



Massachusetts

June 4, 2024

Via Email

Acting General Counsel Eileen Finan

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Secretary of the Administrative Board of Harvard College

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Secretary of the Faculty on behalf of the Faculty Council

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Harvard University

Cambridge, MA

Re: Timelines for Administrative Board Decisions, Requests for Reconsideration, and Appeals to the Faculty Council

Dear General Counsel Finan, Secretary of the Administrative Board of Harvard College, and Secretary of the Faculty Council,

We are in communication with several Harvard students, including would-be graduating seniors who are currently seeking relief from the disciplinary sanctions imposed on them by the Administrative Board on or around May 20, 2024, in connection with alleged participation in the pro-Palestinian encampment in Harvard Yard. We are writing now to ask Harvard to provide more transparency and clarity about expected time frames for decisions and to ensure that final decisions are rendered promptly. Such steps are consistent with President Garber's call, in his May 14 email¹ to encampment organizers, for expeditious resolutions of pending disciplinary proceedings that allow students to graduate, as well as principles of basic fairness enshrined in Massachusetts law. Increased clarity will also serve to alleviate some of the great stress these students and their families are experiencing in the face of harsh initial disciplinary decisions that threaten to derail the futures of impacted students.

As you are aware, on or around May 20, 2024, several members of the class of 2024 and other undergraduates were found responsible by the Ad Board for alleged violations of Harvard rules related to alleged participation in the encampment in Harvard Yard and were placed on probation or suspension. The Ad Board's decisions

¹ Joyce E. Kim and Neil H. Shah, *5 Harvard Students Suspended, More Than 20 Face Probation for Encampment Participation*, *The Crimson* (May 18, 2024), <https://www.thecrimson.com/article/2024/5/18/harvard-encampment-protesters-suspended/>.

prevented members of the class of 2024 from graduating as planned on May 23, 2024. As is their right under the Ad Board procedures, many of these students promptly filed requests for Ad Board reconsideration of the decisions based on procedural and other errors. To date, we are not aware of any students having been informed by the Ad Board about the time frame in which a decision on their request will be rendered. Under Harvard policies, students also have the right to appeal any reconsideration decision of the Ad Board to the Faculty Council; a right they seemingly cannot exercise until the Ad Board acts on the reconsideration requests, unless some modification is granted as requested below.

As Harvard is no doubt aware, many of these students have post-graduate plans that hang in the balance, including graduate studies and funded fellowships for the coming year. Many of these opportunities are set to commence in early fall but entail crucial deadlines that will arrive much sooner—some on or even before July 1. These include deadlines for confirming planned participation at other institutions and Harvard’s provision of funding in connection with these programs or making timely alternative arrangements. Thus, time is of the essence, and—in the absence of prompt action by the relevant bodies of Harvard—students face irreparable harm in the form not only of the delay of their degrees but due to loss of graduate and fellowship opportunities. Failure to provide students timely access to the full range of appeals within Harvard flies in the face of the notion of fundamental fairness.²

We are particularly concerned that delay with respect to the Ad Board’s determinations of pending requests for reconsideration may serve to deny students the chance to further appeal to the Faculty Council and receive a timely decision allowing them to graduate and commence post-graduate opportunities. This concern is compounded by the fact that students have heard reports that the Faculty Council will cease its deliberations on July 1 and will not resume its work until the fall. This would mean that if the Ad Board does not issue decisions on reconsideration requests very soon, the Faculty Council will not have time to act on any unfavorable results, and students will lose their chance to receive their diplomas and pursue their graduate studies and other programming for the coming academic year. Similarly, if initial Ad Board decisions in pending proceedings are not rendered promptly, students may not be able to appeal and get decisions from the Faculty Council in a meaningful time.

We therefore ask that the relevant bodies within Harvard communicate clearly to students the expected timelines for 1) Ad Board decisions on pending reconsideration

² Greater clarity would be also helpful around when the Ad Board expects to issue initial decisions in still pending cases related to the encampment and what the plan is to ensure appeals to the Faculty Council in those cases will be promptly resolved. We are aware that some students do not have initial Ad Board hearings until at least the end of June.

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requests, as well as initial appeal decisions and 2) the Faculty Council being in session and issuing decisions on appeals that have or will come to them.

We also urge Harvard, in the face of time pressures, to expressly allow students with reconsideration decisions still pending with the Ad Board to file appeals with the Faculty Council, notwithstanding the general rules about needing to file within one week of initial decision or after the decision of a reconsideration request.

No matter how our requests for greater transparency and flexibility are resolved, we ask Harvard to ensure that both the Ad Board and the Faculty Council move expeditiously, in accordance with President Garber's May 14, 2024 email to students who were involved in resolving the encampment.

Thank you for your prompt consideration and anticipated response.

Sincerely,

Ruth A. Bourquin
Rachel E. Davidson
ACLU Foundation of Massachusetts

Naomi Shatz
Zalkind Duncan & Bernstein LLP

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HARVARD UNIVERSITY



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June 5, 2024

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Dear Attorneys Davidson, Bourquin and Shatz:

I am writing to acknowledge your letter of June 4, 2024, and to respond to a number of the questions that you've raised.

First, Harvard does intend to respond as expeditiously as possible to the pending requests for reconsideration and appeal and currently is facing a large volume of requests for reconsideration. It bears note that the student conduct at issue took place at the end of the term. In the normal course, requests for reconsideration or appeals for late-term discipline would be taken up in the fall, in keeping with the timeframe for when the Administrative Board, the Docket Committee, and the Faculty Council would typically meet in light of summer schedules. That said, Harvard intends to follow a different course for these cases and will take up requests for reconsideration and appeals over the summer months. To be clear, it is not the case, as you mention that some students have heard, that the Faculty Council will cease any deliberations on July 1st and not resume its work until the fall.

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Second, you also have asked that students with pending reconsideration requests be permitted to file appeals, notwithstanding the general rule about needing to wait to file within one week of the decision on reconsideration. Students with a right of appeal (that is, students required to withdraw or placed on probation for more than one term) may opt to file an appeal while their request for reconsideration is pending.

Finally, as timelines become clearer, the relevant Harvard representatives will be in touch with students to provide more information. Note that appeals involve a multi-step process. The Dean of the College submits a response to the appeal, stating the College's position on the merits, and the student then has up to one week to respond. Those materials then are provided to a Docket Committee, which reviews the completed requests for appeals and then meets to determine whether they have merit. If so, then the appeal materials are forwarded to the larger Faculty Council, which reviews the material and then meets to consider the appeal.

Sincerely,



Eileen Finan