



COMMITTEE ON STUDENT ORGANIZATIONS

www.cfli.wisc.edu/cso.htm

Armory and Gymnasium (Red Gym) 716 Langdon Street Madison, Wisconsin 53706
Phone: (608)263-0365 Fax: (608)265-8184 E-mail: cso@studentlife.wisc.edu

No.1516-37

Sigma Alpha Epsilon

[May 17, 2016]

Received: March 3, 2016 - Heard April 29, 2016– Decided May 17, 2016

I

On March 3, 2016, the Committee on Student Organizations (“Committee”) received a report alleging possible acts of misconduct by members of Sigma Alpha Epsilon (“SAE”). The report alleges that, since Fall 2014, several members of SAE engaged in the repeated use of slurs, jokes, and derogatory language directed at racial minorities, religions and sexual orientations. Furthermore, it was alleged that a member of SAE was physically assaulted by a fellow organizational member in a racially motivated attack. The Committee informed SAE of the report on March 7, 2016 and commissioned an investigation of the allegations that was completed on or about April 8, 2016. The Committee subsequently held a hearing on April 29, 2016 to discuss the report and the investigative summary and to provide SAE an opportunity to respond to the allegations. Below is the Committee’s decision following careful review and deliberation.

II

Based on the information present in the report as well as information gathered during the investigation, SAE is alleged to have violated the following provisions of the Registered Student Organizations Code of Conduct:

2. Shall not discriminate on the basis of race, color, creed other than commitment to the beliefs of the organization, religion, national origin, disability, ancestry, age, sexual orientation, pregnancy, marital status parental status or sex, unless pursuant to an exception recognized by applicable federal and state law. Student organizations that select their members or officers on the basis of commitment to a set of beliefs (e.g., religious or political beliefs) may limit membership, officer positions, or participation in the organization to students who, upon individual inquiry, affirm that they support the organization’s goals and agree with its beliefs, so long as no student is excluded from membership, officer positions, or participation on the basis of his or her race, color, creed other than commitment to the beliefs of the organization, religion, national origin, disability, ancestry, age, sexual orientation, pregnancy, marital status or parental status, or, unless exempt under Title IX, sex.
4. May be subject to disciplinary action as a result of actions of individual members of the organization undertaken while representing the organization

5. Shall be responsible for all activities and/or damages resulting from its events. An RSO must exercise reasonable caution to ensure that its events, and agents acting on its behalf, do not cause damage to the property of students, University employees, other organizations, or the University; do not harm or constitute a serious danger to the personal safety of a member of the University community (students and University employees) or guests and do not obstruct or seriously impair University run or University authorized activities.

III

The Committee FINDS SAE in violation of code 2 from above (vote: 9-0)

The Committee FINDS SAE in violation of code 4 from above (vote: 7-1-1)

The Committee DOES NOT FIND SAE in violation of code 5 from above (vote: 3-4-2)

IV

The Committee adopts the following sanction(s) and accompanying opinion.

[REDACTED], wrote the findings of the Committee, and delivered the opinion of the Committee.

A

In this case, the Committee primarily considered whether SAE permitted a discriminatory environment by failing to adequately address the reports of continued usage of bigoted and derogatory language and actions by its members and whether that resulted in discrimination against the reporter and interfered with the reporter's ability to participate as a member. The Committee reviewed the alleged actions of individual members and the response of SAE leadership to reports of such actions in determining the overall culture perpetuated by members of SAE. Special attention was paid to the Fall 2014 incident where the reporter was allegedly physically assaulted by another SAE member at an organizational event.

With regard to the alleged incidents, the Committee made the following factual determinations. The Committee found sufficient information to demonstrate that SAE leadership was aware of the reporter's concerns about how certain members of SAE treated him based on his race and how certain members used language that was also derogatory on the basis of sexual orientation and religious affiliation. The record shows that SAE took action against the member associated with the assault on the reporter but that SAE leadership was not informed by the reporter at that time that the assault was accompanied by any racial animus or the use of a racial slur. In addition, the record shows that SAE leadership responded to certain identified incidents including expelling one member and suspending another who were involved in yelling racial slurs in a March 2015 incident and trying to determine the individuals responsible for

similar behavior in a December 2015 incident. SAE as a whole was required in 2015 by its national organization to have all members complete online diversity training following a highly publicized incident at the University of Oklahoma SAE chapter. Notwithstanding the actions taken by SAE leadership, the reporter's concerns continued as the members' behavior he had complained about still continued.

In determining whether SAE violated Code 2, the Committee examined the culture of SAE and actions taken by its executive members, and other individuals, when addressing concerns of discrimination. As noted above, with the evidence presented, the Committee agreed that the reporter had voiced his concerns of discrimination within his organization, and failed to see adequate redress of those concerns. The Committee determined that SAE put an unfair burden on the reporter to address the cultural issues of SAE which included repeated use of racial slurs, bigoted jokes, and the general acceptance of derogatory language. Based on the information presented, the Committee unanimously found SAE in violation of Code 2.

For Code 4, the Committee sought to determine if discrimination was perpetuated by individual members in a manner and context that could be attributed to the organization as a whole. Based on the reporter's information and the investigative summary, it was determined that individual members of SAE were responsible for engaging in the actions complained about by the reporter. These individuals' use of inappropriate language directed at the reporter and the general membership occurred while they were representing the organization. Accordingly, their activities are fairly attributed to the organization and created the opportunity for discrimination to develop into a destructive culture for SAE. Therefore, the Committee found SAE in violation of Code 4.

For Code 5, the Committee considered the incident occurring in the Fall of 2014, but also considered the overall health and safety of the reporter throughout his membership with SAE. Consistent with the Committee's factual findings noted above, the Committee determined that the Fall 2014 incident was addressed to the fullest capability of the executive board members based on the information they had regarding the incident. While the Committee determined that the SAE overall environment created possible hostility for members of the organization, it further concluded that the environment did not pose a greater risk to members' health or safety. Therefore, the Committee did not find SAE in violation of Code 5.

B

The Committee briefly reviewed SAE's previous case with the CSO, 1516-08, and determined that SAE was serving a Probation with alcohol

restriction until May 13, 2016, and a General Probation¹ until December 19, 2016. The Committee considered SAE's probationary status in determining an appropriate sanction to address SAE's additional violations of the RSO Code of Conduct.

For violation of Registered Student Organizations Codes of Conduct 2 and 4, SAE must complete the following sanctions which are *effective immediately*.

- **Suspension² until November 1, 2016**
 - *In accordance with this Suspension, SAE must complete the following educational sanctions at its own cost and provide proof of completion to the Committee no later than November 1, 2016. All educational sanctions must be approved by CfLI prior to their implementation:*
 - Host or attend an interactive workshop, addressing issues of diversity, inclusion, and discrimination.
 - Host or attend an interactive workshop, addressing issues of mental health, depression, anxiety, and general health and safety.
 - *100% attendance at the above workshops is required, confirmed by sign-in attendance sheets sent to csso@studentlife.wisc.edu. If the organization determines that a member cannot attend they must submit the rationale (study abroad, inactive membership, etc.) to the CSO Chair and CfLI Director for approval.*
 - Amendment to New Member Education Modules to Include:
 - 1 module directly addressing mental health and common mental health problems like depression and anxiety.
 - This should include what it is, how to talk about it and how to be a supportive brother

¹ Probation means the RSO is permitted to remain registered only upon the condition that it complies with all University rules and regulations and with other standards of conduct that the organization is directed to observe for the duration of the period of the probation. Probation may include the suspension of organizational rights as specified by the CSO. Probation may not exceed eight semesters in duration for any given misconduct. Violation of probation requirements shall be grounds for further sanctions, up to, and including, termination.

² Suspension means a temporary loss of all of an RSO's privileges for a specified period of time, not to exceed two years. Notices of suspension will be sent to Central Reservations, and possibly to other campus offices and funding bodies.

- 1 module directly addressing diversity and inclusion as an organization
 - This should include what it is, how to respond to inappropriate or derogatory terminology, what it means to be an inclusive organization, and how to be a supportive brother
 - *Examples of the proposed modules must be presented to the CSO for approval prior to implementation. Send examples to cso@studentlife.wis.edu.*

Failure to send in the above documentation and obtain CSO prior approval will result in an extension of the Suspension until such documents are provided and approval received.

General Probation until May 31, 2017

The Committee approves these sanctions (vote: 9-0).

The Committee expresses its appreciation to the reporter for sharing the concerns and for focusing on a message of commitment to inclusion and education. The Committee thanks SAE for its time and attention to the matters in this case.

The Committee determined that the concerns expressed by the reporter regarding actions and attitudes of specific SAE members were inadequately addressed by the organization as a result of insufficient education on diversity and inclusion. The Committee earlier acknowledged that SAE responded swiftly to specific incidents but often times passive or apathetic acts of discrimination are much more insidious. The educational sanctions reflect prominent issues identified in this case by the reporter and SAE, including discrimination and mental health. The sanctions are intended to give SAE information and education on both issues to help eradicate concerning behavior and to better prepare the organization to address any future incidents should they occur. We hope that with a capable membership, SAE can foster a culture of inclusivity for all of its members.

Given the requirement that all workshops and new member modules be approved by the CSO prior to implementation, the Committee recommends that SAE contact and work in conjunction with CfLI in to determine appropriate workshops for its membership and crafting the newly required new member modules.

The Committee asks that a copy of this decision be emailed to every single registered member of your organization; please copy csso@studentlife.wisc.edu when doing so.

The Committee appreciates your cooperation in this matter. If you have questions and/or concerns pertaining to this decision, please do not hesitate to contact me, csso@studentlife.wisc.edu.

Your organization has ten school days from the date of this decision to appeal. Details on the procedure and grounds for any appeal can be found at the Center for Leadership and Involvement website:
http://guide.cfli.wisc.edu/code_of_conduct.htm

END OF DECISION



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Decision Supplement

[REDACTED] . Updated Jan 22, 2014

Common Sanctions

Probation and **Suspension** are defined in the Policy on the Conduct and Discipline of Registered Student Organizations as follows:

Probation means the RSO is permitted to remain registered only upon the condition that it complies with all University rules and regulations and with other standards of conduct that the organization is directed to observe for the duration of the period of the probation. Probation may include the suspension of organizational rights as specified by the CSO. Probation may not exceed eight semesters in duration for any given misconduct. Violation of probation requirements shall be grounds for further sanctions, up to and including, termination.

Suspension means a temporary loss of all of an RSO's privileges for a specified period of time, not to exceed two years. Notices of suspension will be sent to Central Reservations, and possibly to other campus offices and funding bodies.

Any organization's rights suspended during Probation (Alcohol Probation, Social Probation, etc.) will be outlined in the decision letter. If you have any questions as to the nature of your organization's sanctions, please contact cso@studentlife.wisc.edu.

Appellate Procedure

Appellate procedures are outlined in articles 14, 15, and 16 of the Policy on the Conduct and Discipline of Registered Student Organizations, which read as follows:

14. The Chair of the Committee shall notify the respondent in writing of the Committee's decision and the respondent's right to appeal the decision within ten (10) school days. The decision of the Committee shall be forwarded to the Director of the Center for Leadership and Involvement and included in the RSO's disciplinary file. The respondent shall inform the Chair of the Committee and the Director of the Center for Leadership and Involvement of a decision to appeal within ten (10) school days. Appeals must be submitted in writing to the Chair of the Committee and the Director of the Center for Leadership and Involvement.

Date Submitted:3/3/2016 12:47 PM

Date Approved3/4/2016 10:39 AM

Approved by [REDACTED]

CSO Report Form

Untitled Page

Please fill out the following form to file a report against a Registered Student Organization. Be sure to fill out all required fields with accurate information. Also, please note that the Committee on Student Organizations cannot take formal action on this report if you submit it anonymously - you must list your name and contact information.

YOUR INFORMATION:

Name:

[REDACTED]

Email Address:

[REDACTED]

Affiliation:

Active Member

Address:

[REDACTED]

Phone Number (i.e. 555-555-5555):

[REDACTED]

INCIDENT INFORMATION:

Date of the Incident (i.e. 01-01-2000):

Fall 2014 - present. (Latest: February [REDACTED] 2016)

Time of the Incident (i.e. 7:00pm):

7:00 PM

Location of the Incident:

SAE house

Student Organization(s) Involved:

SAE

Nature of the Incident:

Would like to report concerning behavior and environment in Sigma Alpha Epsilon. See attachments for detailed nature of incident.

Witness #1:

[REDACTED]

Witness #2:

[REDACTED]

15. Appellate jurisdiction for CSO decisions shall rest with the Dean of Students or an Associate Dean of Students. The Dean of Students, Associate Dean of Students and/or designee(s) shall conduct an administrative review of the case to determine whether a due process violation has occurred in the appellant's case. If such a violation is found to have occurred, the Dean of Students may uphold, modify, or strike down the sanctions placed on the appellant by the CSO. The appellant may also request the Dean of Students direct the CSO to rehear the case.
16. The Dean of Students shall have full access to all evidence presented to the Committee, the minutes and recordings of the hearing of the appellant's case. The Dean of Students may request any further information or documentation from the Committee, Center for Leadership and Involvement, or the appellant.

If you wish to appeal, please submit, in writing, a statement outlining the due process violations you feel to have occurred to the Chair of the Committee and the Director of CfLI no later than ten school days from the date of your decision letter. If you have any questions as to the appellate procedure, please do not hesitate to contact the Chair of the Committee at csso@studentlife.wisc.edu. A copy of the Policy on the Conduct and Discipline of Registered Student Organizations can be found at http://cfli.wisc.edu/guide/code_of_conduct.htm

Witness #3:

No Response

Police Contacted?

Yes

Did you file a Police Report?

No

Police Report Number (if applicable):

No Response

ADDITIONAL EVIDENCE:

If you have any additional evidence, such as photos or other documents, please upload them here. If you have more than 3 files, please email the remaining evidence to cso@studentlife.wisc.edu (<mailto:cso@studentlife.wisc.edu>)

NOTE: All attachments must be 4MB or smaller. If your evidence is over 4MB in size, please email it to cso@studentlife.wisc.edu (<mailto:cso@studentlife.wisc.edu>)

Evidence Upload 1:

Uploaded File: [REDACTED].docx

Evidence Upload 2:

Uploaded File: My_Experience_With_Racism_At_UW_-_Madison.docx

Evidence Upload 3:

Uploaded File: Screen_Shot_2016-02-26_at_2.42.22_PM.png



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March 7, 2016

Sent electronically to [REDACTED]

PERSONAL AND CONFIDENTIAL

Regarding Case: 1516-37 (CSO) / 2015222301 (Maxient)

c/o [REDACTED]

March 7, 2016

On behalf of the Division of Student Life, I am investigating a report alleging violations of the Student Organization Code of Conduct.

Specifically, it is alleged by a student that since fall 2014 your organization's members engaged in the repeated use of racial slurs, GroupMe messages of anti-semitic jokes, and the use of derogatory words referring to the LGBTQ and black communities. It was also reported that in fall 2014 a member of the organization physically assaulted another member of the organization while shouting a racial slur at him.

The above may be violations of the following policies for all student organizations:

2. Shall not discriminate on the basis of race, color, creed other than commitment to the beliefs of the organization, religion, national origin, disability, ancestry, age, sexual orientation, pregnancy, marital status parental status or sex, unless pursuant to an exception recognized by applicable federal and state law. Student organizations that select their members or officers on the basis of commitment to a set of beliefs (e.g., religious or political beliefs) may limit membership, officer positions, or participation in the organization to students who, upon individual inquiry, affirm that they support the organization's goals and agree with its beliefs, so long as no student is excluded from membership, officer positions, or participation on the basis of his or her race, color, creed other than commitment to the beliefs of the organization, religion, national origin, disability, ancestry, age, sexual orientation, pregnancy, marital status or parental status, or, unless exempt under Title IX, sex.
4. May be subject to disciplinary action as a result of actions of individual members of the organization undertaken while representing the organization
5. Shall be responsible for all activities and/or damages resulting from its events. An RSO must exercise reasonable caution to ensure that its events, and agents acting on its behalf, do not cause damage to the property of students, University employees, other organizations, or the University; do not harm or constitute a serious danger to the personal safety of a member of the University community (students and University employees) or guests and do not obstruct or seriously impair University run or University authorized activities.

At this time, I would like to meet with you in the next three business days to discuss this matter.

Please contact the Dean of Students Office at 608-263-5700 to schedule an appointment with me.

Additionally, please convey the information regarding this matter to your membership. Any members contacted by me to participate in this investigation are expected to fully cooperate. More information regarding student rights and

responsibilities in University investigations are available at <https://www.students.wisc.edu/doso/non-academic-misconduct/> and I encourage you to communicate this to your peers to avoid any violations of Organization Code policies 4 and 9 (the code is available at http://www.guide.cfli.wisc.edu/code_of_conduct.htm).

At the conclusion of my investigation, the matter will be referred to the Committee on Student Organizations (CSO) for review. This matter may be resolved if no violation occurred, if a mutual resolution is approved by the CSO, or through a formal hearing by the CSO. Please refer to the Student Organization Code of Conduct for more information on this process or contact Eric Knueve or Barb Kautz in CfLI.

Thank you for your cooperation in this matter.

A handwritten signature in black ink that reads "Will Chapman". The signature is fluid and cursive, with the first name "Will" and last name "Chapman" clearly distinguishable.

Will Chapman
Assistant Director of Student Conduct

CC: Eric Knueve, Director/Assistant Dean, Center for Leadership & Involvement
[REDACTED] Committee on Student Organizations [REDACTED]

1516-37 Sigma Alpha Epsilon (ΣAE) Investigative Report

Prepared by Will Chapman, Assistant Director of Student Conduct, OSCCS

Incident Information

[Complainant] reported concerning behavior and environment within Sigma Alpha Epsilon, his fraternity, via university bias report and by CSO incident report. His submission included several documents and a Facebook screenshot. Eric Knueve met with [Complainant] as a follow up to the submission and provided a summary of the allegations:

Fall 2014

- Member for SAE ran down State St. yelling “fuck all n[-word]s” – apparently one member was kicked out of the fraternity and one member was suspended – not able to verify at this time

November 2014

- Member [REDACTED] ran down State Street screaming “Fuck N[-word]”¹

October/November 2014

- [REDACTED] choked [Complainant] and lunged and choked him
- [REDACTED] according to ISIS records
- [Complainant] has texts from [REDACTED] and others that clearly show that the incident occurred

Chapter meeting last year

- Had to ask members to stop using the n-word
- member [REDACTED] tried to convince [Complainant] that white people could use n-word because of how progressive they were

Overall 14-15

- Consistently heard forms of n-word and had to continue to tell people to stop using these terms
- Members calling [Complainant] “they’re n[-word]”
- Women from sororities referring to [Complainant] [REDACTED]

Fall 2015

- Members continued to use derogatory words referring to LGBTQ community and the n-word
- [Complainant] claimed that members would say “no offense” to excuse their language
- Members, such as [REDACTED], told other members and female visitors that [Complainant] was “his n[-word]”, which upset [Complainant] greatly
- When [Complainant] asked members to stop using Jewish jokes on groupme chat, the reply received was, “Fuck you [Complainant], know your brother” because one of these members were Jewish

December [REDACTED]

- After finishing finals and needing to wake for a bus home; [Complainant] woke to two members drunkenly making their way back to the house screaming. One member was screaming, “fuck n[-word]”. The other member tried to quiet him but did not say anything about how wrong it was to say these words.

Unknown time

- [REDACTED]

Early February 2016

¹ Fall 2014 and November 2014 reference the same incident. By all accounts, other than the complainant’s primary submission, this incident occurred but it was near the end of March of 2015. The complainant describes this as occurring shortly after the Ole Miss incident, in the paper he wrote and submitted with the complaint. He may have meant Oklahoma in this description.

- [Complainant] goes ██████████
February ██████████
- Member ██████████ came to house yelling lyrics from a song “My N[-word]” by YG. ██████████ yelled “My n[-word], my n[-word] over and over
- [Complainant] told ██████████ to shut up and ██████████ yelled back “Fuck you asshole”

Ongoing

- Chapter members continue to use term “fag” and say “no offense”. One of their members is openly gay.

After a review of the complaint, notice of the allegations of violations of codes 2, 4, and 5 were sent to ██████████ Sigma Alpha Epsilon.

Meeting with ██████████

I met with ██████████ on Friday, March 11, 2016. ██████████ began by stating that the organization takes seriously the allegations and seeks a fair process and outcome, for both the fraternity and for [Complainant]. ██████████ told ██████████ [Complainant]’s intention to report and ██████████ was unaware of the severity of the impact of the accumulated incidents.

██████████ stated that he told the membership that if [Complainant] contacts them, even if they have animosity about anything that has occurred, they should help him.

██████████ stated that he was initiated in the same member class as [Complainant], though [Complainant] is ██████████. He stated that he is aware that [Complainant] lacks trust in the organization and its members.

We discussed the most serious of the allegations involving the physical assault. ██████████ stated that he spoke to ██████████, ██████████, and that the assailant was referred to their judicial board and issued sanctions that included three required sober monitoring events and prohibited from attending his formal. ██████████ stated that ██████████ said that the J-Board was not aware of the racial slurs and that the incident would have been handled differently if it had been known.

██████████ stated that the assailant from that case, ██████████ will be asked to contact me to discuss the incident and ██████████ will attempt to obtain the Judicial Board records.²

He then described a more recent incident from this past November. Two Jewish members were making self-deprecating jokes via the GroupMe message thread for the organization. [Complainant] sent a message challenging the idea that even Jewish people should make jokes at the expense of their own religion. ██████████ stated that other brothers may not have felt it was their place to call it out if they were not Jewish. Two brothers got upset about the Facebook post [Complainant] wrote about it and the more visible airing of the grievance. [Complainant]’s stance on the issue and actions in voicing it on Facebook, particularly using the phrase “brothers” drawing attention to the fraternity, seems to have alienated the Jewish members of the fraternity.

² The alleged assailant never contacted OSCCS. No physical or digital records of judicial board actions were provided by the organization. Messages provided by the organization are included in the packet.

█████ stated that after Thanksgiving break guys were reluctant to engage out of concern that it would end up in a Facebook post, so many didn't.

█████ shared that he received a GroupMe message that showed [Complainant]'s anger over the incident at the end of the semester (█████), and that █████ sent a message that supported [Complainant]'s position. █████ said he was already █████ for winter break and did text [Complainant] and asked him to provide more information if it was available so that he could look in to it. █████ then said that [Complainant] posted the █████ Facebook post. █████ stated that only 10-15 members were still at the fraternity house that late in the semester, and nobody had come forward to take responsibility, if they knew anything about it.

Regarding the fall 2014 incident on State St, █████ affirmed that █████ █████ who was █████ at the time, had gotten in to an altercation at the bars possibly with an African-American. He did run down state street yelling the slur as reported, and that the Judicial Board took swift action to officially remove him from the chapter and national organization rolls. The individual continued to reside in an apartment █████ the SAE house. █████ stated that he hadn't seen him since █████ and did not recall a specific ban on █████ entry in to the fraternity house. He offered that it was up to each member to decide how they would maintain a relationship with █████

█████ also stated that he does not recall the issue of racial slurs being brought up at a chapter meeting, though acknowledged he could have been absent.

He affirmed that the singing along with rap and hip hop songs that use the n-word causes confusion for many members about if it is appropriate to not, or whether and how to self-censor when singing songs they enjoy. Others have noted that their own background growing up with friends who felt comfortable with their use of the word as a term of endearment created confusion with [Complainant]'s stance that nobody should use it.

█████ did acknowledge too that "fag" and "gay" are used by members, but perhaps not as frequently as [Complainant] implies in his allegations. He stated that it is not used in an intentionally derogatory way, but as slang that many in the fraternity are familiar with. He stated that the chapter's openly gay member has not expressed concern about its use as a slur.

We then discussed the exchange with █████ █████ who was singing from "My Nigga" by YG. █████ contacted █████ who was █████ taking a break from the semester, via text. █████ texted [Complainant] on Monday following the incident (which occurred Friday evening), because he wanted to discuss it in person rather over text. [Complainant] expressed dissatisfaction with the delay in communication.

█████ said that he talked to █████ and that █████ denied interacting with him on █████ February █████ 2016, and that they interacted around dinner in the house on Sunday, and the interaction seemed fine.

█████ stated that even when members wanted to explore the issue, particularly around the appropriateness of use, it would not be a discussion but rather a lecture from [Complainant].

On March [REDACTED] 2016, [REDACTED] stated that he woke up from a nap and had texts/GroupMe messages stating that [Complainant] was in the house and people didn't know what to do. He said that the expectation was that it was okay for him to be there. Reportedly, he was in common areas and the backyard for a bit before heading upstairs.

It sounded as if his shower was running, which was considered odd because he wouldn't have anything to change in to or a towel, having moved out. After about 30 minutes, members went to the suite and the water was running and the heat was up to 80 degrees. There had been prior conflict/difficulty with [Complainant] and his suitemates. The bedroom door was locked so the residents were concerned and after receiving no answer [REDACTED] called 911 for a welfare check.

[REDACTED] shared that several members would send private texts rather than responding in the GroupMe because they may not have felt the GroupMe was the right venue to get on a soapbox or did not feel comfortable sharing there.

Regarding [Complainant]'s entry in to the fraternity house, [REDACTED] shared that some people may still be upset about [Complainant]'s actions, and doesn't want to have conflict, but understood that terminating a lease to prohibit entry has some far ranging repercussions for [Complainant].

[REDACTED] shared that on April 11 and April 12, the national office will be facilitating a presentation & training regarding diversity and inclusion.

National also has options for [Complainant]'s continued membership.

Overall, [REDACTED] acknowledged that the individuals in the chapter and the chapter as a whole have room for improvement on working on these issues and fostering greater inclusion.

Interview with the Complainant

On Wednesday, March 16, I interviewed the complainant regarding his allegations. He provided a verbal account of his experience since joining Sigma Alpha Epsilon. His statements were incredibly consistent with his previously submitted documents, which totaled 22 typed pages, single spaced, summarized in bullet points above. I did not note any discrepancies of significance from his previously submitted written statements.

Interview with [REDACTED]

[REDACTED] and I spoke via phone on Monday, April 4, 2016. He affirmed that he was the new member educator during the fall semester. When I provided a general summary of the October 2014 incident, he stated that he could not recall an incident that he was made aware of. He stated that he could not verify any judicial board decision regarding the incident with [REDACTED]

He did state that he was aware that [REDACTED] was expelled for shouting racial slurs while drunk. [REDACTED] assumed that this expulsion would carry the consequence of [REDACTED] not being allowed at chapter functions, including as a guest. He stated that the incident occurred more than halfway through spring semester 2015.

When asked about the climate in SAE regarding the use of slurs, he said that within his own group of friends and new member class, he didn't notice issues with sexual orientation or race being denigrated. He stated that one of his peers is black and another came out as gay after graduating from UW. He averred that the language was certainly used within the fraternity, but was never directed with animus at an individual, nor was it probably strictly reflective of the fraternity. He stated that it probably occurred at the same rate as any other group of 18-20 year old college men.

Interview with [REDACTED]

On April 6, 2016 I met with [REDACTED] SAE and [REDACTED]. He stated that when he [REDACTED] nearly all of the previously appointed judicial board members. He also [REDACTED]. He stated that written records were not utilized as there was often a member of a respondent's class on the judicial board and could speak to prior incidents investigated, if necessary. The board conducted business in person rather than via email.

[REDACTED] stated that there was turnover each year, as new members are selected each year when the VP is elected. He stated that when a judicial board decision is made, it is not announced to the chapter but "everyone knows." He later clarified that often the incident in question was public and of concern for the organization, and therefore information about the resolution was informally shared by a respondent or others involved.

I provided [REDACTED] with my understanding of the allegations and asked him to provide information on what he recalls occurring in fall 2014. He stated that the incident probably occurred on [REDACTED] October [REDACTED] since that was the most likely night they would have hosted an event at their facility [REDACTED]. He learned about it the following weekend from another member who was roommates and friends with [REDACTED]. After learning about it, [REDACTED] spoke to the complainant and [REDACTED] stated that there was no information to indicate that there was racial animus or a racial slur used. [REDACTED] offered to apologize to the complainant. When discussing the physical contact, [REDACTED] stated that he was under the impression that rather than being choked with hands, the complainant was choked with an arm while the two were engaged in a wrestling-like altercation. He was not certain if the altercation was witnessed by any other person.

At the time of the incident, [REDACTED] lived in the fraternity house, and moved out at the end of the semester. [REDACTED] indicated that he did not recall if there was any information on *why* the altercation occurred. He stated that [REDACTED] was remorseful about his actions, and that [REDACTED] was probably too intoxicated to recall clearly why it may have occurred. As a result of the judicial board process, [REDACTED] was suspending for the next three social events and required to sober monitor the next three events. He was also barred from attending the semester formal in December. [REDACTED] stated that had the board been aware of any information indicating racial animus then he would have advocated suspension or expulsion from the organization.

[REDACTED] stated that [REDACTED] was elected [REDACTED]. He stated that the incident with [REDACTED] occurred about a month or a month and a half in to the semester, likely late February or mid-March.

█████ stated that █████ was expelled and another member who was involved was also suspended, but that individual also had a history of poor decision making that contributed to the decision. Following the incident at The University of Oklahoma, the national organization mandated all chapters complete online diversity training. This was shortly after the █████ █████ expulsion. █████ though expelled, was only prohibited from attending events during their registered time frame. █████ was not certain if and how often █████ might have been at the fraternity house. █████ was not at the Senior Pass Down described by █████ so he was uncertain if █████ was there or not.

█████ stated that he is not aware of the causal use of the “n word” or the use of “fag” or “gay” as a slur, since he was not really close with the young members of the organization. He stated that he is not on the GroupMe since the group is size-limited and only includes residents of the house.

When asked how he might have addressed a hypothetical scenario involving anti-Semitic jokes by Jewish organization members, he stated that he doesn’t feel that it would be his place to prevent them or punish them for doing so. When asked to evaluate the response when the jokes were challenged, he stated that without knowing the context or intent of “Fuck you, know your brother,” he’d withhold judgment on that issue. When asked to evaluate the impact of a statement such as that, if a member had an experience as described by the complainant, █████ acknowledged that if all that had built up, then the individual would be more sensitive to the remark, even if the intent was for it to be in jest.

Email Exchange with █████

█████ provided information via email, █████, making telephone or Skype communication burdensome. My emailed questions are in italics and his responses are indented.

To the best of your recollection, can you describe what was reported about █████ behavior, and what action was taken by the Judicial Board (and/or national fraternity)?

From my understanding █████ had been walking home from the bars alone when he was assaulted by a group of men who happened to be African American. He came back to the house angry and was yelling racial slurs and banging on the wall in the hall outside my room. I was the only one nearby because I had a test the following day and decided to go to bed early. However, his yelling woke me up, which I would typically choose to ignore, but when I heard the racial slurs and profanity coming from █████ I immediately got up, yelled at him, told him how disgusted I was for what he was saying and kicked him out of the house. The next day I discussed the matter with my judicial board and then notified █████ of his hearing. He was expelled from the fraternity nationally by the decision of our chapter (Local chapters have the authority to expel members of the fraternity. Members can appeal to higher levels, but this was not the case for this incident).

When did this incident and the subsequent judicial action occur?

This incident occurred around March of 2015. I apologize, I don’t have an exact date. The hearing was held the following week as is custom with any disciplinary incident. We notify the member of the hearing and try to give them a hearing date within a week of notification.

What was the impact on [REDACTED] e.g. was he prohibited from the chapter facility, chapter events, etc.?

[REDACTED] was called for a judicial board hearing to explain his case. Instead of trying to excuse his wrongdoings he was very apologetic and embarrassed and wanted us to know this did not reflect his personal beliefs but understood whatever punishment would be enforced. Following his hearing I discussed the matter with the judicial board and we unanimously decided that [REDACTED] should be expelled from the fraternity. This means that he was no longer allowed to attend any SAE-sponsored events or attend chapter meetings. While he was disappointed he understood and accepted the decision.

How was this enforced?

It was not difficult to enforce. He respected our decision.

If there were no prohibitions, did he have occasion to re-enter the fraternity house or attend future events after the judicial action?

He was not allowed to attend any chapter-sponsored events but he may have re-entered the house to spend time in an individual's suite, as residents are allowed to invite whoever they want over, although I'm not sure if he did ever return to the house after this incident.

Was the outcome of the case communicated to the current members of the fraternity?

We were hoping to deal with this internally, as I was really the only one to witness the incident. It had happened right outside my room. I woke up to it, kicked him out of the house and discussed a hearing date with the judicial board. Per custom of judicial hearings, we keep them a private matter out of respect for the people involved and the people on the judicial board. This avoids any external bias. If [REDACTED] were to appeal the judicial board's decision the case would have been presented to the fraternity, but [REDACTED] did not choose to do so. Informally, people were notified that he was to be expelled and at the following chapter we discussed a zero-tolerance of bigotry and any member who strayed from our values of inclusion were to be expelled. We discussed the issue without naming him explicitly.

As a result of [REDACTED] incident, what steps were taken by the national or local organization to provide education, address the impact, or otherwise prevent future incidents?

Nationally and locally we required that every member undergo diversity training. This was a nationally developed online training program that required members of the fraternity to identify various actions that can be perceived as bigoted or demeaning to any particular group of people. We ensured that every active member of our fraternity complete this training. We also had an open discussion at consecutive chapters about diversity and openness and made it clear that if any current members did not represent our values of inclusion and expressed any form of bigotry or hatred towards any sort of group that the matter would be put in front of the judicial board. It was made clear that

our chapter had a zero tolerance policy for this type of behavior and there would be severe consequences.

As vice president and leader of the judicial board, how many other incidents of racially-motivated behavior did your organization address, either informally or formally? If applicable, please describe each and the resulting resolution with as much detail as possible.

Our fraternity prides ourselves in being inclusive and diverse in that our members come from many different backgrounds and are eager to learn about various members' backgrounds. Upon hearing about the incidents at the Oklahoma chapter our chapter was widely disgusted. The following chapter we discussed this matter and collectively drafted a letter in support of brothers nationally that have ever felt slighted or wronged by the ignorance and bigotry of people who misrepresented what SAE stands for nationally. We attempted to have this letter dispersed by the university because we were embarrassed to wear our letters out in fear that people not familiar with the Greek system would label us as bigots because of the Oklahoma chapter. We did post this letter on various social platforms and also, as mentioned above, enforced a mandatory inclusion program.

As a result of any of these incidents, if applicable, what steps were taken by the national or local organization to provide education, address the impact, or otherwise prevent future incidents?

As I mentioned above nationally and locally we mandated the online diversity program that semester. Also as I mentioned in earlier answers we discussed inclusion and diversity with open discussion at consecutive chapter meetings. I remember addressing the chapter with the preface that I realize that inclusion and diversity are at the core of our fraternity's values but in light of this specific incident with [REDACTED] we still felt it very appropriate to discuss the topic and the various ways that people may discriminate intentionally and unintentionally and that there is no place for that in our brotherhood. We believe that the Greek system as a whole could do more to address this issue and mirror the steps SAE has taken nationally to prevent this sort of issue.

Discrimination Policies

Code 2 prohibits discrimination on the basis of protected classes. Pertinent to the application of this code, a review of the University of Wisconsin System Discrimination Policy³ is necessary.

No student may be denied admission to, or participation in or the benefits of, or be discriminated against in any service, program, course or facility of the system or its institutions on the basis of race, color, creed, religion, age, sex, sexual orientation, gender identity or expression, national origin, ancestry, disability, pregnancy, marital or parental status, or any other category protected by law, including physical condition or developmental disability as defined in Wisconsin Statutes §51.01(5).

Discrimination is conduct that adversely affects any aspect of an individual's employment, education, or participation in an institution's activities or programs, or has

³ Retrieved from <https://www.wisconsin.edu/regents/policies/discrimination-harassment-and-retaliation/> on April 11, 2016

the effect of denying equal privileges or treatment to an individual on the basis of one or more characteristics of that individual's protected status or category as defined herein.

Discriminatory Harassment is a form of discrimination consisting of unwelcome verbal, written, graphic or physical conduct that:

1. Is directed at an individual or group of individuals on the basis of the individual or group of individuals' actual or perceived protected status, or affiliation or association with person(s) within a protected status (as defined herein above); and
2. is sufficiently severe or pervasive so as to interfere with an individual's employment, education or academic environment or participation in institution programs or activities and creates a working, learning, program or *activity* environment that a reasonable person would find intimidating, offensive or hostile.

To constitute prohibited harassment, the conduct must be both objectively and subjectively harassing in nature. Harassment may include but is not limited to verbal or physical attacks, threats, slurs or derogatory or offensive comments that meet the definition set forth herein. Harassment does not have to be targeted at a particular individual in order to create a harassing environment, nor must the conduct result in a tangible injury to be considered a violation of this policy. Whether the alleged conduct constitutes prohibited harassment depends on the totality of the particular circumstances, including the nature, frequency and duration of the conduct in question, the location and context in which it occurs and the status of the individuals involved.

Retaliation is defined as adverse action taken against an individual in response to, motivated by or in connection with an individual's complaint of discrimination or discriminatory harassment, participation in an investigation of such complaint and/or opposition of discrimination or discriminatory harassment in the educational or workplace setting.

Discrimination Analysis

Relevant to this case, organizations shall not discriminate on the basis of race, color, religion, or sexual orientation. The University of Wisconsin defines discrimination as conduct that adversely affects any aspect of an individual's education or participation in an institution's activities.

Discriminatory harassment is a form of discrimination that consists of unwelcome verbal conduct that is directed at an individual or group on the basis of the individual's actual protected status or affiliation with persons with a protected status **and**

is sufficiently severe or pervasive so as to interfere with an individual's education or academic environment or participation in institution programs or activities, and creates a learning, program, or activity environment that a reasonable person would find intimidating, offensive or hostile.

The harassing conduct must be both objectively and subjectively harassing and does not have to be targeted at an individual to create a harassing environment.

Additionally, any adverse action taken against an individual in response to, motivated by or in connection with an individual's opposition of discrimination or discriminatory harassment in the educational or workplace setting, is retaliation that is prohibited.

The complainant describes a sixteen month experience where he routinely heard organization members use a racial slur, while singing along with popular music, as an intended term of endearment, or as an epithet. This occurred in the organization's facility both before and during the complainant's residency. His written statements have significant internal consistency with that which was shared verbally in my interview with him (or based on the notes from a separate meeting with Assistant Dean Knueve). The only verifiable factual shortcoming of his allegations is that the incident involving [REDACTED] occurred in March 2015 not November 2014.

If the complainant did experience a physical assault in conjunction with being called a racial slur, then the on-going use of derogatory or racialized language within the fraternity, regardless of intent, we could reasonably conclude, would foster an environment hostile to African Americans. Compound that with the isolation that the complainant described experiencing after drawing attention to the racist, heterosexist, and anti-Semitic language of his peers, and in total it took a profound toll on the complainant's mental health, academic performance, and engagement with the organization. Subjectively, it is evident that the complainant clearly identifies the hostile environment within his organization as a major impediment to his full participation at the university and in the organization.

Objectively, given that we all have implicit and explicit biases, it is more difficult to evaluate the environment based on the extant facts. Reviewing the facts in the most favorable light to the organization, then we must conclude that:

- they did not have an awareness of any racial animus in [REDACTED] actions;
- that they responded swiftly and appropriately to [REDACTED] behaviors;
- they did their due diligence to identify the individuals from the December 2015 incident;
- and, there was no conflict with [REDACTED] as [REDACTED] indicated.

However, the response to other incidents is troubling. Within the context of their espoused brotherhood, the complainant felt tokenized by members and women in the Greek community, felt dismissed when expressing concerns about how the slurs and language hurt him and all members in the organization, and lost trust in his brothers when few would privately or publicly stand with him in opposition to what he felt was anathema to his organization's values. Instead, members actively conveyed their negative feelings about the complainant's use of Facebook to criticize, without names, the behavior he was frustrated by. The complainant specifically identified this as in direct opposition to the organization's publicly stated mission.

I have included this information for reference.

The True Gentleman is the man whose conduct proceeds from good will and an acute sense of propriety, and whose self-control is equal to all emergencies; who does not make the poor man conscious of his poverty, the obscure man of his obscurity, or any man of his inferiority or deformity; who is himself humbled if necessity compels him to humble another; who does not flatter wealth, cringe before power, or boast of his own possessions or achievements; who speaks with frankness but always with sincerity and sympathy; whose deed follows his word; who thinks of the rights and feelings of others, rather than his own; and who appears well in any company, a man with whom honor is sacred and virtue safe.

- John Walter Wayland

The mission of Sigma Alpha Epsilon is to promote the highest standards of friendship, scholarship and service for our members based upon the ideals set forth by our Founders and as specifically enunciated in “The True Gentleman.”⁴

Finally, the on-going use of the n-word, jokes deriding Jews, and the use of “gay” or “fag” as an insult or pejorative, directly contravene the intent of the mandatory training provided by the national fraternity in the wake of the University of Oklahoma incident, and in which all active members participated that same semester. Some of these same active members continued in the behaviors described throughout the complainant’s next year with the organization, and the complainant noted that most were juniors, in spite of the training, and apparently received no internal consequences, in spite of the assertions made by ██████ when speaking of his experience

██████████.⁵

Investigation Summary

While in cases such as this it is important to trust the complainant is providing accurate information, it is just as crucial to verify the information to the extent possible. With regard to the allegation that SAE discriminated based on race, there is insufficient information to verify the racial animus as an element of the physical assault.

The complainant asserted that other PNMs and members were present at the time of the altercation with ██████. However, multiple members involved with the internal resolution of the case indicated that they were not aware of any racial animus in the incident. Accordingly, they addressed it internally based on their standards for the physical assault. After the ██████ incident, where racial animus was evident, they did take more serious action against ██████. However, this is in the context of the incident at Oklahoma that was in the national spotlight. It is impossible to know if their approach to either the ██████ or ██████ incident (with known racial animus) would have been as severe several months prior, but there is no information to indicate that they did not address it based on the information they had. Therefore, their decision with on the information available to them would be viewed as reasonable based on the circumstances.

Regarding the pervasive use of slurs by members of the organization, it is unfortunate that the language persisted despite requests and criticism from the complainant. ██████ asserted that members were open to exploring the topic and that the complainant did not believe that it warranted discussion. However, as a member of a targeted minority who is a member of this organization, perhaps the other members should have respected the complainant’s request that the terms be eliminated from the culture and parlance of the group. Because he failed to see progress in this regard, it fostered distrust of the members and the leadership when other incidents occurred. The resolution of the ██████ case deepened this distrust as ██████ was only barred from being at the facility during the hours of a registered event, therefore potentially being in that space with the complainant.

The cumulative impact of addressing the incidents of concern also contributed to the complainant’s belief that the organization was not for him--not inclusive of him--based on his race. He also criticized the

⁴ Retrieved from <http://www.sae.net/page.aspx?pid=753> on April 11, 2016

⁵ “[T]he matter would be put in front of the judicial board. It was made clear that our chapter had a zero tolerance policy for this type of behavior and there would be severe consequences”, ██████ Personal Communication, *supra*.

exclusion that could occur due to anti-Semitic jokes or slurs about sexual orientation. As a result of his efforts to address the perceived discrimination, he experienced retaliation. Members felt that his public post to social media that alluded to the fraternity was an inappropriate means to address it, though the complainant had attempted to draw attention to the issues through internal means and received justifications for the n-word based on political or social progressive positions, alcohol intoxication, or because it was a part of rap music.

Under the definitions of discrimination, discriminatory harassment, and retaliation set forth by the Board of Regents, the actions of the organization—whether willful by members, out of indifference, or on the part of the organization as a whole—fostered a hostile environment for black students in violation of university policies against discrimination. The actions of members following the [REDACTED] expulsion from the organization are a clear indication that the issue of racial hostility was not taken seriously. In one context a member is expelled, by consent of the chapter, for aggressively deriding African Americans. In other contexts, the use of the n-word is perceived by some of those same members as colloquial, jocular, or a term of endearment. For an individual who is the target of the word, however, the subjective and objective cumulative impact of the use of that word and other instances of bias against Jews or gays and lesbians fostered an environment that negatively affected the complainant's participation, residence, success, and health.

Based on the information collected and analyzed, I have concluded the following:

There is sufficient information that SAE discriminated on the basis of race due to its failure to adequately address instances of bias by its members towards a member of color, due to a failure to adequately address member retaliation against a member for his opposition to discriminatory conduct, and the cumulative impact of its failures on the ability of a member to participate in the activity and the university.

There is sufficient information to find the organization responsible for a violation of code 4. The concerns of the complainant and the conduct by the members identified were not unknown to the leadership. Contrary to [REDACTED] assertion, there is no evidence from the organization that they took any steps to address incidents of bias in an internal process. For example, there were only 10-15 members still at the house in December 2015 at the time of the incident described by the complainant. That the leadership could not identify who was involved in the described incident is also concerning. It is hoped that the leadership can address this shortcoming and I will withhold speculation on the reasons why the incident occurred and why they fell short of their stated mission.

Finally, there is sufficient information that SAE's event in October of 2014 resulting in a threat to the personal safety of the complainant, as it has been confirmed that [REDACTED] was intoxicated and assaulted the complainant. It is concerning that, even without the element of racial animus, a member assaulting another individual does not result in anything other than social restrictions/probation, rather than directly addressing with evidence-based practices the behaviors of concern (physical assault or alcohol misuse).



COMMITTEE ON STUDENT ORGANIZATIONS
www.cfli.wisc.edu/cso.htm

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Sigma Alpha Epsilon
627 N. Lake St
April 8, 2016

On March 3, 2016 the Committee on Student Organizations received reports alleging possible acts of misconduct by members of Sigma Alpha Epsilon; the Committee subsequently informed Sigma Alpha Epsilon of said report in a letter dated March 7, 2016.

The Committee on Student Organizations hereby requests your presence at a hearing for this case on **Friday, April 29th at 2:30 PM**. The hearing will be held in the 3rd floor conference room (room 3158) of the Center for Leadership and Involvement in the Red Gym.

During the hearing, you will have thirty minutes for student representatives of your organization to present each case, which may include an opening statement, a closing statement, and whatever information and/or witnesses you deem fit.

Within 5 school days prior to the date of your hearing the Director or designee will send you all material to be presented at the hearing.

A copy of the CSO's rules of procedures may be found at
http://guide.cfli.wisc.edu/code_of_conduct.htm

Should you have any questions before the hearing, please let me know.
cso@studentlife.wisc.edu

Regards,



Committee on Student Organizations