October 7, 2013

As a Presiding Administrative Law Judge of the California Unemployment Insurance Appeals Board, I devote a great deal of time to ensuring due process is observed by the 25 judges I supervise in our administrative hearings. Moreover, as a former Deputy Federal Public Defender and criminal defense lawyer, I have dealt with due process at an even higher level of scrutiny.

In 1997, Stanford students and faculty enacted the 1997 Student Judicial Charter. This document strictly defines the handling of all judicial cases at Stanford. I was a co-author, along with three students, of an extensive case study that followed a single Honor Code violation through the Stanford judicial process from start to finish at the Office of Community Standards. That case study, published by The Stanford Daily on May 13th, came to one principal conclusion – the Office of Community Standards was failing to process judicial actions at Stanford in conformance with the 1997 Student Judicial Charter.

When I assisted in the representation of students accused of Honor Code violations at Stanford, I was appalled by the lack of due process afforded them. Some of the most basic due process protections were discouraged or outright denied. Students were advised that they should not only desist from contacting witnesses but they were denied the opportunity to question their own witnesses in the proceeding. They were denied the opportunity to confront their accuser. They were discouraged from objecting to the testimony against them and from cross-examining those witnesses. New issues were raised at the hearing that were not part of the scope of the accusation and for which no notice had been given.

Overall, the hearing evidenced a lack of impartiality and a lack of understanding of the most basic legal concepts that ensure a fair proceeding. No one involved in the day to day doings at the Office of

Community Standards had a legal background or an apparent familiarity with elements of procedural due process. The students outlined just some of the violations of the Student Judicial Charter in their letter to The Daily on May 22, 2013.

Our students had representatives to advise them even though the representatives were not allowed to appear or participate in the actual proceeding. I cannot imagine how unrepresented students would be able to navigate such a process at all, let alone successfully.

Under the 1997 Student Judicial Charter (§II, (A), (7)), every student is entitled to be represented while going through the process. Yet, many students who have come forward to us since The Daily's publication of the Case Study in May have suggested they are either intimidated from retaining an attorney, or are led to believe it would be in their best interests not to. Further, it has become apparent that those who are not represented face an entirely different experience from those who have competent counsel who can protect their rights in every step of the process. This is happening now, in cases resolved or commenced in the spring of 2013.

I want to be clear on the issue that now confronts all of us at Stanford. It is not about changing the 1997 Student Judicial Charter. The Office of Community Standards has already done that. The issue is going back to the 1997 Student Judicial Charter, and enforcing it strictly. It was designed to protect students, and that protection needs to be restored. Recent practices demonstrate what can happen when the Charter is ignored.

As a Stanford graduate who is proud of the excellence of most all that Stanford does, I was deeply disturbed by this lack of professionalism and fairness at the Office of Community Standards. In his letter from the Birmingham Jail in April 1963, Martin Luther King said, "An injustice anywhere is a threat to justice everywhere." Dr. King's cautionary words ring just as true today, 50 years later. It is incumbent on those of

us who care about Stanford and its continuing excellence that we take steps to prevent the miscarriage of justice that will surely come from the continuation of such a flawed judicial process at Stanford.

John Martin ('80) – involved with student cases in 2011-2012
and 2012-2013 school years

October 13, 2013

To Whom It May Concern:

I am a student at Stanford University. During the 2012-2013 school year the Office of Community Standards let me know that they would be holding a case against me.

My advisor was extremely unpleasant. They treated me in a disrespectful and judgmental manner. Every time I met with them I felt like I was being attacked and I never felt at ease when I was in their office. My advisor was also unhelpful. They constantly gave me bad advice, encouraged me to admit to things I didn't do, and discouraged defensive strategies. My advisor had little regard for my rights. At no point did I ever feel like this person was my advocate or on my side. This made me feel alone and stressed throughout the whole process.

At a certain point I felt that my rights were negatively impacted by my reliance on my advisor's counsel, so I sought professional legal counsel.

Initially, I was afraid to disclose that I had retained legal counsel because my advisor had strongly discouraged this and implied that professional legal counsel would not be helpful in my case. Once I got legal advice everything changed for me. It was a night and day difference. My advisor became more helpful and seemed to respect my rights more. My legal counsel also provided me with vital advice regarding the case that my advisor would have never shared with me, and helped me make sure that my rights were not being trampled.

For this reason, I support the Student Justice Project in its efforts to get students that go through the OCS process competent representation. I hope that in the future all students that go through OCS will get the representation and help that I was fortunate enough to have.

2012-2013 Case

Oct. 11, 2013

Dear Justice Project Coordinators,

Our son faced a case at the Office of Community Standards in 2013 in which there was an overriding presumption of guilt, despite the fact that he was innocent. We hired an attorney mid-way through the case, and there was a night-and-day difference in the way his case was handled *before* we retained counsel and the way his case was handled *after* we retained counsel. He was ultimately unanimously acquitted by his panel.

From the beginning, the OCS seemed to be more interested in securing a conviction than uncovering the truth. For instance, the Investigator in the case scheduled a date for my son's hearing *before even concluding the investigation or formally charging him;* if that doesn't scream presumption of guilt, I don't know what does. More telling is that there were many discrepancies and unanswered questions that the Investigator seemed eager to overlook, presumably due to incompetence and an overzealousness to prosecute. Stanford was even willing to violate federal privacy laws in order to secure a conviction. There's a problem with the system when the investigator also acts as prosecutor and judge, and the University will break laws that were intended to *protect* students.

It was at this point that we hired an attorney who's familiar with these kinds of cases to handle my son's case. Even though we hired an attorney, the OCS *still* wouldn't speak with our son's legal counsel directly. Currently, lawyers are not allowed to represent their clients at the hearing. Fortunately, my son's public speaking skills are well-honed. However, we feel particularly sorry for the accused students who have a fear of public speaking or speak English as a second language. These students have no fighting chance in front of Stanford's kangaroo court.

The major takeaway from our son's case is that, without the benefit of an attorney, an innocent student can easily lose his or her case when denied basic protections of due process. He received a relatively fair trial towards the end, but *only* because he hired competent legal counsel to help him handle his case. In retrospect, hiring an attorney was the best decision we made in our son's case, and we believe strongly that all Stanford students <u>must</u> be provided access to legal counsel in order for the process to be fair. Currently, there seems to be a dual justice system for those students who have the means to hire an attorney versus those who do not. That does not reflect well on our University, and we believe strongly that it must be changed.

Stanford Parents and Alum
(OCS Case 2013)

October 7, 2013
To: Stanford University
Re: Stanford Justice Project

My contact with the Stanford Office of Community Standards and the University's Board of Judicial Affairs over the past three years has caused me to question my support of Stanford as an institution. I was an alumnus advisor to a student wrongfully accused of a violation of the Honor Code, and I experienced the judicial process firsthand. My student, along with others in his situation, faced direct intimidation from University officials. He had to overcome a confusing process, uncooperative staff, and a stacked case against him. Even though his circumstances did not have enough evidence to warrant review by the panel, it was unfairly argued by the Faculty representatives and he narrowly escaped with a split decision.

I came away from the experience thankful of the result and hopeful that Stanford would review its outdated and skewed process for hearing these cases. The staff involved showed a clear lack of training and, consequently, have dangerously interpreted sections of the Stanford Judicial Charter to better suit their needs. Procedures were not standardized, and the entire organization lacked the rigor and oversight that I would expect from Stanford University. I am absolutely confident that innocent students have been found guilty through this slanted system.

I am contributing my thoughts today because I know there are violations (or unauthorized amendments) of the Stanford Judicial Charter that still need to be addressed. As a proud alumnus, these are of great concern to me. I believe that through an independent review and a series of steps to enforce the Charter, Stanford can establish a Judicial System that lives up to its academic reputation, and I am committed to resolving these issues through my support and contributions to this project.

Graham Gilmer '05
Senior Associate
Booz Allen Hamilton
Washington, DC

OCST 006

To Whom It May Concern:

I am an undergraduate at Stanford University. I was charged by the Office of Community Standards (OCS) with providing unpermitted aid to another student on a final exam during the fall quarter of 2012.

During the investigative phase and adjudicative phase of my case, my fundamental rights under the Stanford Student Judicial Charter were repeatedly violated in material respects in approximately 30 different ways.

Perhaps the most egregious example of a violation of my rights under the Charter occurred when the OCS and the reporting parties purposefully concealed the identity of the only known witness in my case. The witness would have impeached the testimony of the reporting parties in my case; however, the witness's identity, which was known to the reporting parties, was never revealed. The OCS has acknowledged that I requested the witness come forward on multiple occasions, but that they failed to compel the witness to come forward. (Note: witnesses are compelled to cooperate and appear at Judicial Panel hearings per Section II(D) of the Charter.)

Unfortunately, I did not know that my rights had been violated repeatedly throughout the process. Nor did I know that 95% of students accused of an Honor Code violation were found guilty. Throughout my case, I felt strongly that the way my case was being handled was unjust, but the OCS kept telling me that their actions were permissible under the Charter, and that I had no choice but to accept that fact. Case in point, the "neutral" Judicial Advisor in my case co-authored a brief advocating for my conviction. The one person, whom I was told I could trust, pretended to advise me confidentially before advocating for my conviction. Some trust!

Notably, the Judicial Advisor in my case specifically advised me not to hire an attorney. He even went so far as to suggest that if I retained counsel I would look guilty. It was not until after I was convicted that I learned I had the right to have an attorney represent me. A few weeks after my conviction, I read an article in the Stanford Daily which described a student who had been similarly wronged by the OCS, but had retained an attorney during his case, and was found not guilty. I contacted the same attorney. Only then did I realize the extent to which I had been wronged. I also realized that I had been treated differently than other students whom the attorney had represented.

In closing, I truly wish I would have known that I could have hired an attorney to represent me during my case. My family lives below the poverty line, and hiring an attorney would have presented significant hardship for my family and me, but the alternative is worse. I am quite confident that I would not have been convicted if an attorney had retained an attorney to stand up to the OCS when my rights under the Charter were violated time and time again. I firmly believe that every student charged with an Honor Code violation deserves to have competent counsel.

Consider my case, three reporting parties—one of whom was a respected faculty member—were allowed to testify against me. I had no one on my side. I had no one to balance the playing field. It was my word, the word of an accused cheater, against the respected word of a Stanford faculty member and his assistants.

If the simple fact that 95% of students are convicted does not convince you that every student deserves an attorney, hopefully my case will illustrate how an honest student without an attorney can be thrown under the bus by the "neutral" Office of Community Standards.

October 8, 2013
To: Stanford University
Re: Stanford Justice Project

To Whom It May Concern:

I am a current Stanford student who, because of an experience I felt to be *unnecessarily* stressful, is writing to hopefully help change a flawed process. During an examination earlier in 2013, I was accused of cheating when I was not. From the moment I was contacted by the Stanford Office of Community Standards (OCS), I felt as if I were being methodically manipulated into believing that I did not actually have the rights listed in the 1997 Student Judicial Charter.

I met with an "Advisor" who was supposed to be impartial. He walked me through the rights listed in the Student Judicial Charter. I was appalled by the manipulative diction used and the blatant lack of respect for the Student Judicial Charter. I felt that the University was trying to convince me they were preparing me for battle, while they were actually taking the ammunition out of my gun. At any chance my advisor could, he manipulated and changed the phrasing of the 1997 Student Judicial Charter to render it meaningless.

It was not until I subsequently received legal counsel that I finally felt that I actually might be treated as innocent until proven guilty and that the Student Judicial Charter actually meant something. While this was comforting, it also made me very angry with the University because I was strongly advised by OCS NOT to retain legal counsel. Until I was protected by my attorney, I felt as if the system utilized by OCS was designed to strip me of my rights, push me through a manipulative and biased process and then find me guilty, independent of the facts. I shared my experience with Dean of Student Life, Chris Griffith, in writing in May of 2013. I have not heard back from her.

Fortunately, because of a backlog at OCS, my case was referred to a Dean at the Law School. She had a legal background. The case was then handled professionally. No charges were filed.

Sincerely,
Stanford Student N (Spring 2013 case)

Attorney at Law
Robert P. Ottilie

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San Diego, CA 92101-3597
(619) 231-4841
FAX (619) 231-3293

October 7, 2013

To whom it may concern:

Over the last 15 years, I have been involved in scores of administrative processes administered by middle schools up to law schools and medical schools; from the California Interscholastic Federation to the NCAA. Never have I seen such a lack of due process as that exhibited in the handling of matters by the Stanford Office of Community Standards (OCS).

This is troubling because Stanford adopted a very good Judicial Charter in 1997. The Student Judicial Charter, if followed, would provide good due process to Stanford students.

Individuals who administer the judicial process at Stanford often appear unclear as to their proper role and responsibilities. Their actions and arguments often suggest a lack of familiarity with the 1997 Student Judicial Charter. Most alarming is their willingness to handle cases in a way that appears to me to be in conflict with the Charter itself, even after they have been made aware of Charter provisions.

Every time I have spoken with anyone associated with Stanford about getting higher quality representation for any student charged, their comeback is always "Stanford students do not want lawyers to be involved." On the other hand, I have yet to meet a student who did not greatly appreciate quality representation after they experienced OCS without representation. The only way to protect our students is quality representation.

Interestingly, whenever Stanford is pressed on a legal issue, they insist on having their lawyers involved, often "high priced" attorneys as they have been described to me. They want attorneys, but do not want their students to have them.

Further, since the right to representation is guaranteed under the 1997 Student Judicial Charter, students with means are already retaining attorneys. It is the students from families without high incomes, or students who do not feel comfortable telling their parents, that are being deprived of quality representation.

This creates a dual system of justice. Those with quality representation get an entirely different experience from OCS than those who are not represented.

Bob Ottilie ('77)
(Representative of multiple students)

October 2013

To Whom It May Concern:

I am a student who was found **not guilty** in an Honor Code case within the Office of Community Standards.

I feel it necessary to outline here the events surrounding my case, given the lack of due process I received.

Let me first state outright that my case was immediately dropped upon second investigation of the witness's testimony. Through this additional round of questioning, the witness relayed information that pertained to other students involved in the allegation, but my innocence became clear. I did not go to a hearing. My case was dropped.

This happened over four months after the original complaint was filed. Had I been granted access to the witness immediately, my case would have been dropped in a matter of days. I was denied access to the complainant and to the accuser from the minute my case was filed. This created a system that held me guilty before proven innocent.

When I received the materials that wrongly accused me of an Honor Code violation, I was instructed not to discuss the paperwork under any circumstances with the other students involved. This, I felt, also assumed my guilt without sufficient evidence. It disabled me from building a proper defense.

The last point, which I feel needs to be addressed is the length of time it took to correspond with individuals in the Office of Community Standards. I would write letters approximately every other week to the individuals handling my case, Jamie Pontius Hogan and later in the process, Koren Bakkegard. These letters contained time-sensitive questions regarding steps that I needed to take to ensure I received due process. I asked for the name of my witness. I received no feedback for three weeks.

My case stands as an especially strong example of the loopholes that exist in the Stanford Judicial Process, given that I was found **innocent.** I have no doubt that other innocent students did not take the appropriate measures to ensure their due process, resulting in a wrongful conviction.

Stanford University should rethink its current Judicial Process and reconfigure its operations within the Office of Community Standards. Stanford students deserve better from their institution than that which currently exists as the norm within this office.

Student
Case considered in 2012-2013

October 9, 2013

To whom it may concern:

My experience with the Stanford judicial process during the 2012-13 academic year has made me aware of the importance of every student having competent legal representation.

In the fall of 2012, I was involved in a verbal argument in a university residence that ended with a physical altercation. Prior to retaining counsel, I was completely denied the due process that students at Stanford are supposed to receive. Although I self-reported the incident to the Residence Dean, I was essentially treated as "guilty until proven innocent" by university officials. That may sound a bit dramatic, but it is actually an understatement, since I was not even given a chance to prove my innocence.

I had dozens of witnesses to provide to the University in my defense. However, when I had first spoken to the Residence Dean, she had told me I could not contact witnesses, and so I assumed she would do that for me. I was wrong.

After she had decided I was guilty, I raised the issue of my witnesses. Only then, after she had already decided the case, did she acknowledge that perhaps she should consider my side of the story. She then again found me guilty, without speaking to any of my witnesses.

It was at this point, with the discipline about to be imposed, that I realized I needed some help to protect me against a violation of my rights.

Fortunately, when an experienced attorney and involved Stanford alumnus offered to represent me in my appeal, everything changed. I filed an appeal. He told me that the Dean was wrong when she said I could not contact witnesses. Even though it was three months since the incident, I had about 60 witness statements collected in about four days.

With the evidence the Dean would not let me gather, I won my appeal.

I felt much more prepared to defend myself and plead my case with a professional representative by my side. I strongly believe that this would not have been the case if I had not had an attorney representing me.

Once I learned I was not prohibited from speaking to witnesses, I also went over and visited with the other student involved in the original altercation. We patched things up in minutes, as would be expected of Stanford students. The other student was surprised I hadn't approached him earlier. He was unaware the Residence Dean had improperly precluded me from doing so.

Student ('14)
Winter 2013 case

October 15, 2013

I am a current Stanford undergraduate who went through a process with the Judicial Affairs Office (subsequently renamed the Office of Community Standards) in a school year prior to the current one. Although I was completely innocent and no charges were ever brought against me after I was initially informed that I was one of a few students believed to have possibly violated the honor code on an exam, my experience was incredibly stressful and distracting. Furthermore, my experience led me to conclude that the process by which students are treated by the Office of Community Standards (OCS) is inherently flawed and is in serious need of review and change to ensure that all students are treated fairly and equitably.

From the outset and throughout all of my dealings with the OCS, I felt that I was involved in an adversarial process in which I was guilty before being proven innocent rather than innocent until being proven guilty. I felt this way because significant exculpatory evidence and the identity of an accusing witness were not disclosed to me until just prior to the time that I was fully exonerated, many months after I was first notified that there was even an issue. Throughout my dealings with the OCS, I lived in fear of being charged and found guilty when I was innocent. And how could I not feel this way when my accuser could remain anonymous and not be subject to cross-examination, a most basic right in any fair and equitable proceeding? In fact, there is no provision for anonymous witnesses in Stanford's 1997 Student Judicial Charter and the Charter and a bylaw mandate that witnesses must cooperate, and yet the OCS ignored this requirement for far too many months. Fortunately for me, my case was dropped almost immediately after the anonymous witness finally came forward and made a written statement and other significant exculpatory evidence was disclosed. No student, innocent or guilty, should be subjected to such a process!

I was fortunate to have been guided through my dealings with the OCS by both my father and an attorney who he hired to represent me, and I have often wondered if my result would have been different notwithstanding my innocence if I had not had the benefit of their advice and counsel. In fact, I do not believe that a student without representation could possibly understand and self-advocate their rights under the 1997 Student Judicial Charter, and I believe that every student should be offered some type of 3rd party representation when dealing with the OCS. What would have happened to me if I hadn't felt comfortable involving my parents in the process? And what would have happened if they couldn't afford to hire an attorney at considerable expense to represent me? The rights of a less fortunate student – perhaps one who is on financial aid, which I am not – should

never be compromised. And any suggestion that the Judicial Adviser assigned to one's case is all that is needed to protect such students from any inequities is nonsense in light of the fact that they advise both the accused and reporting parties and they themselves tell you that anything you say may be shared by them with the Judicial Officer assigned to your case.

Current Stanford Student

September 28, 2013

The Stanford Judicial Process is not one that seeks the truth, but one that tries to corroborate the assertion made by the Professor. You are assumed guilty from the moment that you enter the process. There is nothing about it that is fair or that even resembles a normal judicial proceeding. To be completely honest, to be put into this system is resembles a lot being bullied.

Before I retained a counsel, I was told that I could not contact witnesses and if I did so, I would have their statement annulled. I was told that I could not have the names of the people that were involved in the process with me. I was also told that I would have a deadline to write the statement, otherwise the case would go to trial without a chance for me to explain my actions. The worse part was that the Judicial Officer never set the deadline, nor would she reply my emails or phone calls, so I was in constant terror that my defense would not be accepted.

If I had not retained a lawyer, I would have been completely lost through the process. The Judicial Officer refused to contact my witnesses since she believed they were not essential to the case. Even though, their statement was my alibi. Since I could not reach out to them, in fear that it would annul their statement, I felt completely lost. I did not know what to do at the time.

My representative has gone above and beyond his functions. He has clarified that I have the right to contact anyone I wish to have as witness. He further enlightened me that I am entitled to all the evidence, which has not been provided to me by the Judicial Officer or the Accusing Party. I feel that going through this process is more of a punishment than an investigation. You are denied of everything; the professor's word is for some reason taken as evidence. It is very hard to try to prove something that you did not do, the only thing that can do is have your witnesses and the entirety of the evidence. Without a lawyer, I would not be able to attain that.

Attorneys are necessary to assist students through the process of the OCS, since the Officers themselves act as lawyers for the reporting party. What kind of a school does not allow for a one-to-one civil conversation between the reporting party and the student?

I don't mean to sound rude, but it is rather ridiculous the time length that it takes for the Judicial Officer to conduct the investigation. In my conversation with her, I have noticed she failed to read the files correctly, to reply emails and phone calls, to dismiss absurd cases with no real evidence. In my honest opinion, those people in the OCS are more than unfit to judge and make any decisions regarding the academic future of the students in this school.

Student
Spring quarter 2013 case

Oct. 6, 2013

To Whom It May Concern:

I am a Stanford student who has been through a 2013 case at the Office of Community Standards, and who has helped multiple friends navigate through the challenging OCS process. Throughout the many cases I have seen, I have witnessed a pattern of *serious* and *ongoing* problems within the OCS.

I am not someone with a legal background, but one doesn't need to be a lawyer to have a strong understanding of the concepts of "due process" and "presumption of innocence"—concepts that are cornerstones of American jurisprudence and necessary parts of the best legal system in the world. These basic concepts seem to be utterly lost on the staff at the OCS. In the cases I know about, I've seen the OCS flat-out ignore, or patently violate, the Student Charter of 1997, which guarantees many of the same rights the U.S. Court system affords.

I've seen the OCS deny students the right to confront their accuser. I've seen them deny students access to exculpatory and incriminating evidence. I've seen them railroad students through the process and threaten to move on "without the benefit of their participation" if they attempt to seek legal counsel. I've even seen them *break federal law* in their case-handlings. For the OCS, conviction—not justice—is the ultimate objective. It's no wonder they have a 95% conviction rate. Conviction...or "education," as Chris Griffith likes to call it.

Having an attorney assist me in my case was absolutely crucial, and I recommend to all of my friends going through the process that they get an attorney as well. Unless one is in the OCS daily fighting for due process, it is virtually impossible to get a fair process without counsel. I was innocent, and was, fortunately, unanimously acquitted by my panel. That said, I feel strongly that innocent students can easily be convicted in a process so flawed.

The problem with the current setup is that there are, in effect, two systems of justice at the OCS. While those who are affluent enough to afford an attorney are guaranteed at least a relatively fair process, those without legal representation are, unfortunately, usually railroaded through and convicted with little recourse.

Stanford's motto is "Die Luft dur Freiheit weht"—"The Wind of Freedom Blows." Unfortunately, that motto reads more like a punch line than a slogan. I have been utterly disillusioned with my University specifically because of the way the administration allows its students to be treated in the OCS. That said, we, as alumni, parents, and students, can do our part to make Stanford a better place. Appointing every accused student legal counsel will certainly help in that effort.

Thank you,
Student, Class of '14
OCS, Class of '13

October 12, 2013

At the end of the spring quarter in my sophomore year at Stanford, I, along with two other of my friends, was accused of cheating on the final exam of my Human Biology 3A class. A few weeks after school had ended, I received an email stating that I was being investigated by Judicial Affairs. The email stated that I was not to contact any potential witnesses. After reading this email, I have to say that I was very concerned. I knew that I had not cheated but the letter almost seemed accusatory. Luckily, I came into contact with my representative very soon after the letter was received who was able to guide me through the entire process and give me a rough outline of what to expect.

After the initial letter, I received no contact from Judicial Affairs until the end of summer. They contacted me to let me know that I would have to meet would Morris Graves. He was supposed to act as a judicial advisor of sorts. In the meeting he let me know of my options, such as the Early Resolution procedure, and fully outlined the timeline for me. Honestly, my initial experience with him was overall a positive one. Unfortunately, that is as far as the positive experiences went. We met Rick Yuen, our judicial investigator, next. He stated that he would be asking a statistics professor to run tests on our exams to estimate the probability that the few of our answers that were the same was just by chance. However, once the results came in, Rick decided to throw the results away, offering us no reason as to why. This led us to believe that the statistics results corroborated the fact that we were indeed innocent. This was the only beginning of the injustices.

The meeting with the judicial committee was to me one of the most unfair "trials" I could have imagined. It seemed as if we were assumed guilty and that we were supposed to prove our own innocence, instead of the other way around. One of the panel members seemed ready to vote our guilt as soon as we walked in. They seemed to ignore every piece of evidence we brought in to defend ourselves and were willing to go by the word of the course advisor, who was no where present at the time of the final, and our TA. The original accuser was never even required to present him/herself to us, an act that is required by the judicial charter if a judicial affairs case is to move forward. It seemed that at every turn the charter was ignored and abused. In an earlier case document prepared by our representatives, there were over 50 violations of the judicial charter listed. I can honestly say that, with the way the procedure was run, that we would have been found guilty if not for our representative.

After my experience with judicial affairs, I believe that students should absolutely be able to have a representative who can aid and help defend their case. The guidance that Stanford judicial affairs provided was subpar and I believe that we would have been found guilty if our representative was not in the room with us. The whole meeting felt more like an attack on us than the "conversation" that it is proclaimed to be. After this, I feel as if there is a reason that Stanford has a "guilty" finding in over 80% of its judicial affairs cases. The procedures were conducted unprofessionally and need to be changed. Having a representative was probably the only thing that prevented me and my colleagues from being punished for a "crime" that we did not commit. For a school that prides itself on integrity and fairness, the judicial affairs process is an embarrassment. I can only hope that improvements are made in the near future before more cases like mine take place.

Student ('13) – case in 2011-2012

October 2013

To whom it may concern,

I have experienced the operation of the Stanford Office of Community Standards (OCS) by observing a close friend of mine going through a four-month long process. During this time, I experienced the absolute worst display of incompetence, intimidation and bullying that I ever saw at Stanford.

The OCS staff operated as prosecutors, not unbiased counselors and investigators (as they should). Many times, the investigator would threaten the student with charging the case without giving her an opportunity to reply with appropriate time. The investigator allowed the reporting party to withhold evidence, and many times failed to interview significant witnesses in the case. In spite of such repeated abuse and violations of student rights on part of the investigator, the judicial advisor did **absolutely nothing** to help--she did not respond to multiple emails from the student, neglecting her job during the entire investigation. In my experience, the OCS staff either works against the student (in spite of all evidence pointing towards the students' innocence), or does not work at all.

By hiring an attorney, the student was able to make sure her rights were being respected. The attorney assured the student that she could interview all relevant witnesses, and most importantly, have access to all the evidence relevant to the case. The attorney informed the student of her rights, and worked to make sure that all these rights were enforced. What is even more surprising is that the OCS staff tirelessly worked to deprive the student of her rights. Without an attorney, the student would have been completely helpless against this abuse.

It is also important to consider the significant emotional distress that the OCS caused for this (innocent) student. The student in question is one of the best undergraduates at Stanford. For her, being falsely accused of academic fraud generated a huge amount of emotional distress. The position taken by the OCS (of assuming guilt from the very beginning of the process) made this even worse. Hiring an attorney was absolutely necessary in order to give this (once again, innocent) student some resemblance of peace of mind.

My general impression of the operations of the OCS staff was that they were simply advocates for the professor's point of view. The investigator was not concerned with finding the truth in the matter, but simply with finding evidence to corroborate the professor's accusation, even when no such evidence existed. I cannot even begin to explain how problematic this stance is. The OCS does not exist to protect professors--the office has the function of protecting all members of the stanford community. However, instead of protecting students from false accusations, the OCS staff do everything in their power to elevate the reporting party, and almost completely ignore the students and any evidence they present.

This has to change. An innocent student should never be put through this again. This is Stanford. This is our university, and we should hold it to a higher standard. As a student, I feel deeply ashamed to see such injustice and incompetence in my own university. Academic and personal integrity are central issues to this institution, and should be treated with the seriousness they deserve. Clearly, the OCS has systematic problems with the way it operates. One of the first steps that must be taken to correct this that accused students *must* be given access to experienced and well-trained attorneys to help build their defense. I am certain that this will, more importantly than anything else, increase the number of correct verdicts arrived at by the OCS. If Stanford officials really do take academic integrity seriously, then they will take steps to improve this process, the first of which is to provide all investigated students with access to well-trained attorneys. This will serve as an appropriate temporary solution, but it *must* be accompanied by a complete restructuring of the OCS, so that innocent students may never go through such injustices again.

Friend of Impacted Student (2012-2013)

October 2013

Testimonial

I was a student involved in a case with the Office of Judicial Affairs in June 2011. Initially, I was advised not to retain counsel by my Judicial Advisor, Morris Graves. He said he would see me through the case, however not once during the process did I feel like he was pulling for me. I felt like the OJA was actively seeking a conviction.

After subsequently getting outside counsel from an alumnus, I felt a lot more secure about my position regarding the case and its direction. Without him, I have no doubt I would have been wrongfully convicted. He was a source of comfort and invaluable advice on how to proceed with affairs. He informed me of my rights allowed to me by the Judicial Charter; rights that the OJA attempted to deny me from the onset of the investigation.

I strongly believe Stanford students should be allowed attorney representation in all cases, no matter the severity. I also believe that the vast majority of students involved in OJA cases would want to have attorney representation. Given the manner in which I was treated by the OJA (and many others I know of who have dealt with the OJA), I feel that students stand to gain a tremendous amount by having competent representation in order to prevent wrongful convictions in the future. It is my hope that Stanford no longer attempts to discourage this practice, but rather makes an effort to provide students involved in the judicial process with such representation should they not have the means to acquire it themselves.

I hope that big changes will be made to the Judicial system and soon, so that students in future cases will be allowed due process, which is currently being denied. Stanford has an excellent Judicial Charter, however I feel thorough training of OJA staff is needed in order to ensure it is correctly applied in the future.

Student 2013

October 8, 2013

To Whom It May Concern:

During the winter and spring quarters of the 2012-2013 academic year, I had extensive contact with the Office of Community Standards (OCS) when I was charged with violating the Stanford Honor Code.

One of my largest concerns about the process was the lack of competent advising I received. My advisor frequently gave me suggestions that either did not apply to my situation, or would have hurt my case had I followed them. For instance, my advisor threatened me with a Fundamental Standard violation if I were to talk to the other student involved in my case. Not only would that have been nearly impossible since we were being tried together, it would have hurt my chances of preparing a sound defense. In addition, nowhere in the Student Judicial Charter or the Fundamental Standard is there anything about not being able to communicate with the other student involved in the case.

In fact, poor and misleading advice such as the example I provided characterized my case. When I inquired about seeking outside representation such as a lawyer or second advisor, my Judicial Advisor admitted that I could do that if I felt the need, but he strongly recommended I not do so, because in his words Honor Code cases are more of a "conversation" than a legal proceeding.

Not only was I was receiving poor suggestions from my Judicial Advisor, he later co-authored a brief arguing for my conviction. My Judicial Advisor could be considered an expert when it comes to the Judicial Charter, but instead of correctly advising me, he misled me, ignored violations of my fundamental rights under the Student Judicial Charter, and then argued *for my conviction*.

Students who had the resources to hire an attorney would not have faced many of the negative experiences that I endured due to my lack of proper advising. They would have been able to prepare a better defense for themselves. In addition, they would have had a knowledgeable advocate on their side who could challenge the OCS when Student Judicial Charter violations occurred.

They also would have been better suited during the hearing itself. I was totally shocked when my hearing began, and this supposed "conversation" turned out to be a strictly scripted judicial trial with my advisor not offering a single piece of advice. Needless to say, there are many advantages that a student would experience if he/she chose to retain legal counsel. I was not able to reap these benefits until after my hearing when the damage was already done. Without a lawyer or legal counsel to represent the students, it is simply the student alone versus the university. This is a fight that apparently only 5% of the students could win.

Student – 2012-2013 school year

October 13th, 2013

The Stanford Office Judicial Affairs does not respect human dignity. It fails to give the accused party a viable way to defend themselves from allegations from the reporting party. From our child's own experience, I have noticed that even without evidence it accepts a referral of the reporting party to initiate an unfounded and absurd case. It does not seek the truth. It fails to assist the students to organize the ammunition to defend themselves. As a lawyer myself, I cannot contain my disbelief that this is the office that decides the future of the students in a first class university.

The defending students are subject to a daily torture with the investigators refusing to contact witnesses because they deem them as unnecessary. They are constantly reminded of the wrongful accusation and all their repercussions. Furthermore, they have to deal with the people from the OCS whose objective seems to be to convict students. I ask myself if this school is aware of the repercussions of going through a process that resembles, in my opinion, a form of bullying.

Students should be at this university to study, and not to have to reply to unsupported claims by professors. My own child could not eat, sleep or work in the first few months of the OCS process. My child went through depression. My child felt reprimanded, as if there was no right to a defense. Having read the initial report by the Professor, as a lawyer, I cannot believe that it was ever even pursued by a reasonable person. There were multiple witnesses on the student's side, expert's reports and much more supporting evidence, but OCS still went on.

Without a doubt, the accused party should be adequately defended and judged. Firstly, the students should be granted the choice of being represented by either a lawyer or a parent, instead of having to personally deal with the OCS. There is a lot of emotion involved in being falsely accused, and an 18-22 year old who is taking a full course load is not able or fit to represent him/herself. Not being granted this right is just another way to punish the students and intimidate them. Secondly, the people that judge and investigate the students should be ones that understand the law and respect the Student Judicial Charter.

For a University that is the top in the world, this system is shameful. I cannot believe what my child has been put through.

Sincerely,

Parent of a case in the Academic Year of 2012-2013

October 3, 2013

Testimonial:

As a student involved in the honor code investigation process, I strongly support the idea that every Stanford student who seeks legal representation in the process should get one.

First of all, current resources made available by Stanford are inadequate for students to properly fend for themselves. I personally experienced the period during which I had exposure to OCS without a legal counsel. Although I reviewed very carefully the materials distributed by the OCS (including information available on the OCS website), I still got confused and very much pressured by the interaction with OCS personnel. The Student Judicial Charter and its Bylaws, although providing general principles guiding the process, leaves much room for discretionary procedural and substantive decisions. I feel that students are, by the very nature of the process, in a disadvantageous position and are generally unable to advocate properly for their rights under the Charter.

Second, without representation of a legal counsel, I felt that my requests and questions were not addressed adequately. The assumption of neutrality unless and until the final point of finding of violation was challenged by the actual practice of the office personnel. The process was skewed, and the involvement of legal counsel, who fought relentlessly for legitimate student rights, helped restore the balance of power, at least to some extent. Without the advice and guidance of my counsel, I could not imagine how I would proceed with the case. I sincerely hope that Stanford students, with or without means, can get high-quality legal representation in a proceeding through which a stigma may be attached.

Stanford student

Spring 2013 case

September 13, 2013

As a parent of a student who has been through the OCS process after being accused of academic violations I can't begin to explain how disappointed I am in Stanford. I realize OCS is only a small portion of Stanford, but our encounter with them has tarnished the entire Stanford experience.

Following a claim of cheating on an essay exam with a friend in the class, our son was counseled by OCS employees (including one who has since been dismissed from that position) that the process was very informal and simply a fact finding mission. The OCS employee also represented himself as an advocate for our son. Each step of the way the OCS employee would review the information on the claims against our student and lead him to believe the evidence was inadequate for there to be a case, yet the case continued to proceed. Ultimately the OCS advocate ended up on the side of the prosecution – another of the absurd things that happened.

Early in the process, our son was pressured to admit guilt to gain a lesser punishment. Young people do occasionally make out of character mistakes and we advised him to be completely honest and if he were guilty to admit it and accept the consequences. But, if he were not guilty to never admit to being so which ultimately resulted in a quarter away from school.

We inquired of our son if we should secure an attorney to represent him. The OCS employee advised our son that attorneys are really not needed and everything will work out. In hind sight, our biggest mistake was not securing representation from the beginning. A couple of weeks after his hearing we read the article documenting other student's adventures with the OCS. If we had known that information before his hearing, we would have known not to follow the advice provided by the OCS employee and absolutely would have secured representation. OCS knowingly violated the Stanford student charter regularly throughout the process and proper representation should have been able to stop those violations. Based on the evidence presented at the hearing, no unbiased reasonable person could have convicted these young men as guilty beyond a reasonable doubt which is a stipulation within the student charter.

Our son and his friend compiled a lengthy written appeal outlining numerous student charter violations that should have resulted in a new hearing. Even though the appeal review admitted their student rights were violated, they deemed the violations to be too minor to change the outcome – another violation of the student charter.

Our experience with the OCS showed them to be an organization bent on justifying all claims against students without interest in following the due process as outlined in the student charter. Stanford should abandon their honor code and begin policing exam rooms if the students can't depend upon the process to guarantee them the assumption of innocence until the hearing proves them as guilty. Currently, they are guilty until they can prove their innocence, and OCS will make every effort to prevent the students from making their case.

Parents – spring 2013 case

Oct. 8, 2013

Dear Justice Project Coordinators,

I am a Stanford student who faced a Fundamental Standard charge at the Office of Community Standards in 2012. After a 10-week battle with the OCS, Stanford referred my case to mediation as I was on the verge of bringing in legal counsel to examine numerous *egregious* violations of my rights under the Student Charter.

Like most Stanford students, I was blind to the flagrant and systemic problems within the OCS when I entered the process. It became quickly apparent to me, however, that they presumed guilt from the get-go and were willing to do *anything* to get a conviction. My so-called "advisor," Jamie Pontius-Hogan, acted like more of a prosecutor than even my "impartial" investigator; neither seemed to have any grasp of due process or presumption of innocence; both seemed uniquely unqualified to hold their current positions.

The way the OCS handled my case was deplorable. My advisor tried to railroad me through the process as fast as possible from Day 1. Over and over again, she told me that I must move forward with the investigation immediately or "the case would proceed without me," despite the fact that I was not given full access to the information pertinent to the case and without full disclosure it was impossible to properly defend myself.

I spent more than 20 hours of my time relentlessly lobbying, both in person and via email, just to figure out *with what I was being charged.* It took the entire duration of my investigation to see the totality of the evidence presented against me, even though the Student Charter grants that I have the right to have access to both incriminating and exculpatory evidence.

The witnesses I named—the only eye-witnesses in the case—were *not interviewed* until after I pressed the OCS repeatedly to get statements from them. On the other hand, the OCS was quick to interview the witnesses named by the Reporting Party. The OCS routinely bent and even made up rules as they saw fit to give the Reporting Party every advantage in the process, including giving him an extension on the deadline for submission of new evidence (after the fact) when I had asked for the *same extension* multiple times and was repeatedly denied. Most egregiously, the OCS threw out the vast majority of my evidence *the night before my trial* without basis and with no warning. These are only a few of the ways that my rights under the Student Charter were completely shred.

My case absolutely consumed my quarter. I spent, by far, more time dealing with the Office of Community Standards than I did on all of my academics combined. I was in their office *daily*, trying to understand the rules & procedures (which seemed to continuously change) as I tried to protect my rights to a fair process. Without that effort, I would have certainly been convicted.

Having competent legal representation in a matter handled by the OCS is absolutely necessary in the current environment. The OCS cannot be trusted to comply with the Student Judicial Charter unless forced to do so. The *only* reason I won my case is because I

acted as my own attorney and poured hundreds of hours into my own defense, at great expense to my academics.

I hold my University in extremely high regards, but my impression of it was severely diminished when it showed such indifference to my plight. Students, alumni, and parents must come together and do what Stanford people do best: fix problems where we see them. This is why I am fully in support of the Justice Project's efforts to recruit and train competent counsel to protect students referred to the OCS.

Sincerely,
Student X '14
OCS '12

October 8th, 2013
To Stanford University:

I am a proud young alumni of Stanford University who experienced the stressful judicial process of Stanford's Office of Community Standards (OCS) less than two years ago. I went into the process without representation, assuming that my adamant professions of guilt and lack of evidence against my claim of innocence would be more than enough to acquit me from any accusations. That assumption was wrong. I never would have received the acquittal I deserved if not for representation by Mr. Robert Ottilie, a mentor I had known for several years.

I sought Mr. Ottilie's help when I learned how unlikely it would be for me to escape this process without being found guilty. I heard that most students are found guilty and The Office of Community Standard's own data supports this. I also learned chilling information from a friend who had been on the judiciary panel deciding another student's fate. He said he felt bad about having voting guilty in a previous case based on nothing more than a gut feeling. He didn't feel right about having that power and felt like he had no real evidence on which to base his decision.

After learning this, I sought Mr. Ottilie's help. I had been explicitly told by the OCS to not contact any witnesses involved. As a naïve student, I assumed this was right. Fortunately, Mr. Ottilie informed me that my right to contact witnesses is actually protected by the Judicial Charter. I was infuriated by the lie and learned quickly not to trust the process. I am convinced that my lack of trust in the Office of Community Standards is the only reason I was vindicated. I was found innocent in spite of the process, rather than as a result of it. Instead of my University, I put my trust in Mr. Ottilie. I can't imagine going through the process without his help. He was so much more than legal representation. He helped me through an incredibly stressful system that threatened to wreck my grades, destroy my mental wellbeing, and tarnish my academic record forever.

The experience has blighted my image of the University. The ideals of ethics and justice that were taught to me in my Stanford courses are not embodied in the processes of the University itself. Remember that I am a student who was found innocent by this system. And believe me when I say that the system is very, very messed up. The changes that we seek are for the benefit of your students. I sincerely hope you will consider this cause worthwhile and work with us to help protect future students.

Sincerely,
Student C (from June 2012 Case Study)
Stanford Class of 2012

October 2013

To Whom It May Concern,

I am a parent of a student who was involved in an Office of Community Standards investigation. I am also a practicing lawyer and feel strongly that no one who is the subject of an investigation should be unrepresented.

The subject student receives a seemingly innocuous but very serious email outlining a potential complaint and a roadmap of the OCS judicial process, inviting the student to pick up the phone and, basically, confess.

The subject student is discouraged from discussing the situation with any witnesses or colleagues, some of whom may have exculpatory information. A meeting can be set up with an OCS representative (named in the letter) who is supposed to be non-adversarial and friendly in order to discuss the case and as in every step in the process, to confess.

There is never a mechanism for an accused to confront accuser. Just a Board.

Due process is touted in the judicial rules but not in practice. The biggest flaw is the inability to properly investigate charges by interviewing potential witnesses.

From my view, it appears that University has its thumb on the scales of justice.

Anyone being investigated and/or later accused MUST be represented by able counsel at all phases of the matter. Otherwise justice likely won't be done.

Thank you very much.

Parent of Student (case considered in 2012-2013)

October 12, 2013

As a lawyer and professor for the past forty years, I cannot believe the arbitraries of the OCS process. Firstly, as a professor you expect to have an open communication with students if you believe some irregularity in their work. From my understanding of the Stanford Honor Code, it does not allow for that. It pretends to trust students, but at the same time, the professors try to seek similarities between the students' work. It is contradictory – in my honest opinion: it either believes in the students or it doesn't. Unless there is an accusation from a peer witness or actually compelling and hard evidence against students, they shouldn't be submitted to a 6-month inquisition-like process.

As a lawyer, you expect that your clients are given enough evidence to defend themselves. However, the investigators of the OCS provide the students with the exact opposite of that. They try their hardest to corroborate the story of the reporting party, even if such party has no witnesses, no reason and no hard evidence. Having accompanied my family's member going through this process is an extremely painful experience. You feel their disbelief in the system, the fading of the love that they had for the subject in question and their discontent with life.

This process affects every single aspect of one's life. Having them go through this alone is a form of punishment. Stanford should provide students with lawyers that can respond for them. The students should not focus all their energies in trying to prove their innocence in a system that is broken. They should have specialists to do that for them. Furthermore, they should be judged by someone that understands the system, hopefully, someone with a law degree.

I cannot state how disappointed I am at Stanford for the horrible job they are doing at judging and investigating their Honor Code cases.

Yours truly,

Care giver of Student of Case in 2012-2013