THE UNIVERSITY of WISCONSIN MADISON

COMMITTEE ON STUDENT ORGANIZATIONS
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No.1112-20

DELTA UPSILON FRATERNITY – WISCONSIN CHAPTER

[May 23, 2012]

Reporter: Adey Assefa Received March 20, 2012 – Heard May 11, 2012 – Decided May 23, 2012

I. BACKGROUND

On 20 March 2012, the Committee on Student Organizations received a report alleging possible acts of misconduct by members of Delta Upsilon Fraternity – Wisconsin Chapter (hereinafter DU). The report alleges that on the early morning of 16 March 2012, two female University of Wisconsin-Madison students[1] were verbally harassed by DU members while trespassing on DU's property. The report further alleges that several members of DU directed racially discriminatory language toward these students. Moreover, the report alleges that a glass object (based on the sound produced, it was judged to be a glass bottle) was tossed in the direction of the two students.

The seriousness of these allegations prompted the Dean of Students to place DU on Interim Suspension on 20 March 2012, pending completion of the Committee's disciplinary process.[2]

On 20 April 2012, the Committee informed DU that preliminary evidence gathered during the investigation warranted further a review of this incident, and that a hearing for this case will be held on 11 May 2012.

II. ALLEGED VIOLATIONS

Based on the information present in the report as well as information gathered during the investigation, DU is alleged to have violated the following items from 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.
> 3. May be subject to disciplinary action as a result of violations of federal, state or local laws not otherwise addressed in this Policy.

[1] May be referred to simply as "the two individuals" throughout the decision.
[2] Interim Suspension does not imply violation on the part of an organization, nor does it validate the allegations made in the report. It is a mechanism used to facilitate a thorough investigation and review, as outlined in Student Organization Code of Conduct Disciplinary Procedures for Violation, item 6.

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.
9. Are accountable, through their primary contact, officers and other designated representatives, to the University. When an organization's primary contact, officers, or other designated representatives make a knowingly false statement, either orally or in writing, to any University employee, committee, or agent, on a matter relating to the activities of the organization or its members, the organization shall be subject to discipline. Organizations must also submit any updated contacts to the Center for Leadership and Involvement if/when contacts or the contact information for contacts change.
10. Student organizations that serve or permit possession of alcoholic beverages and/or other drugs, including controlled substances, at student organization functions, on or off campus, may be disciplined if violations of alcoholic beverage laws or of university regulations occur at student organization functions if the violations involve members and/or guests.

III. COMMITTEE DECISION

The Committee does not find DU to be in violation of code #2 listed above (vote: 0 – 10).
The Committee does not find DU to be in violation of code #3 listed above (vote: 5 – 5).
The Committee finds DU to be in violation of code #4 listed above (vote: 8 – 2).
The Committee finds DU to be in violation of code #5 listed above (vote: 8 – 2).
The Committee does not find DU to be in violation of code #9 listed above (vote: 2 – 8).
The Committee does not find DU to be in violation of code #10 listed above (vote: 3 – 7).

IV. SANCTIONS – OPINION OF THE COMMITTEE

The Committee was presented with multiple accounts of a story that were often wildly contradictory. In deciding this case, the Committee must answer three fundamental questions. First, what happened? Second, were the DU members involved in the incident acting in representation of DU? Third, if they were acting in representation of DU, what responsibility, if any, should DU bear as an organization?

In order to consider the question of responsibility and possible violation, we must first address what exactly occurred on the morning of 16 March 2012. While significant elements of the event are in dispute, we can nonetheless agree on some basic facts. First, there were two female individuals on DU's property in the early morning of 16 March 2012. Second, there was a subsequent altercation between these two individuals and member(s) of DU, which stemmed from the two individuals' presence on DU's property. Third, during this altercation, a glass bottle was shattered. Finally, we can all agree that a member of DU (hereinafter DU#1) attempted to apologize to the two individuals during the altercation.

The report alleged that DU members began using racially discriminatory language toward the two individuals after they realized that they were "women of color;" thereby providing a racial motive for the alleged actions of these DU members.[3] While the two DU members involved in the incident (hereinafter DU#2, DU#3, respectively) deny that

[3] Statement by the two female individuals accompanying the formal incident report, listed as item 1 of evidence package.

racial language was ever used, nonetheless evidence suggests that the language alleged in the report was used – at least to some degree. The Committee finds the language used in this incident to be offensive and contradictory to the values of this University. However, the "racial slurs and hurtful phrases" alleged in the report does not suggest a racial overtone but rather a socioeconomic one.[4] The terms "peasant," "rich," as well as the repeated use of "one-percent" suggest to us that these comments were social-class-oriented rather than racially-motivated.[5] Furthermore, we believe the repeated use of the term "one-percent" demonstrates that these comments were also influenced by the present sociopolitical climate of the city, state, and country at large. In addition, findings from the investigation support this hypothesis. However, socioeconomic status is not a protected class in any federal, state, or University anti-discriminatory statutes. As such, these comments – however odious and repugnant – are not expressly prohibited. Therefore, while the Committee expresses profound concerns and disappointment with the employment of these phrases, we nonetheless cannot find DU in violation of code #2 as listed above.

The other alarming element of this event was the alleged throwing of a glass bottle toward these two individuals. The two individuals believe that the bottle was directed at them, but missed.[6] DU#3 claims that he accidentally knocked a glass bottle off a shelf while walking.[7] Evidence gathered during the investigation suggests that a glass bottle did in fact shatter. Based on information exchanged during the hearing, the Committee believes that a glass bottle was actively thrown in response to the verbal exchange taking place. However, there is no substantiating evidence to suggest whether DU#3 (or another person) was aiming to hit the two individuals; an element of the story that we will likely never know. Nonetheless, regardless of its intended trajectory, the use of a glass bottle in this incident constituted a serious danger to the health and safety of not only these two individuals, but to other pedestrians in the vicinity. Therefore, the Committee finds DU in violation of code #5 as listed above.

During the investigation, we learned that at least one of DU's neighbors expressed concern regarding broken glass chronically found on and around DU's property. Furthermore, this neighbor believes that DU members often throw glass beer bottles "around the parking lot and street area."[8] This prompted the Committee to review possible violations of local ordinance as outlined in code #3. Based on the evidence presented during the hearing, we saw no significant evidence to substantiate the neighbor's allegations. Furthermore, we cite the accounts of Off. Grant Humerickhouse (Madison Police Department), who did not notice excessive debris on DU's property. Moreover, he is unaware of any calls alleging bottle throwing by DU.[9] Therefore, the Committee does not find DU in violation of code #3 as listed above.

[4] Item 1 of evidence package.
[5] Item 1 of evidence package.
[6] Item 1 of evidence package.
[7] DU#3 statement to Assoc. Dean Helmkamp, listed as item 8 of evidence package.
[8] Item 9 of evidence package.
[9] Statement of Off. Grant Humerickhouse, Madison Police Department, listed as item 13 in the evidence package.

Having established the likely events of 16 March 2012, the Committee must address the second question: did these DU members involved in the incident act in representation of DU? This incident germinated from DU members responding to two individuals trespassing on their property. We learned during the hearing that strangers coming onto DU's property is a frequent and serious concern facing the organization.[10] These were registered members of DU, residing within DU, acting on DU's property. Thus, we believe that when DU#2 and DU#3 (possibly other DU members) noticed the presence of two strangers on their property, they saw a breach to the rights of the organization, and acted in defense of the organization. Therefore, the Committee is persuaded that DU members involved in this incident acted in representation of the organization, at least during the course of the altercation; as such, we find DU in violation of code #4 as listed above.

The last element of this incident that we must address is the role of alcohol. During their meeting with Assoc. Dean Helmkamp, DU#2 and DU#3 adamantly denied having consumed alcohol that evening. However, findings from the investigation suggest that DU#2 and DU#3 were less than truthful. We believe that these two DU members were in all likelihood intoxicated when this incident ensued. Moreover, in his meeting with Assoc. Dean Helmkamp on 27 March 2012, DU's chapter advisor expressed similar beliefs.[11] In light of this evidence, the statements of DU#2 and DU#3 to Assoc. Dean Helmkamp maintaining their sobriety would constitute a false statement to the University as outline in code #9. However, the Committee believes that when these statements were made to Assoc. Dean Helmkamp, DU#2 and DU#3 were no longer acting in representation of DU. In fact, we believe that any inaccuracies in their statement merely reflect these two members' own desire to protect their individual interests. As such, we cannot find DU in violation of code #9 as listed above.

While we believe that alcohol did in fact play a significant role in this incident, we cannot conclude that a formal DU function was taking place when this incident ensued. Furthermore, there is no evidence to suggest whether DU provided alcohol to members involved in this incident; nor were we offered any suggestion as to where these members obtained their alcohol. As such, we cannot find DU in violation of code #10 as listed above.

The final component of the Committee's consideration of this case involves DU's organizational role and responsibility. In addressing this question, the Committee makes the following observations. First, we express concern regarding DU's role as a neighbor in the community. While we did not find DU in violation of throwing glass bottles as alleged by one of DU's neighbors, additional evidence does suggest that DU can work to improve its relationship with its neighbors. Several of DU's neighbors noted excessive noise as well as other less-than-courteous behaviors. We hope that in going forward, DU will make a serious effort to be a better neighbor and live up to the values it purports as an organization.

[10] This concern was expressed by DU#1, DU#2, DU #3, as well as DU's president, listed as items 6, 7, 8, 10, respectively, in the evidence package.
[11] "Meeting with Delta Upsilon" listed as item 10 in the evidence package.

Second, from the past two hearings, the Committee learned that DU apparently has a strained relationship with the Madison Police Department's Langdon Street Officer. We hope that DU will be able to strengthen its relationship with Off. Humerickhouse going forward, because a productive community requires such a relationship.

Lastly, the Committee expresses unfathomed concerns when it comes to the role that alcohol plays in DU's culture and organizational behavior. Our interactions with DU in the past year suggest to us an organization of fundamentally good men that often lack sound judgment when alcohol is involved. Moreover, when Assoc. Dean Helmkamp met with a DU employee, she too noted "regrets" concerning the "role of alcohol within the organization."[12] We recognize and appreciate the fact that during DU's century-long presence on this campus, it has made many positive contributions to this community. We also believe that DU is a fundamentally good organization composed of quality men. However, an organization is only as strong as the sum of its membership, and the alcohol-induced poor judgment of *some* of its members threatens the future of the entire organization. This case is merely the latest example of said danger, where a truly unfortunate incident occurred as a direct result of poor judgment.

In determining the appropriate sanctions for the above violations, the Committee notes one additional factor. This incident occurred twenty-two days after DU was removed from alcohol probation for an underage drinking violation. In its decision on 02 December 2011, the Committee expressed concerns regarding the role of DU's internal culture in that incident. This latest incident merely reinforces our concerns about DU's culture. We do not believe that DU's culture is one of racial intolerance, but rather it is one in which good judgment seems frequently absent in some of its members' behaviors. We feel that a fundamental assessment of DU's membership and responsibilities is needed going forward. The timing of this case with respect to DU's previous sanction is extremely alarming to the Committee, as such it played a significant role in our determination of sanctions in this case.

For its second violation of Registered Student Organization Code of Conduct #4, #5 *within four months*, the Committee renders the following sanctions upon DU (vote: 6 – 3):

1. Full suspension for two (2) semesters, ending with the conclusion of Spring 2013.[13]
2. Structured suspension, during which, only recruitment and recruitment associated events are allowed for two (2) semesters, beginning in Fall 2013, and ending with the conclusion of Spring 2014.[14]

[12] Statement of DU employee/DU advisor, listed as item 14 in the evidence package.

[13] Full Suspension denotes that DU may not enjoy any of the benefits of a Registered Student Organization. This limitation includes but may not be limited to reserving campus space, holding organizational functions, participating in other Greek activities on campus. The only organizational functions DU may hold during the full suspension are (list is exhaustive): one executive board meeting per week, one chapter meeting per week.

[14] Structured Suspension carries with it all the limitations of a full suspension, with the exceptions that are listed above. Furthermore, if DU wishes to hold any recruitment-associated events, it must submit an event request to the Committee, and have it approved by the Chair of the Committee along with the Director of CfLI *at least five (5) school days before* it can hold said event.

3. During the structured suspension (Fall 2013 – Spring 2014), DU's leadership must attend a personal meeting with staff at the Center for Leadership and Involvement to discuss the organization's progress and prospects.
4. During the second semester of the structured suspension (Spring 2014), Delta Upsilon International must conduct a membership review of the Wisconsin Chapter.
5. Submit a detailed document outlining DU's membership requirements as suggested by DU's organizational values.

All sanctions are effective as of the date of this decision.[15]

Finally, we want to note that during consideration of this case, members of the Committee contemplated termination as a possible sanction. We felt that this incident alone does not rise to the level of termination; however, the repeated nature as well as frequency of violation did warrant consideration of termination. Ultimately, the Committee believes that DU can successfully move forward from its past violations, and live up to its values as an organization. This University has a vibrant student organization infrastructure, which is only possible if everyone operates within the established rules. By virtue of being a Registered Student Organization, DU represents this University, a responsibility that should be accepted with pride. When an organization violates that trust, its actions also directly impact the image of this institution as well as the students of this institution. It is our hope that DU can rise out of the violations of the past year, because at its best, DU has the potential to represent our best.

* * *

The Committee asks that a copy of this decision be emailed to every single registered member of your organization; please copy cso@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, cso@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://cfli.wisc.edu/guide/code_of_conduct.htm

For the Committee on Student Organizations,
James N. Luo, Chair

[15] Due to the timing of this decision, all timelines associated with this decision will begin on the first day of instructions of Fall 2012.

APPENDIX

Pursuant to Committee rules, members of the Committee who dissent with the majority of the Committee – either partially or entirely – may offer an opinion of their own. Below contains the individual opinions of some members of the Committee. These opinions do not necessarily reflect the views/findings of the Committee on Student Organizations, and are not binding.

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Seering, S. (Student Representative), dissenting.

It is my belief that the actions taken the morning of March 16th were that of individuals and not those representing Delta Upsilon (DU) as a whole. There are two main periods to consider during this case, both during the event and then during the investigation conducted by the Dean of Students office.

The instances during the investigation are easier to address so they will be discussed first. It is my belief that the two individuals in question, referred to as DU members #2 and 3, were acting to save themselves from future individual prosecution. Their years in school indicate that they were below the minimum drinking age so they would of course wish to deny the fact that they had been drinking. Even though all the evidence shows that they had been consuming alcohol the evening of the 15th. When they lied to the investigating body regarding this issue, they were representing themselves and not the organization, and therefore they should not be found in violation of code #9. I am glad that the committee found in this way.

In the case of DU members #2 and 3 representing the organization during the actual events that transpired, I must disagree with the majority opinion. The majority makes the point that as members of DU, these individuals were harassing the two females in question to get off of DU property and were acting in the name of DU. I cannot agree with this logic. My logic is that if a member of the Wisconsin Union found an individual on Union property and harassed them to leave the property, they would not be doing so in the name of the Wisconsin Union. Rather, they would be acting as individuals. Only those who are elected or hired to positions in the Union and granted the authority to make these statements are liable to the Union as a whole.The same follows for DU. DU members #2 and 3 were not representing DU as a whole during the events of March 16th, and I therefore cannot find DU in violation of code #4. Following this, DU should not be found in violation of codes #2, 3, 5, or 10, because the DU members in question were not representing DU at that time.

For these reasons I respectfully disagree with the ruling and reasoning on codes #2, 3, 4, 5, and 10 of the majority.

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Van Orsow, A. (Student Representative), concurring in part, dissenting in part.

In consideration of the evidence brought before the Committee on Student Organizations on the 11th of May regarding the codes of conduct that the Delta Upsilon fraternity was found to be in violation in, it is my opinion that the appropriate sanctions to be imposed against DU is none other than termination. Furthermore, as an effort to preserve the overall positive image of the Greek community here at UW-Madison as well as regard for the codes of conduct set forth for Registered Student Organizations, I feel that DU should have been terminated due to its seeming inability to operate their organization appropriately with respect to the rules. Even following previous sanctions designed to serve as a learning opportunity for an otherwise well-functioning organization to alter its behavior, it is apparent that the leadership of DU is struggling to keep its members in order and change DU's recent image as an unruly and disrespectful organization. Hence, I feel it is in the best nature of preserving the image of the Greek community as well as the image of all Registered Student Organizations here on campus that the Delta Upsilon fraternity be terminated.

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Stevenson, H. (Student Representative), dissenting.

The Committee on Student Organizations had a hearing for the Delta Upsilon fraternity on 11 May 2012. The fraternity allegedly violated codes 2, 3, 4, 5, 9, and 10 of the Registered Student Organizations Code of Conduct. Delta Upsilon was found to be in violation of codes 4 and 5. Many different sanctions were discussed and debated, but the Committee eventually voted on a form of suspension. Termination was a valid option for the Delta Upsilon fraternity after the hearing on 11 May 2012. Although the sanctions given by the Committee are sufficient, terminating the fraternity from the UW campus as a Registered Student Organization seemed like a more appropriate action. Their numerous past violations demonstrate that the fraternity shows little to no regard for university or state regulations.

In this particular case, the Committee had to determine whether or not the individuals involved in the altercation on Delta Upsilon property were acting on behalf of the organization or acting as individuals. Since the individuals were members of the Delta Upsilon fraternity, living in the fraternity house at the time, and speaking to individuals as a united body, the Committee rightly viewed these individual actions as representative of the fraternity as a whole. Although the individuals are no longer part of this organization, the culture of the Delta Upsilon fraternity should be taken into serious consideration.

Delta Upsilon is the longest standing fraternity on the UW campus. With that strong longevity and great sense of tradition comes responsibility to preserve the image of the fraternity on campus, and also the image of the university when representing it at national conventions or in the broader community. Delta Upsilon has failed numerous times in these matters. I personally felt that the fraternity had a sense of entitlement, one that prevented them from making any substantive changes to their organization on campus when asked by multiple authorities.

The alumni of the fraternity seem notably unable to provide guidance and structure to the chapter. As mentioned during the hearing, members that held leadership roles within the fraternity said they were unaware of many regulations required of them. Ignorance is not an excuse. With the unfortunate events that have happened over the past year to Delta Upsilon, hopefully the alumni of the fraternity will be compelled to be more integrated and involved with the UW-Madison chapter.

As a member of the UW student body but not a member of the Greek system, I am truly embarrassed that the Delta Upsilon fraternity members are ambassadors of this university at national conferences. This has not gone unnoticed by other universities at these

conferences. Regrettably, the Delta Upsilon fraternity poorly represents the Greek system as a whole on campus.

Termination of this organization for any period of time seems extreme and harsh. It is. That being said, I felt that the fraternity needed to start with a clean slate and rebuild its image. To be part of the Greek system on campus is a privilege, with responsibility and accountability, not a right as Delta Upsilon seems to think. Currently, the chapter is not upholding their values as advertised. The culture of the fraternity as a whole and members recruited need to be reevaluated. By disassembling the fraternity, Delta Upsilon has the opportunity to rebuild its tarnished reputation. Being the oldest fraternity on campus and a large national organization would be a great benefit in rebuilding the UW chapter from the ground up.

Coming to this conclusion has not been easy. Given UW's exceptionally large and vibrant campus, we should embrace the Greek life and all they accomplish. Delta Upsilon's recent hearing has the potential to outshine the entire Greek system's positive contributions. In order to preserve the integrity of the Greek system both nationally and on the UW campus, termination should have been the sanction given to the Delta Upsilon fraternity.

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Sailer, P. (Student Representative), dissenting.

Although I agree with the Committee's decision to find Delta Upsilon in violation of code #5, I dissent on the decision to find them in violation of code # 4 and with the sanction placed upon them. There is a general threat to safety with the amount of glass that was found on the place both from the investigation and from the account of the neighbor. Although I do believe that there might be some kind of activity that would elicit the throwing of bottles into the lake I do not find enough evidence to bring that into my decision. However, the hazardous materials found in the yard and outside the property do allow me to find DU in violation.

On code #4 I dissent from the majority. Although these former members' actions do on the surface seem to be representing the group by attempting to get these trespassers, I do not think their attempt was to represent the fraternity. I am not persuaded by the argument that because this incident was at the house and because these individuals, at the time, were members of DU that their actions were on behalf of the fraternity. There was no registered event at the DU house and the individuals represent a minute percentage of the house's population, which allows me to agree with the representatives from DU that they were not acting on behalf of the house.

Due to my affirmative vote on code #5, I do think that sanctions should be put on DU. Due to their past incidents that have also been brought up to the Committee over the past semester and in recent years a suspension is the right punishment for this. I do not, however, agree with the exemptions that were included in the sanctions. I believe that there should be an exemption for new member recruiting and philanthropies. New member recruiting is critical to both sustaining a chapter and initiating a culture change, which is the main mission of the Committee. I am not worried about the risk of recruiting members that will continue the trend that we have seen with DU because the members who are continuing this trend will undoubtedly sever ties with the fraternity because they will not be able to continue this culture with a chapter that is on suspension. Also taking away recruiting classes means that no one will be in the fraternity that will remember the change the occurred or the feeling of being on suspension. Understanding the repercussions associated with a culture such as this is critical to this culture change. The role of the executive council will also be affected with a loss of recruiting classes because there will no upperclassman at some point, which will hamper the Committee's goal.

I also disagree with not including a philanthropy exemption. By changing the culture at DU the Committee is trying to promote the parts of the fraternity that are beneficial to the

chapter as well as the community as a whole. Allowing the chapter to have sober events that promote awareness, raise money, etc. will promote the name of DU in a good light. This exemption is critical to the culture shift.