

Article 5. Preliminary Investigation

5.01

The Subcommittee shall conduct a confidential investigation in which the Subcommittee shall interview the accused student, the complainant, and any other witnesses who may possess information pertinent to the allegations set forth in the complaint. The Subcommittee shall further examine any exhibits to the complaint and any other pertinent materials provided by the various parties and witnesses. The members of the Subcommittee shall not participate in any vote pursuant to Article 7 of this SCC, but shall be allowed to make personal observations to the SC Committee as to the veracity of the various witnesses interviewed and evidence reviewed during their investigation. While not a member of the subcommittee the faculty member of the SC Committee may review the accused student's admission file for any pertinent information relevant to the conduct described in the complaint. If relevant conduct demonstrating a pattern of conduct consistent with the complaint is discovered the faculty member may bring this to subcommittee.

5.02

Prior to any interview with the Subcommittee or any other representative of the School of Law charged with investigative responsibilities under this SCC, the accused student shall be advised that: (a) the student may remain silent, (b) the student may terminate the interview at any time; (c) the student may postpone the interview until he/she has had a reasonable time to consult counsel, and (d) anything the student says in the interview may be used as evidence against him/her.

5.03

Both members of the Subcommittee shall agree on the recommended disposition of the case, i.e., whether to recommend to the SC Committee a full hearing pursuant to Article 6 of this SCC, a plea agreement pursuant to Article 10, a dismissal, or some other disposition as listed in § 8.07. The Subcommittee may also recommend that the SC Committee table further action on the complaint pending the outcome of any court or other judicial proceedings outside of the School of Law. In the event that the Subcommittee determines that there is credible evidence sufficient to support a finding by the preponderance of the evidence that the accused student committed some or all of the violations of the SCC alleged in the complaint, the Subcommittee may recommend that the matter proceed to a full hearing. If the Subcommittee cannot reach unanimity, the recommendation shall be made by the Assistant Dean of Student and Career Services upon a summary presentation of the evidence gathered by the Subcommittee. In the event the Assistant Dean of Student and Career Services is called upon to make this recommendation, that shall not, without more, constitute a basis for his/her recusal during any other portion of the proceedings pursuant to this SCC. In either event, no appeal shall lie from the Subcommittee's recommendation to the SC Committee.

5.04

If, during the investigation, the Subcommittee discovers evidence of additional or related violations of this SCC other than those contained in the original complaint, the Subcommittee shall investigate such violations and determine, consistent with Article 5.03 above, whether additional allegations should be levied against the accused student. The Subcommittee shall also agree on the recommended disposition of these new allegations. If, during its investigation, the Subcommittee determines there is credible evidence that a student or students other than the accused student have violated this SCC, such evidence shall form the basis of a separate complaint. This separate complaint shall be prepared by the Subcommittee and filed with the Assistant Dean of Students. To the extent the Subcommittee should find additional bases of violations of the SCC during its preliminary investigation, the Subcommittee shall notify the SC Committee when it makes its recommendation.

5.05

The Subcommittee shall make its recommendation to the SC Committee within three (3) weeks of the first meeting of the SC Committee, or as soon as reasonably possible thereafter. The recommendation of the Subcommittee shall be made available only to the members of the SC Committee, until or unless such time as a full hearing is scheduled pursuant to Article 6 of this SCC.