

## **Committee for Open Expression report**

**Title:** Reported violation of Open Expression rights of Ms. Umaymah Mohammad

**Name and title of the Person preparing the Report:** Prof. Ilya Nemenman, Professor of Physics and Biology, CFOE Chair

**Committee members voting for report:**

Total votes received: 8

Of these, affirmative votes: 8

**Date of submission:** 09/23/2024

**Duration of the investigation:** 07/15/2024 – 09/09/2024

**Summary:**

On and after July 15, 2024, Ms. Umaymah Mohammad and multiple other members of the University community have contacted the Committee for Open Expression to report the Conduct Code proceedings against Ms. Mohammad initiated by the School of Medicine administration in response to her interview by the Democracy Now! news outlet. The complaints alleged that Ms. Mohammad was being penalized for her expression, which should be protected by the Emory Respect for Open Expression policy, Policy 8.14. CFOE decided to investigate this case, but SOM leadership refused to cooperate with the investigation. CFOE decided that Ms. Mohammad speech was protected by the Emory Respect for Open Expression Policy, and that, by refusing to engage with CFOE during the process, the SOM Administration additionally violated the Policy. CFOE makes recommendations based on our analysis of this case, including that the proceedings against Ms. Mohammad be dropped.

**1. Introduction:**

On and after July 15, 2024, Ms. Umaymah Mohammad (MD/PhD student at Emory) and multiple other members of the University community have contacted the Committee for Open Expression (CFOE) to report the Conduct Code proceedings against Ms. Mohammad initiated by the School of Medicine administration in response to her interview by the Democracy Now! news outlet. The complaints alleged that Ms. Mohammad was being penalized for her expression, which should be protected by the Emory Respect for Open Expression (OE) policy, Policy 8.14. The Conduct Code investigation had been conducted without input from CFOE, and without consideration for Ms. Mohammad's rights under the policy. Thus, the results of the investigation, and the subsequent disciplinary proceedings were alleged to be inappropriate.

The Committee decided to investigate the case and to rule whether Ms. Mohammad's rights under the Policy were violated by the SOM leadership in this case.

**2. Background:**

Emory University is a private institution, and thus the First Amendment does not necessarily apply immediately. However, the University has adopted the Respect for Open Expression Policy, Policy 8.14 (hereafter, Policy), which governs expression, protest, and dissent on campus. The Policy states that “Emory University . . . is committed to an environment where the open expression of ideas and open, vigorous debate and speech are valued, promoted, and encouraged. As a community of scholars, we affirm these freedoms of thought, inquiry, speech, and assembly.” The Policy states that “Emory University respects the Constitutional rights of free speech and assembly.” This has been interpreted by CFOE consistently as the University providing the same protection to its community members as afforded by the First Amendment to the U.S. Constitution to community members of U.S. public universities.

The Policy lays out the responsibilities, the composition, and the procedures of the University Senate Committee for Open Expression (CFOE), which “is a working group of community members—faculty, staff, and students—who seek to promote and protect the rights and responsibilities of community members related to issues and controversies involving speech, debate, open expression, protest, and other related matters.”

The Policy additionally states that it “is paramount to other policies of the University that may conflict, except those grounded expressly in local, state, or national law.” The Policy explicitly protects the rights of “persons who are employed by Emory University or Emory Healthcare as faculty or staff”. The Policy explicitly notes that “nothing in this Policy prevents Emory Healthcare from managing its property with due regard for the unique needs of healthcare delivery.” However, there is no indication of EHC’s involvement with this case. Thus, expression by students at the School of Medicine is protected by the Policy to the same extent that it would be protected at the rest of Emory University.

The First Amendment (and hence the Policy) generally permits speech that some may consider discriminatory, harassing, vile, or promoting violence. A good summary of the current law, aimed at a lay audience, can be found at <https://x.com/TheFIREorg/status/1720548787301585063?s=20>. Exceptions to the First Amendment are limited and narrow. At universities, Title VI and IX of the Civil Rights act prohibit harassment, which is targeted conduct that is so severe, pervasive, and objectively offensive that it denies its target access to an educational opportunity or benefit (*Davis v. Monroe County Board of Education*, 1999). The bar for what constitutes discriminatory harassment is deliberately set high.

Building on CFOE’s interpretation of the Policy as paralleling the First Amendment’s free speech protection, the relationship between the employees and students at the University on the one hand, and the University on the other hand, must be viewed through the same lens as the relationship between public employees or public school students and the government. The basic rules governing these come from a case called *Pickering* (1968) for employees of public institutions and cases called *Tinker* (1969) and *Mahanoy* (2021) for students at public schools, though there are no cases we are aware of that would cover exactly the circumstances we are facing here. On the one hand, the government can have some control of its employees’ and students’ speech, which would give Emory some leeway in controlling speech of its employees and students. On the other hand, this control must be balanced against individuals’ (and hence

Emory employees' and students') First Amendment rights. In general, speech that is on a matter of public interest (*Pickering*) and not on-the-job (*Garcetti v. Ceballos* (2005)) enjoys stronger First Amendment protection. For example, in a recent case called *Mahanoy* (2021), the Supreme Court said that the school's interest in disciplining a student (who, recall, are subject to similar balancing tests as employees) did not entirely disappear when it was out-of-school speech but was nonetheless severely reduced. Further, *Pickering* established that speech that is factually correct enjoys strong protection. However, even if false statements are made in expression of opinions, to shift the balance towards the employer, actual harm from such statements must first be shown. We point out that the *Tinker* and *Mahanoy* cases dealt with minors, which introduced additional complications, not present in our situation.

In the context of universities, faculty members are covered by Academic Freedom, which sometimes gives them larger free speech protections compared to other government employees, see, for example, <https://www.aclu.org/legal-document/order-granting-part-and-denying-part-motions-preliminary-injunction>. Students are not faculty. However, for a university to be able to serve its educational mission, students must be able to participate in discussions and research of controversial topics like the faculty. Hence some form of Academic Freedom protections must also apply to students.

### **3. Scope of the Investigation:**

The Committee asked two specific questions:

1. Was the content of Ms. Mohammad's interview to Democracy Now! protected under the Policy? and
2. Were the Conduct Code investigation and disciplinary proceedings against Ms. Mohammad, without consulting with the CFOE and without explicit considerations of her OE rights, additional violations of the Policy?

### **4. Investigation Process:**

The Committee Chair reached out to Ms. Mohammad for the documents relevant to the case in question, and these documents were provided multiple times between July 15 and Aug 26, 2024, see attachments for the relevant documents.

The Committee Chair (Nemenman) also reached out to Dean Eley (Executive Associate Dean for Medical Education, at whose request the investigation into Ms. Mohammad's expression had been conducted) and Prof. Farley (faculty member who had conducted the investigation) on July 30, 2024, to express the Committee's concerns about the investigation and the disciplinary actions, and to request additional information (see attachment). Dean Eley responded on Aug 2 that he did not accept that Open Expression had a role in this Conduct Code investigation (see attachment). Prof. Nemenman (Aug 2) and Prof. Shepherd (President of the University Senate) both then contacted Dean Eley and then Dean Wong (Dean of the School of Medicine) to express their disagreement with the assessment of the role of the CFOE in the process, and to request cooperation (Aug 7). Prof. Shepherd repeated his request on Aug 23. No responses were received. Email messages mentioned in this paragraph are attached.

Prof. Nemenman and Shepherd re-iterated the requests for cooperation on Aug 28 to President Fennes and University General Counsel Slutsky. The General Counsel argued that there are

ambiguities in the Policy (no specifics were given), and hence SOM may be within its rights to view the case as a Conduct Code case, rather than an OE case.

Since cooperation was not forthcoming, CFOE decided to analyze the case without the input from the SOM.

## **5. Findings:**

The Conduct Code investigation and the finding of a violation stems from Ms. Mohammad's statement during the interview that one of Emory SOM faculty "*participated in aiding and abetting a genocide, in aiding and abetting the destruction of the healthcare system in Gaza and the murder of over 400 healthcare workers and is now back at Emory so-called teaching medical students and residents how to take care of patients.*" This was Ms. Mohammad's opinion based on the faculty in question serving as a reserve officer in the Israeli military. The SOM investigation found that this "*very specific statement about the Emory faculty member fails to uphold the principles of professionalism and mutual respect*" and recommended formal Conduct Code proceedings.

CFOE agrees that this is a complicated case. The University and its SOM certainly has an interest in promoting professional, respectful climate on its campus, and can enact policies to this extent. However, this interest must be balanced against the ability of community members to express their opinions, even if unpopular ones. In this case, the balancing certainly falls on the side of Ms. Mohammad since (1) her speech was outside of Emory, (2) it was on an issue of public importance, (3) it was not manifestly a falsehood (there is an honest debate in the public sphere whether action of Israel in Gaza amount to genocide), (4) it was an opinion, and (5) the University has not shown disruption or other harm due to her speech. Further, (6) there might be extra protection to speech in a context of a university based on the concept of academic freedom. An additional consideration is that this case involved description of actions of a specific University faculty member, so that the previous opinion by CFOE on *Displays naming specific people* (2019) is also relevant. However, we note that the faculty in question was not named in Ms. Mohammad's speech, and his identity was revealed by his own actions (e.g., his own an article in a newspaper). All in all, CFOE finds that Ms. Mohammad's speech was protected by the Policy.

CFOE was dismayed by the assertion of Dean Eley, repeated by the General Counsel, that this case was a Conduct Code matter, and that the Policy didn't apply. We stress that if protection of Open Expression afforded by the Policy is to mean anything, and if the Policy is to be able to protect unpopular speech, it must *not* be possible for *any* University administrator or other community member to declare that the Policy does not apply. Such decisions can only be made by the governance organ charged with ruling on such matters, which is the CFOE. We emphasize again that CFOE was not consulted over the duration of the process, and that the administration of the SOM (Deans Eley and Wong) refused to communicate with CFOE following their initial email response. CFOE finds this reprehensible, and believes that, by these actions, the SOM administration violated not just the Policy, but, ironically, also the "*principles of professionalism and mutual respect*", which they had aimed to enforce with this Conduct Code investigation.

## **6. Conclusions:**

CFOE finds that

1. The content of Ms. Mohammad's interview to Democracy Now! was protected under the Policy.
2. The SOM Administration violated the Respect for Open Expression Policy by proceeding with the Conduct Code sanctions against Ms. Mohammad and by refusing to engage with CFOE and the University Senate.

### **7. Recommendations:**

CFOE requests that

1. Conduct Code proceedings against Ms. Mohammad are dropped.
2. The University Senate should consider specific actions in response to Dean Eley's and Dean Wong's refusal to engage with CFOE and the Senate President in this case. These could include Policy training, censures, or other actions that the Senate deems appropriate. More generally, the University Senate and the University Administration should consider rewriting the Policy by adding mechanisms, by which the Policy and the decisions of CFOE can be enforced.
3. The University Senate should request the SOM to initiate revision of its Conduct Codes to make them compliant with the Policy.
4. The University Senate and the University Administration must work to strengthen the community compact around the Policy, ensuring that respect for Open Expression, indeed, becomes a core Emory value, and that collaboration with CFOE is an expected behavior for all members of the Community.

### **8. Confidentiality:**

Since the Report addresses actions of high-level members of the University Administration, the Committee has chosen to protect its members and not to disclose a detailed list of those voting for the report, but only disclose the vote tally.

Further, we believe that the name of the faculty whom Ms. Mohammad discussed in her interview is irrelevant for the crux of this matter, and we believe that naming the faculty will not be conducive to decreasing tensions on campus. Thus, we chose to remove the name of the faculty member referred to in Ms. Mohammad's speech, as well as all references to his web site and other identifiable information, from this report. Various attached documents were additionally edited to remove personally identifiable information and negative references to various non-central figures in this case.

### **9. Attachments:**

## 9.a. The original complaint to CFOE

**From:** Mohammad, Umaymah [REDACTED]  
**Subject:** Potential Violation of Student Regulations on Free Expression  
**Date:** July 15, 2024 at 10:38 AM  
**To:** Nemenman, Ilya [ilya.nemenman@emory.edu](mailto:ilya.nemenman@emory.edu)



Good afternoon, Dr. Nemenman,

My name is Umaymah, and I am an MD/PhD student at Emory, currently in my graduate training in Sociology. I was wondering if I could take some of your time to ask for your reflection and advice on a current investigation of me being done by the School of Medicine in your capacity as the Committee Chair of Open Expression.

Here is a summary of the situation:

On Eid al Adha, June 18th, I was sent an email from Dr. Eley, the Assistant Dean of Medical Education and Student Affairs, that I am to meet with him regarding allegations that I have violated the Emory School of Medicine (SOM) Conduct Codes regarding a Democracy Now interview I did on April 25 during the encampment.

Here is the interview, and I start speaking around 8 minutes:

<https://www.youtube.com/watch?v=FIVq2t6Rhzi>

The specify cited the line in which I talk about an Emory doctor going to volunteer in the IDF during the genocide. Although I did not specify his name at all, I did say that he aided and abetted in a genocide and is complicit in the destruction of the healthcare system in Gaza.

An "investigation" was conducted over the last two weeks by a senior faculty member of medicine who was appointed by Dr. Eley. This investigation found me guilty of potentially violating 7 conduct codes, including codes that are "inciting violence" "targeting an individual", and abuse of social media (Democracy Now is a broadcast network, I do not have social media). I have attached all the allegations for you to review in the investigative report.

In the meeting about the investigation results, Dr. Eley was not aware that this physician himself wrote a public [REDACTED] with his name and face on it for [REDACTED] talking about his participation. It is even unclear if the investigator knows. The means of this investigation is so asymmetric, and I have not had an opportunity to defend myself or argue my case at all.

My two options at this point are to "admit guilt" to charges they haven't even proven, and give Dr. Eley the sole sanctioning power to discipline me, or go on to a hearing in which the entire body is appointed by Dr. Eley and I fight the case (in this situation, I can submit my own evidence). Given the precedent set at Emory, there has been only one outcome for Muslim, Palestinians, or Arabs in this situation. I worry about the inequity of the entire process.

I have attached five documents for you: 1) the original investigation report by the faculty member (3 pages), 2) the summary investigation report by Dr Eley (3 pages), and 3+4) the two complaint letters by faculty (one by, unsurprisingly the physician who served in the IDF, and another from a dean), and 5) the School of Medicine codes of conduct.

I feel like my rights under open expression are being violated, because I did not even mention the individual's name, and he is the only person who has publicly identified himself. I was wondering if there was any room for us to hop on a call and discuss this matter? Or if you could give some clarity on what Open Expression protects, and if it does protect me in this moment?

The School of Medicine has a history of policing the speech of students of whom it disagrees with, and they often get away with it because medical students are isolated and rarely offered support from the greater campus community.

Thank you for your time, I know this is a lot to consider. I appreciate it.

With care,  
Umaymah

Umaymah Mohammad (She/her)

Original Investigation Report  
.pdf



**EMORY**  
UNIVERSITY  
SCHOOL OF  
MEDICINE

May 1, 2024

Office of Medical Education and Student Affairs

## 9.b. The SOM Investigation Report



**EMORY**  
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SCHOOL OF  
MEDICINE

**Division of  
Infectious Diseases**

July 8, 2024

J. William Eley, MD, MPH  
Executive associate Dean, Medical Education  
Professor, Department of Hematology and Oncology

Re: Umaymah Mohammad, Code of Conduct Complaint

Dear Dr. Eley:

In response to your request to investigate a complaint of a potential violation of the Emory School of Medicine MD Code of Conduct, I have reviewed a letter from [REDACTED] dated May 1, 2024, an email from [REDACTED] dated May 6, 2024, and a YouTube video and transcript of an interview of Umaymah Mohammad dated April 26, 2024, conducted by Amy Goodman of Democracy Now! I have also reviewed the Emory University School of Medicine Professional Conduct document (last modified: 7/17/2023) that includes Social Media Guidelines for Medical Students and Physicians (adapted from the Social Media Guidelines for the American Medical Student Association [AMSA] and last modified: 7/17/2023), and the Emory University School of Medicine Code of Conduct document (last modified: 7/17/2023).

**Summary of the events leading to the complaint:**

The Democracy Now! story dated April 26, 2024, was entitled “Atlanta Police Violently Arrest Emory Students & Faculty to Clear Gaza Solidarity Encampment.” It included interviews with two Emory faculty members who described their experiences and perspective on the events that took place on the Emory Quad when law enforcement was called in to remove a protest encampment set up in support of Palestinians on Thursday, April 25, 2024. Ms. Mohammad was the third person interviewed for the story and she was introduced as an MD/PhD student at Emory and asked to talk about these protests that she helped organize and why she felt it was so key to take this stand on campus. She expressed strong opinions about institutional repression of speech around Palestine, the events taking place in Gaza, concerns about the healthcare response, and concerns about the Georgia International Law Enforcement Exchange (GILEE) Program. The formal complaint stems from a statement Ms. Mohammad made during the interview that offered an example of what she felt was suppression of Palestinian voices. She made the following statement copied directly from the transcript of the interview:

*“So, a great example of this is very early on to this genocide, in October, Emory fired a Palestinian physician for posting a private social media post on her Facebook in support of the Palestinians. And yet one of the professors of medicine we have at Emory recently went to serve as a volunteer medic in*

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*the Israeli Offense Force and recently came back. This man participated in aiding and abetting a genocide, in aiding and abetting the destruction of the healthcare system in Gaza and the murder of over 400 healthcare workers and is now back at Emory so-called teaching medical students and residents how to take care of patients.”*

In an email communication, [REDACTED], a faculty member in the School of Medicine, expressed serious alarm that, as a dual citizen of Israel and the United States who serves as a reserve doctor in the Israel Defense Force, he was being called out and exposed to harassment. He felt in the setting of the inflammatory language used and the many public comments in response to the YouTube posting speculating on the identity of the Emory Professor, that he and his family were being placed at risk.

**Findings:**

Ms. Mohammad has every right to express her opinions about Emory as an institution, the terrible situation in Gaza, the response of healthcare to the situation in Gaza, Israeli-Palestinian relations, and GILEE. Although one might disagree with the language used to express those opinions, I view this speech as consistent with the academic freedoms allowed a member of the University within the Code of Conduct. As stated in the Professional Conduct document, “The tradition of the University as a sanctuary of academic freedom and center of informed discussion in an honored one, to be guarded vigilantly.”

However, I find the formal complaint that Ms. Mohammad’s very specific statement about the Emory faculty member fails to uphold the principles of professionalism and mutual respect has merit and recommend that you proceed to formal charges according to the Conduct Procedures detailed in the SOM Code of Conduct document. The use of inflammatory language (stating that the man participated in aiding and abetting genocide, in aiding and abetting the destruction of the healthcare system in Gaza and the murder of over 400 hundred healthcare workers) directed at an individual faculty member is irresponsible, disrespectful, causes a reasonable apprehension of harm, and exposes the faculty member to public hatred and harassment, all of which appears to be in violation of the Emory Professional Conduct and the Code of Conduct expectations. Although the faculty member was not named in the interview, it is reasonable to expect him to be identified based on the details Ms. Mohammad provided in the interview along with widespread social media information sharing.

This recommendation is based upon the following guidance from the referenced documents.

From the Professional Conduct document:

1. Use of Social Media section, page 1: “In all communications, students are expected to be courteous, respectful, and considerate of others.”
2. AMSA Social Media Guidelines for Medical Students and Physicians, Guidelines for Social Networking, page 2: “Be responsible. Carefully consider content and exercise good judgement as anything you post can have immediate and/or long-term consequences and carry the potential for significant public impact and viral spread of content.”
3. AMSA Social Media Guidelines for Medical Students and Physicians, Guidelines for Social

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Networking, page 2: “Be respectful. Do not use defamatory, vulgar, libelous and potentially inflammatory language...that is disrespectful for any individual or group..”

From the School of Medicine Code of Conduct document:

1. Basic Expectations/Inherent Authority section, page 1: “..the School of Medicine and the University at large assumes high standards of courtesy, integrity, and responsibility in all of its members; that each student is responsible for their conduct...”
2. Prohibited Conduct Section, page 2, general statement: “Each student may be subject to this Code whether misconduct occurs on University premises, at University or School of Medicine sponsored activities, or at any location off-campus when such conduct is brought to the attention of the University or the School of Medicine.”
3. Prohibited Conduct section, page 2, item 2: “Causing physical harm to any person or causing reasonable apprehension of such harm.”
4. Prohibited Conduct section, page 3, item 4: “Engaging in conduct directed at a specific person or persons that seriously alarms or intimidates such person or persons...” “Such conduct may include: explicit or implicit threats, ...making remarks in a public place to a specific person that...expose a person to public hatred”
5. Prohibited Conduct section, page 3, item 6: [Possibly] “Violating the University’s Policy on Equal Opportunity and Discriminatory Harassment.”

Although this was a difficult investigation in the context of highly complex, emotionally charged, and tragic world events, I hope that the Code of Conduct matter can come to a satisfactory conclusion.

Sincerely,



Monica M. Farley, MD  
Jonas A. Shulman Professor of Medicine/Infectious Diseases  
Director, Division of Infectious Disease  
Emory University School of Medicine

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9.c. Letter from Dean Eley to Ms. Mohammad



**EMORY**  
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MEDICINE

Executive Associate Dean  
Medical Education and Student Affairs

July 12, 2024

Ms. Umaymah Mohammad



Dear Ms. Mohammad:

I have received the recommendation of the faculty investigator who reviewed a complaint of a potential violation of the Emory School of Medicine MD Conduct Code. The potential violation regarded statements you made in an interview dated April 26, 2024, with Amy Goodman of Democracy Now.

The investigator has found that the “very specific statement about the Emory faculty member” fails to uphold the principles of professionalism and mutual respect as described in the student handbook should proceed to formal charges. The investigator stated that the use of inflammatory language (stating that the man participated in aiding and abetting genocide, in aiding and abetting the destruction of the healthcare system in Gaza and the murder of over 400 healthcare workers) directed at an individual faculty member is irresponsible, disrespectful, causes a reasonable apprehension of harm, and exposes the faculty member to public hatred and harassment.

The investigator cited the following specific Student Handbook sections in support of the recommendation to proceed to formal charges:

From the Professional Conduct Section:

1. Use of Social Media section, page 1: “In all communications, students are expected to be courteous, respectful, and considerate of others.”
2. AMSA Social Media Guidelines for Medical Students and Physicians, Guidelines for Social Networking, page 2: “Be responsible. Carefully consider content and exercise good judgement as anything you post can have immediate and/or long-term consequences and carry the potential for significant public impact and viral spread of content.”

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3. AMSA Social Media Guidelines for Medical Students and Physicians, Guidelines for Social Networking, page 2: “Be respectful. Do not use defamatory, vulgar, libelous, and potentially inflammatory language...that is disrespectful for any individual or group...”

From the School of Medicine Code of Conduct document:

1. Basic Expectations/Inherent Authority section, page 1: “...the School of Medicine and the University at large assumes high standards of courtesy, integrity, and responsibility in all of its members; that each student is responsible for their conduct...”
2. Prohibited Conduct Section, page 2, general statement: “Each student may be subject to this Code whether misconduct occurs on University premises, at University or School of Medicine sponsored activities, or at any location off-campus when such conduct is brought to the attention of the University or the School of Medicine.”
3. Prohibited Conduct section, page 2, item 2: “Causing physical harm to any person or causing reasonable apprehension of such harm.”
4. Prohibited Conduct section, page 3, item 4: “Engaging in conduct directed at a specific person or persons that seriously alarms or intimidates such person or persons...” “Such conduct may include: explicit or implicit threats, ...making remarks in a public place to a specific person that...expose a person to public hatred...”
5. Prohibited Conduct section, page 3, item 6: [Possibly] “Violating the University’s Policy on Equal Opportunity and Discriminatory Harassment.”

As per the MD Code of Conduct, if you admit to having violated the Conduct Code you have the following options as to how sanctions will be determined:

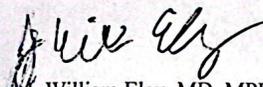
1. The student may waive their right to a hearing and have the Executive Associate Dean for Medical Education and Student Affairs determine the appropriate sanction.
2. The student may choose a hearing with an ad hoc conduct committee appointed by the Executive Associate Dean for Medical Education and Student Affairs to determine the appropriate sanctions.

If you do not admit to having violated the Code of Conduct the charges will be referred for a hearing and all documents related to the alleged violations will be forwarded to the committee.

Please consider the options above and provide me with a decision, by email, as to how you desire to move forward.

I know this is a very stressful time. I realize that you are attending family events over the next month and will work with you to respect your commitments to your family. Please know that we are here to support you in every way possible.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Eley".

W. William Eley, MD, MPH  
Executive Associate Dean, Medical Education  
Professor, Department of Hematology and Medical Oncology  
Emory University School of Medicine

Attachments: Two Complaints

## 9.d. Entire record of communications of Prof. Nemenman (CFOE Chair) with Dean Eley

**From:** Nemenman, Ilya [ilya.nemenman@emory.edu](mailto:ilya.nemenman@emory.edu)  
**Subject:** Committee For Open Expression concerns re: investigation into actions of Ms. Umaymah Mohammad  
**Date:** July 30, 2024 at 9:10 AM  
**To:** [mfarley@emory.edu](mailto:mfarley@emory.edu), [jeley@emory.edu](mailto:jeley@emory.edu)  
**Cc:** Nitika Arora Gupta [nitika.gupta@emory.edu](mailto:nitika.gupta@emory.edu), McAfee, Noelle C [noelle.c.mcafee@emory.edu](mailto:noelle.c.mcafee@emory.edu), Shepherd, George B. [gshephe@emory.edu](mailto:gshephe@emory.edu), CFOE [CFOE@listserv.cc.emory.edu](mailto:CFOE@listserv.cc.emory.edu)



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Dear Profs. Eley and Farley:

I am writing to you as the Chair of the Emory University Senate Committee for Open Expression (CFOE), representing the Committee.

We have received multiple notifications of the recent Code of Conduct investigations against Ms. Umaymah Mohammad, which, to our understanding, was conducted and approved by you.

The Committee is concerned that Ms. Mohammad is being investigated for her expression, potentially protected by the Respect for Open Expression Policy, which is paramount to all other University policies, not explicitly rooted in federal, state, or local laws.

At the moment, the Committee does not yet have an opinion about the substance of the complaint against Ms. Mohammad, about whether the specific expression was protected, and hence about the findings of the investigation — we simply do not have all of the relevant information. However, we would like to state our objection to the investigation into the expression of a University community member being conducted without participation of CFOE. CFOE is charged with investigating violations of OE policy by the community members and protecting their OE rights, and it must be a part of all relevant proceedings on campus.

We thus request that, before disciplinary actions are taken as a result of this investigation, consultations with CFOE occur, information is provided to the Committee or its representatives to develop their own opinion, and the Committee's opinion is incorporated in the results of the investigation.

Sincerely,

Ilya Nemenman  
CFOE Chair

(Cc: the Presidential Line of the University Senate and the CFOE)

Ilya Nemenman  
S. C. Dobbs Professor of Physics and Biology  
Director, Initiative in Theory and Modeling of Living Systems  
Emory University

**From:** Eley, John William jeley@emory.edu  
**Subject:** School of Medicine Conduct Matter  
**Date:** August 2, 2024 at 10:32 AM  
**To:** Nemenman, Ilya ilya.nemenman@emory.edu



Dear Dr. Nemenman,

Thank you for reaching out. With respect for your concerns and the University Senate Committee for Open Expression (CFOE), the School of Medicine Conduct Code does not include a role for the CFOE in a student disciplinary matter.

Sincerely,

Bill

John William (Bill) Eley, MD, MPH  
Executive Associate Dean, Medical Education  
Professor, Department of Hematology and Medical Oncology  
Emory University School of Medicine

Office Phone: 404-712-9979  
Cell Phone: 404-310-6022

John William (Bill) Eley, MD, MPH  
Executive Associate Dean, Medical Education  
Professor, Department of Hematology and Medical Oncology  
Emory University School of Medicine

Office Phone: 404-712-9979  
Cell Phone: 404-310-6022

**From:** Nemenman, Ilya [ilya.nemenman@emory.edu](mailto:ilya.nemenman@emory.edu)

**Subject:** Re: School of Medicine Conduct Matter

**Date:** August 2, 2024 at 12:50 PM

**To:** Eley, John William [jeley@emory.edu](mailto:jeley@emory.edu)

**Cc:** CFOE [CFOE@listserv.cc.emory.edu](mailto:CFOE@listserv.cc.emory.edu), Nitika Arora Gupta [nitika.gupta@emory.edu](mailto:nitika.gupta@emory.edu), Shepherd, George B. [gshephe@emory.edu](mailto:gshephe@emory.edu), McAfee, Noelle C [noelle.c.mcafee@emory.edu](mailto:noelle.c.mcafee@emory.edu)



Dear Dean Eley:

The committee disagrees with this interpretation. The Respect for Open Expression Policy clearly states that "This Policy [Open Expression Policy] is paramount to other policies of the University that may conflict, except those grounded expressly in local, state, or national law." The Committee and the Senate have been interpreting this for over a decade, in particular, that all Open Expression violations must be investigated with the input of the committee, and policies and conduct codes that conflict with this must be revised. In fact, ECAS and the Law school have done this years ago.

We continue to request that Committee For Open Expression has an input in the investigation in this particular case as well,

Sincerely,

Ilya Nemenman  
S. C. Dobbs Professor of Physics and Biology  
Director, Initiative in Theory and Modeling of Living Systems  
Chair, University Senate Committee for Open Expression  
Emory University

(Cc: CFOE and Senate Presidential Line)

On Aug 2, 2024, at 8:32 AM, Eley, John William <[jeley@emory.edu](mailto:jeley@emory.edu)> wrote:

Dear Dr. Nemenman,

Thank you for reaching out. With respect for your concerns and the University Senate Committee for Open Expression (CFOE), the School of Medicine Conduct Code does not include a role for the CFOE in a student disciplinary matter.

Sincerely,

Bill

John William (Bill) Eley, MD, MPH  
Executive Associate Dean, Medical Education  
Professor, Department of Hematology and Medical Oncology  
Emory University School of Medicine  
Office Phone: 404-712-9979  
Cell Phone: 404-310-6022

John William (Bill) Eley, MD, MPH  
Executive Associate Dean, Medical Education  
Professor, Department of Hematology and Medical Oncology  
Emory University School of Medicine  
Office Phone: 404-712-9979  
Cell Phone: 404-310-6022

## 9.e. Entire record of communication of Prof. Shepherd and Deans Eley and Wong

**From:** Shepherd, George B. gshephe@emory.edu  
**Subject:** School of Medicine Conduct Matter  
**Date:** August 7, 2024 at 11:01 AM  
**To:** Nemenman, Ilya ilya.nemenman@emory.edu, Eley, John William jeley@emory.edu  
**Cc:** McAfee, Noelle C noelle.c.mcafee@emory.edu, Mohammad, Umaymah u.k.mohammad@emory.edu, Gupta, Nitika Arora nitika.gupta@emory.edu, Wong, Sandra Lynn sandra.lynn.wong@emory.edu, Adelman, Amy awadelm@emory.edu



Dear Dean Eley,

As President of the University Senate, I would like to ask you to reconsider your recent refusal to cooperate with the chair of the Senate's Committee for Open Expression in performing his duties under university policies. Specifically, I was surprised at your terse rejection, copied below, of Prof. Nemenman's attempts to fulfill his responsibility to determine whether the medical school's effort to discipline the medical-school student implicates issues of free expression.

As you know, Prof. Nemenman is the chair of the University Senate's Committee for Open Expression. Emory University's policy 8.14 vests in this Senate committee the responsibility to investigate whether Emory students' rights to free expression are being violated. You assert that this "does not include a role for the CFOE in a student disciplinary matter."

Your assertion is incorrect. A student's right to free expression is implicated most dramatically when Emory disciplines the student for what they have expressed. After your student contacted Prof. Nemenman, the responsibility of Prof. Nemenman and his committee is to investigate whether your school's disciplining of your student violated the student's free expression rights. Please cooperate with Prof. Nemenman as he undertakes this essential duty.

George B. Shepherd  
Professor of Law  
Emory University School of Law  
(404) 606-2856  
President, [University Senate](#)  
Chair, [Faculty Council](#)

---

**From:** Nemenman, Ilya <ilya.nemenman@emory.edu>  
**Date:** Friday, August 2, 2024 at 12:50 PM  
**To:** Eley, John William <jeley@emory.edu>  
**Cc:** CFOE <CFOE@listserv.cc.emory.edu>, Gupta, Nitika Arora <nitika.gupta@emory.edu>, Shepherd, George B. <gshephe@emory.edu>, McAfee, Noelle C <noelle.c.mcafee@emory.edu>  
**Subject:** Re: School of Medicine Conduct Matter

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**From:** Shepherd, George B. gshephe@emory.edu  
**Subject:** Re: School of Medicine Conduct Matter



**Date:** August 23, 2024 at 9:04 PM

**To:** Nemenman, Ilya ilya.nemenman@emory.edu, Eley, John William jeley@emory.edu

**Cc:** McAfee, Noelle C noelle.c.mcafee@emory.edu, Mohammad, Umaymah u.k.mohammad@emory.edu, Gupta, Nitika Arora nitika.gupta@emory.edu, Wong, Sandra Lynn sandra.lynn.wong@emory.edu, Adelman, Amy awadelm@emory.edu

Dear Dean Eley and Dean Wong,

More than two weeks ago, I sent an email to both of you that described the School of Medicine's possible violation of the free-expression rights of student Umaymah Mohammad. Under Emory's open expression policy, it is the duty of the Senate and its Committee on Open Expression to investigate such potential violations. And it is your duty to cooperate and provide information so that Senate and its committee can do its job.

However, as far as I know, neither you nor anyone from the School of Medicine has responded. Please do so immediately. If we do not receive a full accounting of this matter within one week from today (by Friday, August 30, at 5:00), then we will take further measures to protect this student from this possible violation of her rights.

George B. Shepherd  
Professor of Law  
Emory University School of Law  
(404) 606-2856  
President, [University Senate](#)  
Chair, [Faculty Council](#)

---

**From:** Shepherd, George B. <gshephe@emory.edu>

**Date:** Wednesday, August 7, 2024 at 11:01 AM

**To:** Nemenman, Ilya <iya.nemenman@emory.edu>, Eley, John William <jeley@emory.edu>

**Cc:** McAfee, Noelle C <noelle.c.mcafee@emory.edu>, Mohammad, Umaymah <u.k.mohammad@emory.edu>, Gupta, Nitika Arora <nitika.gupta@emory.edu>, Wong, Sandra Lynn <sandra.lynn.wong@emory.edu>, Adelman, Amy <awadelm@emory.edu>

**Subject:** School of Medicine Conduct Matter

Dear Dean Eley,

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may conflict, except those grounded expressly in local, state, or national law.” The Committee and the Senate have been interpreting this for over a decade, in particular, that all Open Expression violations must be investigated with the input of the committee, and policies and conduct codes that conflict with this must be revised. In fact, ECAS and the Law school have done this years ago.

We continue to request that Committee For Open Expression has an input in the investigation in this particular case as well,

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Director, Initiative in Theory and Modeling of Living Systems  
Chair, University Senate Committee for Open Expression  
Emory University

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> Dear Dr. Nemenman,

> Thank you for reaching out. With respect for your concerns and the University Senate Committee for Open Expression (CFOE), the School of Medicine Conduct Code does not include a role for the CFOE in a student disciplinary matter.

> Sincerely,

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> John William (Bill) Eley, MD, MPH

> Executive Associate Dean, Medical Education

> Professor, Department of Hematology and Medical Oncology

> Emory University School of Medicine

> Office Phone: 404-712-9979

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**Date:** Friday, August 2, 2024 at 12:50 PM  
**To:** Eley, John William <jeley@emory.edu>  
**Cc:** CFOE <CFOE@listserv.cc.emory.edu>, Gupta, Nitika Arora <nitika.gupta@emory.edu>, Shepherd, George B. <gshephe@emory.edu>, McAfee, Noelle C <noelle.c.mcafee@emory.edu>  
**Subject:** Re: School of Medicine Conduct Matter

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## 9.f. SOM Conduct Code

### Emory University School of Medicine Conduct Code

Given the goals of the University as a place of academic freedom, and the School of Medicine as a site of training for highly ethical healthcare providers, a system is necessary to provide the proper balance between the academic freedoms allowed a member of the University and their responsibility as a future healthcare professional. For this purpose, and in accordance with the Bylaws of the University, the President of the University has defined the interests of the University community to be promoted and protected by such a system and has delegated to the Executive Associate Dean for Medical Education and Student Affairs for the School of Medicine the responsibility of designing and maintaining a conduct code for Emory School of Medicine students.

This Code may be reviewed annually, and changes require the approval of the Executive Associate Dean for Medical Education and Student Affairs and approval of the Senior Vice President and Dean for Campus Life. Provisions of this Code may be revised, supplemented, or amended at any time by action of the appropriate University authorities.

From the time an individual accepts an offer of admission to a program of the School of Medicine until the day of completion of that degree program and graduation from Emory University, they are considered a student of the School of Medicine and is governed by the principles set forth within this Conduct Code.

The Emory University School of Medicine Conduct Code pertains to misconduct of medical students enrolled in the School of Medicine outside of an academic setting. Academic and professional discipline of students is not covered by this Code but rather falls within the jurisdiction of either the School of Medicine Honor Code or the Progress and Promotions Committee.

#### Basic Expectations/Inherent Authority

The primary purpose for the imposition of non-academic discipline in the School of Medicine setting is to protect and preserve the quality of the educational environment in the campus community. This purpose entails several basic expectations:

- That the School of Medicine and the University at large assumes high standards of courtesy, integrity, and responsibility in all of its members;
- That each student is responsible for their conduct and that continuation as a student is conditional upon compliance with the requirements of student conduct expressed or implied in this Code.

The School of Medicine reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community and the patients we serve. The Executive Associate Dean for Medical Education and Student Affairs is charged with the welfare of all medical and health professions programs students. Accordingly, in emergency situations, this individual has full authority to deal with student conduct according to the exigencies of the emergency and for its duration.

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4. Engaging in conduct directed at a specific person or persons that seriously alarms or intimidates such person or persons and that serves no legitimate purpose. Such conduct may include: explicit or implicit threats, including gestures that place a person in reasonable fear of unwelcome physical contact, harm, or death; following a person about in a public place or to or from their residence; making remarks in a public place to a specific person that are by common usage lewd, obscene, expose a person to public hatred, or that can reasonably be expected to have a tendency to cause acts of violence by the person to whom the remark is addressed; or communicating anonymously by voice or graphic means or making a telephone call anonymously whether or not a conversation ensues.
5. Violating the University's Policy on Sex and Gender-Based Harassment and Discrimination.
6. Violating the University's Policy on Equal Opportunity and Discriminatory Harassment.
7. Initiating or causing any false report, warning, or threat of fire, explosion, or other emergency.
8. Misrepresenting information or furnishing false information to the University or its representatives.
9. Forgery, alteration, misrepresentation, counterfeiting, or misuse of any University or other document, instrument of identification, or access device.
10. Providing alcoholic beverages to an individual under 21 years of age or to one who is noticeably intoxicated, or possession or use of alcoholic beverages by an individual less than 21 years of age.
11. Unauthorized possession of an open container of an alcoholic beverage.
12. Appearing in a public place manifestly under the influence of alcohol or a controlled or other intoxicating substance, particularly when there is danger to self, others, or property or there is unreasonable annoyance to person(s) in the vicinity.
13. Unauthorized distribution, possession, or use of any controlled substance or distribution, possession, or use of any illegal drug.
14. Unauthorized use, possession, or storage of any weapon.
15. Unauthorized use or possession of fireworks or incendiary, dangerous, or noxious devices or materials.
16. Intentionally or recklessly misusing or damaging fire or other safety equipment.
17. Theft or misuse of property or services.
18. Substantially interfering with the freedom of expression of others.
19. Interfering with normal University or School of Medicine functions, University-sponsored activities, or any function or activity on university premises including but not limited to studying, teaching, public speaking, research, University or School of Medicine administration, or fire, police, or emergency services.
20. Disregarding or failing to comply with the directive of a hearing body or University official including a campus police officer acting in the performance of their duties.
21. Disregarding or failing to comply with the directive of an officer of the law acting in the performance of their duties.
22. Disrupting university or other computer systems; unauthorized alteration, disclosure, gaining or providing unauthorized access; or destruction of

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The School of Medicine is not designed or equipped to rehabilitate students who do not abide by this Code. It may be necessary to remove those students from the campus and to sever the institution's relationship with them as provided in this Code.

The Senior Vice President and Dean for Campus Life is delegated responsibility pertaining to all student organizations and student government and, in conjunction with the Executive Associate Dean for Medical Education and Student Affairs, has the responsibility and authority to discipline such organizations whose members are students within the School of Medicine.

#### Confidentiality

The details of Conduct or Progress and Promotions meetings are confidential and will not be released outside the University without the student's specific written permission except as provided by applicable law. If a student is found to have violated the Conduct Code, the resulting sanctions can be included in any performance assessment or letter of recommendation requested by the student or an outside entity. Conduct Code violations and sanctions may also be reported to other agencies, such as the military, the federal government, licensing boards, and others if requested by the agency and accompanied by a signed release from the student.

#### Violations of the Law and This Code

Students may be accountable both to civil authorities and to the University for acts that constitute violations of law and of this Code. Those accused of violations of this Code are subject to the disciplinary proceedings outlined in this Code while criminal, civil, or other internal proceedings regarding the same conduct are pending. Accused students may not challenge the disciplinary proceedings outlined in this Code on the grounds that criminal charges, civil actions, or other internal proceedings regarding the same incident are pending, may be initiated, or have been terminated, dismissed, reduced, or not yet adjudicated. The University will refer matters to federal, state, and local authorities for prosecution when appropriate.

#### Prohibited Conduct

Each student may be subject to this Code whether misconduct occurs on University premises, at University or School of Medicine sponsored activities, or at any location off-campus when such conduct is brought to the attention of the University or the School of Medicine.

It is neither possible nor necessary to specify every instance of misconduct that could result in disciplinary action against a student. Violations of the Standards of Professional Conduct as described in the Student Handbook may also constitute "Prohibited Conduct" that is subject to this Code of Conduct. The following list includes, but is not limited to, conduct that may subject a student to disciplinary action:

1. Attempting, assisting, or encouraging any conduct as described below.
2. Causing physical harm to any person or causing reasonable apprehension of such harm.
3. Disorderly or indecent behavior including, but not limited to, destroying or damaging University property or the property of others.

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university or other computer system or material; improper access to university or other computer files and systems; or violation of copyright or proprietary material restrictions connected with university or other computer systems, programs, or materials.

23. The display or distribution of lewd, offensive, threatening, or inappropriate material via paper or electronic means. Such material includes pictures, videos, or written content that portray oneself or others in a manner that brings dishonor to the profession of medicine.
24. Violating any government laws or ordinances, or of any University or School of Medicine rules, regulations, or policies including but not limited to the "Standards of Professionalism" set forth above. Such rules, regulations, or policies shall include but are not limited to the regulations and policies contained in the Campus Life Undergraduate Code of Conduct, Information Technology Division (ITD) materials, Policy Statement on Discriminatory Harassment, Sexual Assault Policy Statement, School of Medicine Medical Student Handbook; regulations relating to entry (opening and closing hours) and use of University facilities; traffic and parking regulations; regulations and policies on the sale, consumption or misuse of alcoholic beverages; and on the misuse of identification cards.
25. Failure to report any arrests, criminal charges, positive results of drug tests or Criminal Background Checks (CBCs) that occur from the time of acceptance until graduation.
26. Recording any other person without the consent of the person(s) being recorded.
27. Inappropriate use of social media.

#### Conduct Procedures

Anyone wishing to report an alleged incident of misconduct under this Code may make such a report to the Executive Associate Dean for Medical Education and Student Affairs or to any Assistant or Associate Dean for Medical Education and Student Affairs. Reports generated by the Emory Police will be forwarded to the dean for Campus Life or their designee and to the Executive Associate Dean for Medical Education and Student Affairs. The Executive Associate Dean for Medical Education and Student Affairs will decide as to whether or not an action should be taken in response to a report. If it is determined that further action should be taken, the Executive Associate Dean for Medical Education and Student Affairs will notify the student in writing that they must make an appointment for a preliminary meeting within five days of the date on the notice for the purpose of reviewing the report. Failure of the student to schedule or attend this preliminary meeting will automatically result in formal charges as described below.

Following this preliminary meeting, an investigator (faculty member) will be appointed by the Executive Associate Dean for Medical Education and Student Affairs to conduct an investigation to determine if the report has merit. The investigator may recommend the matter should proceed to formal charges or be disposed of administratively by agreement of the parties involved on a basis acceptable to the Executive Associate Dean for Medical Education and Student Affairs.

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If the matter is not so resolved, the Executive Associate Dean for Medical Education and Student Affairs will then meet again with the student and present the student with a letter stating the formal charges and a copy of all documents relevant to the case.

If a student admits to having violated the Code of Conduct as charged, the student shall have the following options as to how sanctions will be determined:

1. The student may waive their right to a hearing and have the Executive Associate Dean for Medical Education and Student Affairs determine the appropriate sanction.
2. The student may choose a hearing with an ad hoc conduct committee appointed by the Executive Associate Dean for Medical Education and Student Affairs to determine the appropriate sanctions.

This selection shall be made in writing within five days of the student's request for a hearing and be recorded by the Executive Associate Dean for Medical Education and Student Affairs.

If the student does not admit to having violated the Code of Conduct as charged, the charges will be referred for a hearing and a copy of all documents relevant to the case will be forwarded to the appropriate hearing body and the student involved.

If an accused student fails to respond to any notification in writing concerning the conduct process, their case will be automatically referred to a hearing with an ad hoc conduct committee.

The School of Medicine reserves the right to place a "hold" on the diploma, degree certification, or official transcripts of a student who has been charged with a conduct violation under the Code even though they may have completed all academic requirements. The diploma, degree certification, or official transcripts may be withheld until the conduct charges have been resolved and/or sanctions completed.

### School of Medicine Conduct Committee

The School of Medicine Conduct Committee is an ad hoc committee appointed by the Executive Associate Dean for Medical Education and Student Affairs to hear non-academic medical or health professions programs student conduct cases. The Conduct Committee is composed of:

1. A Chair appointed by the Executive Associate Dean for Medical Education and Student Affairs, who shall be a faculty member but not a voting member of the Council and an alternate.
2. Two voting faculty members and one alternate.
3. One voting School of Medicine administrator (dean, director, associate or assistant dean) and one alternate.
4. Three voting student members (medical students or academic health students, determined by the school enrollment status of the student accused of misconduct) and one alternate.

The ad hoc Conduct Committee must have a minimum of five members present in order to convene, two of who must be faculty.

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a student has violated the School of Medicine Conduct Code requires a simple majority vote. In the case of a tie, the Chair shall cast the deciding vote.

If the finding of a violation is determined, the hearing body shall be provided with the record of previous disciplinary proceedings in which the student was found in violation. On the basis of the hearing and the student's previous record, a decision will be made regarding sanctions by a simple majority vote. In the case of a tie, the Chair shall cast the deciding vote.

A written decision will be issued from the hearing committee to the student within seven (7) days of the date of the hearing. The accused shall receive written notice of the outcome of the hearing which includes: (1) a statement of charges; (2) a summary of the facts in the case; (3) the decision; (4) a brief statement of the hearing body's reasoning; and, if a violation is found, (5) sanction(s). The accused student will also receive information on the rights of appeal. The Executive Associate Dean for Medical Education and Student Affairs shall review all decisions of the Conduct Committee, the dean of the School of Medicine shall also review any decision resulting in a sanction of suspension or expulsion. The Executive Associate Dean for Medical Education and Student Affairs and the dean shall make a final decision regarding the recommendations of the Hearing Committee.

### Sanctions

The following sanctions, singularly or in combination, may be imposed upon any student found to have violated the School of Medicine Conduct Code:

1. Warning: A notice in writing to the student that the student has violated institutional regulations and must cease and not repeat the inappropriate action.
2. Probation: A written reprimand for violation of specific regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to be violating any institutional regulation(s) during the probationary period.
3. Restitution: Compensation for loss, damage, or injury. This may take the form of service, monetary compensation, or material replacement.
4. Discretionary Sanctions: Work assignments or service to the School of Medicine, the University, or the community.
5. Suspension: Separation of the student from the School of Medicine for a definite period of time, after which the student may be eligible to return. Conditions for readmission may be specified.
6. Expulsion: Permanent separation of the student from the School of Medicine.

Conduct sanctions (5) Suspension and (6) Expulsion shall be entered permanently on a student's record. Sanction (2) Probation shall be entered on a student's record for the term of the probation. Any sanction may include mandatory referral to university-based resources for medical or mental health evaluation and treatment if necessary. An evaluation supporting the student's reentry to medical school may be needed before reentry into any course work or clinical rotations.

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### Hearing Procedures

The Executive Associate Dean for Medical Education and Student Affairs may require any student, faculty, or staff member of the School of Medicine to attend and/or testify at any hearing or meeting regarding a conduct matter that is covered under this Code.

Whenever a hearing is to be held regarding an alleged incident of misconduct under this Code, the accused student, and the complainant, if any, shall be given at least seven (7) calendar days' written notice of the charges alleged against the accused student and of the date, time, and place of the hearing.

The ad hoc Conduct Committee shall conduct the hearing. The Committee may require witnesses to testify at the hearing who are students, faculty, or staff of the School of Medicine and who are available to attend. Rules of evidence that apply in courts of law shall not apply in such hearings. The hearing shall be closed to everyone except the hearing body, appropriate staff, the accused student, and the complainant, advisors to the accused student and the complainant. Witnesses will be present at the hearing only during the actual time of their testimony.

An advisor of their choice may assist the accused student and the complainant. The advisor must be a member of the Emory University School of Medicine faculty or staff, or a student currently enrolled in the School of Medicine. The chair of the ad hoc Conduct Committee will consider exceptions. The advisor may not be an attorney.

Both parties and/or their advisors are allowed to:

- Be present at the hearing until such time as the hearing body retires to deliberate the decision. However, if either the student or the advisor or the complainant fails to appear at the hearing, the hearing may be held in their absence.
- Present tangible and documentary evidence and evidence by witness or by signed witness statements of witnesses who do not attend the hearing including the signed written statements of the complainant or the accused. If witnesses fail to appear, the hearing shall be held in their absence. It is the responsibility of the accused student and of the complainant to notify any additional witnesses not called by the hearing body. Additional witnesses must have the prior approval of the chair of the hearing body. All witnesses should be notified of the date, time, and place of the hearing.
- Question all witnesses who give evidence at the hearing directly or through written questions presented through the Chair.

The Chair of the ad hoc Conduct Committee shall have final decision on what evidence may be presented and the tone of questioning. The Chair may decide to stop questions at any time.

### Hearing Decisions

The decisions of the ad hoc Conduct Committee as to both violation and sanctions are in all cases advisory to the Executive Associate Dean for Medical Education and Student Affairs. The ad hoc Conduct Committee shall deliberate and decide whether the accused student has violated this Code. The hearing body may decide that the student is in violation of a less serious offense than that originally charged. A determination that

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### Appeal

The accused student may appeal decisions rendered by the ad hoc Conduct Committee to the dean of the School of Medicine. To initiate an appeal, the accused student must submit a signed, written statement of the specific reason(s) to the dean within seven (7) days of receipt of the hearing decision.

the dean will review the process and the decision to determine:

1. Whether or not the hearing was conducted in accordance with the procedures outlined in the Conduct Code.
2. Whether or not the interpretation of the code was appropriate.
3. Whether or not the sanction(s) imposed were appropriate.
4. After reviewing the documents pertaining to the case, the dean will issue a written review of the hearing decision with a reasonable period of time from the receipt of the request for review.

the dean will either:

1. Affirm the hearing decision.
2. Affirm the findings of the hearing decision but recommend a different sanction, OR
3. Remand the case to the Executive Associate Dean for Medical Education and Student Affairs to assign a new ad hoc School of Medicine Conduct Appeal Board to conduct a new hearing.

### School of Medicine Conduct Appeal Board

The Appeal Board will be established at the time the dean remands a case to the Executive Associate Dean for Medical Education and Student Affairs for conducting a new hearing.

The Board shall be composed of:

1. One voting administrator appointed by the Executive Associate Dean for Medical Education and Student Affairs;
2. Up to three voting faculty members appointed by the dean.
3. One voting medical or academic health student, depending on the status of the accused, appointed by the dean.

The Appeal Board shall follow the same guidelines as the initial hearing, reviewing the case independently, and make a final recommendation to the Dean. The Executive Associate Dean for Medical Education and Student Affairs shall provide the recommendation of the School of Medicine Conduct Appeal Board to the dean whose decision shall be final.

### Notification and Retention of Records

The Executive Associate Dean for Medical Education and Student Affairs shall forward notification of all final action to the dean. The Executive Associate Dean for Medical Education and Student Affairs shall maintain files on all medical and academic health

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students' conduct reports, records, and hearing proceedings according to procedures established by that office.  
**Last modified:** 7/17/2023

## **10. Acknowledgments**

Sasha Volokh, former Chair of CFOE, George Shepherd (President of the University Senate), and Noelle McAfee (President-Elect of the University Senate) were consulted at various points of this analysis.