommendation of the preliminary investigation and Chair's determination will be promptly communicated to the rest of the Committee.

1.6 Record-Keeping and Confidentiality:

The usual requirements of record-keeping and confidentiality apply to the conduct of preliminary investigations in the same manner as they do to all Committee examinations/complaint-handling.

1.7 Special Care for Anonymity:

In keeping with the requirements of anonymity, particular care must be given by the Chair and Members appointed to undertake a preliminary investigation to ensure that the identity of the original provider of the information (where known) is not exposed.

1.8 Relationship to Harassment Policy

The requirements and procedures of the Harassment Policy supersede the contents of these Standing Rules, including in cases of anonymous information provided through the App and Ombudspersons Network.

2 Admissibility Determinations

2.1 In undertaking the admissibility determination set out in the Code, the Chair:

- May request additional information from the Complainant where the information provided initially is insufficient to make an admissibility determination. This will have the effect of pausing the 5 working day period for an admissibility determination.
- May request clarification from the Complainant as to the exact nature of the alleged violation of the Code/policy where this is unclear.
- Will communicate in writing the reasons for a determination of inadmissibility, per Article 27 of the Code to the Complainant.
- May suggest alternative routes for resolution to the Complainant, where appropriate.
- Will communicate the admissibility determination to the Members of the Committee, for information.

2.2 For purposes of clarity, no appeal against admissibility determinations is possible under the provisions of the Code.

3 Fact Finding Interviews

3.1 Interviews may be conducted with the complainant(s), respondent(s), witnesses and other relevant individuals, pursuant to Article 28 of the Code.

3.2 Interviews can be conducted in person or via phone or electronic means (e.g. Teams, Zoom, BlueJeans). The preference of the interviewee will be respected wherever possible.

3.3 Where appropriate, written witness statements may be obtained from an interviewee in lieu of, or in addition to, in-person interviews. Written witness statements may in particular be sought where it is expected that multiple individuals will provide similar information (for example, where multiple individuals are listed as witnesses to one event). Where written statements are obtained, the fact finder must follow up with the witness if it contains new or materially different information from that of other witnesses.

3.4 Written records shall be maintained of all interviews. This can be in the form of hand-written notes and/or electronic (typed) notes. Notes should be made during the interview and typed up (where necessary) as soon as possible after the interview to ensure notes are contemporaneous.

3.5 All notes of interviews will include the following information:

- Name of the Interviewee
- Date and time of the interview
- Identity of the complaint the interview relates to
- Name of the interviewer(s) at the end of the interview note, and the date of the note.

- 3.6** All interview notes (handwritten and typed) must be provided to the Chairperson of the Committee at the end of the case for inclusion in the confidential file, per the Code.
- 3.7** Before the start of interviews, interviewees are informed how the information they provide will be used and retained. In particular, they should be informed prior to the interview that notes are being made by the interviewer(s), that those notes will be used for the purpose of the fact-finding report, and will be retained in the confidential Committee file.

4 Standard of Proof

- 4.1** The standard for the assessment of evidence shall be on the balance of probabilities, that is, it is more likely than not that the alleged misconduct occurred.

5 Connection with Parties and Recusals

- 5.1** In addition to the requirements for recusals set in Article 22 of the Code, Committee Members may recuse themselves where one of the parties (Complainant or Respondent) is a personal friend or close colleague. Members can also recuse themselves where they feel that they may not be able to maintain - or may be reasonably perceived as not being able to maintain - the necessary impartiality because of their connection to one of the parties. Recusals are to be requested to the Chair with the reason for the requested recusal.
- 5.2** Members who are appointed as fact finders or who will be involved in the decision making process should notify the Chair of any relevant connection to the Complainant. The Chair may suggest that a recusal would be appropriate in the instance.

6 Composition of the Committee

- 6.1** Where the case concerns a student, the composition of the Committee for the purpose of consideration of the fact finding report, hearing, deliberation and decision must include 1/3 student representation per Article 19. This will usually mean there will be two student representatives at a hearing involving a student as well as 4 non-student members comprised of at least 2 faculty members and at least one staff member.

7 Assigning of Cases

- 7.1** The Chair assigns fact finding cases to Members pursuant to Article 28. Working on the principle of collegiality, the Chair will ask Members to volunteer based on their availability and workload. It is expected however that Members will take cases on a rotational basis insofar as possible.

8 Complaint Timelines

- 8.1** The timeline of complaints before the Committee is set out in Annex 8 to the Code and repeated with additional detail in Annex 1, below.

9 Amicable Resolutions

- 9.1** Pursuant to the Code, one of the duties of the Committee is to seek amicable resolutions. Fact Finders may raise this again with the complainant at any point during the procedure where they feel it is appropriate. For example, if the respondent has expressed a desire for an amicable resolution.

10 Immediate Measures

- 10.1** The application of any immediate measures, pursuant to Part II of the Code is done without prejudice, meaning that their application contains no implication of admission, liability or acceptance of the alleged misconduct having occurred.

11 Fact-Finding Reports

- 11.1** Fact-Finding Reports are based on the standard template format of the Committee found in the Committee's shared folder.
- 11.2** Reports present an overview of the allegations and the facts accepted by the fact finder(s).
- 11.3** Reports will generally avoid identifying individual witnesses as the source of specific pieces of information.
- 11.4** Parties are expected to provide the fact finders with all relevant information, including documentation and witness names. They may contact the fact finder within the period the fact finding report is being prepared, which is notified to the parties at the beginning of the process. It is hoped that they will provide all relevant information as early as possible in the process.
- 11.5** Subject to the provisions in the Code relating to necessary redactions (Article 28(6)) and withholding of the report, (Article 28(7)), Fact Finding reports are provided to both parties at the same time shortly after the date of the hearing is scheduled by the Committee (Article 28(5)). Ideally, the report should be provided to the parties by 7 working days after the fact finding report has been presented to the Committee (Article 28(5)), barring any exceptional circumstances.

12 Non Responsive Parties

- 12.1** Where a party either repeatedly fails to respond to the requests of the Committee, including the fact finder, or stops responding, the Committee may decide to nonetheless continue the proceedings. The Committee will make every reasonable effort to ensure the communications have reached the party concerned, for example, by using read-receipts on emails, initiating contact by phone, or leaving a physical letter for the party in their CEU mailbox. Where a party is or becomes non-responsive during the fact finding process, the fact finder should notify the Chair, who will bring the issue to the full Committee for decision as to whether the Committee will continue the complaint. This decision will be made by simple majority of the Committee, with due consideration for the principle of fairness.
- 12.2** Should a hearing be held in such cases, section 14(4) below will apply.

13 Confidentiality

13.1 The Committee views the requirement for confidentiality in the Code with the utmost seriousness. Confidentiality around cases is essential to ensure fairness to all parties and that members of the CEU Community have confidence to bring complaints to the Committee. Confidentiality requires that all members of the Committee, including ad-hoc members, do not discuss or share with any person outside the Committee or individual who is not a party or witness to a case:

- the details of any case or Committee proceedings, and/or
- the content of any Committee deliberations, and/or
- any documents or written or electronic communications relating to a case or to Committee proceedings.

13.2 The Chair may waive this confidentiality requirement in certain cases where it is in the interest of fairness to parties or necessary for the proper operation of the Committee. Where confidentiality is waived, the Chair will aim to obtain agreement for such waiver from the parties.

13.3 Sharing the type of information referred to above with University Counsel is not considered a breach of confidentiality.

13.4 Parties to proceedings, including witnesses, are also expected to respect the confidentiality provisions of the Code.

13.5 In cases before the Committee that fall under the CEU Harassment Policy, the stricter requirements of confidentiality set out in that Code will apply.

14 Hearings

14.1 The following general hearing format shall be used:

- Welcome by chair & introductions
- Presentation of fact finding report by fact finder
- Statement by complainant - "views & all evidence relevant to the issues of guilt and sanction"*
- Statement by respondent - "views & all evidence relevant to the issues of guilt and sanction"*
- Questions from Committee Members
- Final remarks by complainant, respondent (if desired)
- Close

**Article 29(3) of the Code provides - Each Party is entitled to present his or her views and all evidence relevant to the issues of guilt and sanction. Each Party may be represented by a legal representative in the procedure. Members of the Disciplinary Committee may ask any pertinent questions they please. The Parties concerned shall not question one another directly unless the Disciplinary Committee permits.*

- 14.2** The chairperson of a hearing may be a Committee Member designated by the Committee Chair.
- 14.3** Should one of the parties be unable to attend the hearing for legitimate reasons, the Chair will reschedule to an alternative time agreed with the parties and members.
- 14.4** Should one of the parties fail to attend without legitimate reason, the Committee will decide whether it is fair to continue with the hearing. If the hearing goes ahead, the Committee may adopt a provisional decision. This decision may be confirmed or amended by the Committee following any written representation the party wishes to make in writing within 5 working days of the hearing. The Chair shall notify parties in writing of this procedure.

15 Adoption and Amendment of these Rules

- 15.1** These rules shall be adopted by the Committee by absolute majority approval of the members. That is, by the approval of at least two-thirds of all members.
- 15.2** Any member may submit proposals to amend these rules to the Chair, who shall propose the amendment to the members within a reasonable time.
- 15.3** These rules are made publicly available on the CEU website and are provided to all persons having business with the Committee.
- 15.4** Members of the CEU Community may propose additions or amendments to these rules in writing to the Chair, who shall transmit any reasonable amendments to the members for consideration. Members of the CEU Community must provide an explanation in writing for their proposed addition or amendment.
- 15.5** The Chair may in her/his discretion seek external expert advice, including from former members of the Committee, the Ombudspersons Network, the CEU Students Union, CEU Trade Union as well as counsel or other relevant parties on the content of these rules.
- 15.6** Amendments shall be adopted in accordance with paragraph 1 of this section.

//ENDS

ANNEX 1
Code of Ethics Flow Chart

