**JCC Response to MBG Proposal: Resolution to Modify Campus Code to Clarify the Rights of Complainants to Appeal Summary Decision Agreements**

Dear CJC members,

Please see our objections to the proposed resolution below. As requested, the issues are outlined as Mary Beth Grant outlined them in the most recent CJC meeting. We look forward with the chance to discuss this further at the next meeting.

1. **Timing Issues**:
   1. Disputed language:
      * “The Judicial Administrator shall notify the complainant ~~no more than~~ two business days after the summary decision becomes final or after he or she otherwise decides not to file charges, or as soon as practicable thereafter. A delay on the part of the Judicial Administrator shall not negatively impact the complainant’s rights to appeal, as articulated below. The accused student is encouraged to confirm with the Judicial Administrator that the notice has been made.”
   2. Our objection:
      * The provision as it stands places a limitation on the time frame during which the complainant can petition for a show cause hearing for a reason: students who have signed a Summary Decision Agreement (SDA) must be able to rely on that agreement after a certain amount of time has passed. As revised, this term would leave open the possibility that an accused student’s SDA would be called into question several months after it was signed, which is unacceptable from the standpoint of fairness to the accused student. We are however, sympathetic to the plight of the Judicial Administrators Office (JAO) and would be in favor of extending the current “two business days” limitation to five days, which should leave a sufficient buffer to accommodate administrative difficulties the JAO may experience.
      * While a proposal encouraging confirmation by the student may appear on its face to help assure finality, it is our view that placing an additional burden on accused students should not be taken lightly. Just as the Judicial Administrators are busy juggling tasks, so too are students and Judicial Codes Counselors, and burdening the accused student with verifying completion of the Judicial Administrator’s administrative responsibility will not serve as an effective tool in the effort to ensure finality. Our system as it stands relies on this finality, and it is achieved by providing both a limited period for notification of the complainant and a limited period within which the complainant must petition for a show cause hearing.
      * Furthermore, students must be able to rely on the SDA’s finality so that they can comply with its terms. In reliance on the terms of SDAs, students are encouraged and in some instances required to begin working on the terms (alcohol/drug counseling, completion of community service hours, etc.) right after the SDA is signed. The SDAs include deadlines of when they must be completed. In order to have an SDA mean anything at all, the student must be able to rest assured that it is at some point final.
      * **If** a 5-day limitation for the JA’s notice to the complainant is maintained, our office takes no issue with the “triggering event” language.
2. We are in agreement that the appeal right should belong only to individual complainants.
3. **Changing the right so that it solely belongs to the complainant**
   1. “The right to petition belongs exclusively to the individual complainant and nothing in this section is intended to create a right for the accused.”
   2. Our objection: for the reasons outlined above, this provision of the code as it is currently written protects accused students as well as complainants. Students who have signed a Summary Decision Agreement must be able to rely on the solidity of that agreement after a certain amount of time has passed, and the accused should not have to live in constant fear of an apparently closed case being reopened. We therefore advocate the rejection of this sentence altogether.
4. We are in agreement that Hearing Boards should be allowed to uphold the decision of the Judicial Administrator in whole or in part.