

Findings from the Code of Conduct Proto-Committee

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This is a companion document for the recommendations of the Code of Conduct Proto-Committee concerning how to oversee the Code of Conduct. It lists findings categorized by source. In addition, comments and conclusions following the findings are also given. A list of various relevant resources ends this document.

Survey of the DUNE collaboration regarding the Code of Conduct¹

Findings

1. The majority of respondents to the survey felt that the roles of a DUNE code of conduct committee (composed of DUNE scientists) should be: to provide formal resources to collaborators, including best practises on Code of Conduct issues (91%); to provide an informal interface to collaborators, including private consultation on sensitive issues (62.5%), and/or to provide oversight of some other mechanism/person/group that responds to reports (60%).
2. A large minority of respondents to the survey felt that the roles of a DUNE code of conduct committee (composed of DUNE scientists) should be: to investigate complaints (47%), and/or to mediate disputes or complaints (44%)

¹A copy of the survey questionnaire is appended at the end of the document.

- 20 3. A large number of respondents to the survey noted that they would
21 find a completely anonymous webform or informal conversation with a
22 member of an equity and diversity or code of conduct committee useful
23 mechanisms for reporting potential violations of the DUNE Code of
24 Conduct (74% and 71% respectively)
- 25 4. A smaller majority (55%) indicated support for strict formal complaints
26 to report potential violations of the Code of Conduct.
- 27 5. 93% of respondents rated the importance that an investigation be con-
28 ducted by suitable professionals rather than collaboration members as
29 4 or 5 out of 5.
- 30 6. 68% of respondents felt that it was not very important (importance
31 rated 1-2 out of 5) for a potential ombudsperson to be a physicist
32 instead of HR or an independent professional.
- 33 7. 48% of respondents thought that Fermilab HR should have a purely
34 advisory role in the DUNE Code of Conduct system, with no role in
35 specific cases. 28% instead preferred for Fermilab HR to be fully en-
36 gaged in all aspects of the DUNE Code of Conduct system.

37 **Comments**

- 38 1. The questionnaire circulated to the collaboration only gathered 32 re-
39 sponses, so collaboration feedback has low statistics.
- 40 2. Most collaborators felt that the scientists in the DUNE code of con-
41 duct committee should not themselves be responsible for investigating
42 violations, and that investigations should be conducted by suitable pro-
43 fessionals, instead of collaboration members.
- 44 3. The majority of respondents responded that it was not important for
45 a potential ombudsperson to be a physicist instead of HR or an inde-
46 pendent professional. However, it is difficult to interpret this number
47 because the role of ombudsperson was not well defined. It is not clear
48 whether respondents were envisioning this to be a person that performs
49 investigations, or a person that provides support, interfacing, and re-
50 sources to the collaboration (or both). Because of that, this question
51 probably does not provide much useful information.

- 52 4. The responses to the question about the role of Fermilab HR are very
53 split: almost half of respondents thought that Fermilab HR should
54 have no role in individual cases, whereas 28% wanted them to be fully
55 engaged in all aspects. Write-in responses and informal conversations
56 with collaborators have brought up four main points. One argument
57 against having Fermilab HR involved is that they are too embedded
58 in the US legal system, which may mean they are obliged to handle
59 things in certain ways, unable to interface effectively with other coun-
60 tries' legal systems, and are likely to be mandatory reporters for any
61 Fermilab employees. For example, it may be nonsensical to have an
62 HR team embedded only in the US system investigate and/or respond
63 to an issue involving two non-US collaborators. The other argument is
64 that Fermilab HR may have (or may be perceived to have) a conflict
65 of interest in cases involving a Fermilab employee. One argument for
66 having Fermilab HR involved in all aspects seems to be that this should
67 be the role of professionals, not scientists. Another argument (as dis-
68 cussed below in relation to the NOvA Code of Conduct) is that the only
69 thing that links all collaborators is Fermilab, and so the only central
70 body that it makes sense to have in this role is Fermilab. One possible
71 way to resolve these arguments would be to assign the role of managing
72 and enforcing the Code of Conduct system to an external contractor -
73 someone that can become well versed in the relevant international legal
74 systems, is not viewed as biased with relation to Fermilab employees,
75 and is empowered by the collaboration to investigate reports between
76 any collaborators. It would be desirable for this person (or people) to
77 not be a part of Fermilab HR.
- 78 5. A write-in comment encouraged the committee to carefully consider
79 how to handle incidents between two collaboration members at the
80 same institute. They would be covered by both the DUNE Code of
81 Conduct and that of their home institution (as well as the Fermilab
82 Statement of Community Standards, as all collaborators).

83 Conclusions

- 84 1. The scientists in the DUNE code of conduct committee should not
85 themselves be responsible for investigating violations. Instead, they
86 should provide oversight of some other group that responds to reports,

- 87 provide an interface between that group and the collaboration, and
88 provide resources (both formal and informal) to collaborators.
- 89 2. The system should allow for multiple ways to report potential violations
90 of the code of conduct, which should include options to make reports
91 anonymously and/or informally, as well as a mechanism for making
92 formal complaints.
 - 93 3. When an investigation is needed into a potential violation of the Code
94 of Conduct, it should be conducted by trained professionals, rather
95 than collaborators.
 - 96 4. The professionals that are responsible for investigating potential viola-
97 tions of the Code of Conduct should be familiar with relevant practises
98 and legal systems in all collaborating countries, and should ideally not
99 be part of Fermilab HR.
 - 100 5. The system should have a process for oversight by the DUNE Code of
101 Conduct committee. It should allow to aggregate information so that
102 patterns can be identified.

103 **NOvA Code of Conduct and interactions with spokes-** 104 **people**

105 **Findings**

- 106 1. The NOvA Code of Conduct goes into details about
 - 107 (a) Defining the values of the collaboration.
 - 108 (b) Defining misconduct.
 - 109 (c) Defining the roles of the two Equity, Diversity and Inclusion (EDI)
110 chairs.
 - 111 (d) Reporting misconduct.
- 112 2. The NOvA Code of Conduct has a statement that
 - 113 (a) The EDI chairs should be senior collaborators, represent the di-
114 versity of the collaboration and one of the two chairs should be a
115 woman.

- 116 (b) Reporting should be done through the EDI chairs, in a confidential
117 manner, and may result in no action, guidance, direct actions by
118 the spokespeople or a formal report to relevant institutions or law
119 enforcement.
- 120 (c) Following a report, and if convincing evidence is found, remedial
121 measures include a formal report, a ban from participation to
122 in-person meetings, removal from leadership position, from the
123 authorship list or from the collaboration.
- 124 (d) Retaliation, including non-compliance with measures following a
125 report, are not accepted and are to be pursued.
- 126 (e) NOvA and its members waive any liability, since it is a voluntary
127 member body.
- 128 3. NOvA has a code of conduct specific for collaboration meetings.
- 129 4. Several collaborators are subjected by mandatory reporting from their
130 employer for people working for the same institute, which might go
131 against the will of the reporter.

132 **Comments**

- 133 1. The NOvA Code of Conduct is more extensive than the current DUNE
134 Code of Conduct about matters related to encouraged behavior, mis-
135 conduct and the reporting structure around the code of conduct.
- 136 2. Not all reporters might be comfortable with reporting to the chairs.
- 137 3. No NOvA early-career collaborators act as EDI chairs since they could
138 face more easily retaliation.
- 139 4. The NOvA spokespeople should be made aware of most reports.
- 140 5. Any punitive action in NOvA has to go through the spokespeople due
141 to their particular rights and responsibilities.
- 142 6. NOvA does not provide anonymous reporting since Fermilab and DOE
143 already provides such a means. This can interfere with overseeing re-
144 ports.

- 145 7. A code of conduct specific to collaboration meetings is a duplication of
146 efforts.
- 147 8. Having two people from different institutes as Code of Conduct chairs
148 ensures that all collaborators have access to at least one chair that is
149 not a mandatory reporter for them (i.e. not from their institute).
- 150 9. Making clear in writing for the reporter that reporting to a chair of
151 the same institute might make them subject to mandatory reporting
152 would get around the issue.
- 153 10. DUNE having a similar code of conduct as NOvA's will empower the
154 interface of both experiments with Fermilab.

155 **Conclusions**

- 156 1. The DUNE Code of Conduct should be reviewed and expanded upon
157 by the Code of Conduct Committee such as to follow more closely in
158 breadth and details the NOvA Code of Conduct.
- 159 2. The chairs of the Code of Conduct Committee should be of different
160 institutions.

161 **Investigations into external contractors**

162 **Findings**

- 163 1. The committee was advised by the AAS about how they had used
164 external contractors in the past. After a report was made, a contractor
165 was hired to review the report, the AAS harassment policy, and other
166 relevant statements/documents. They would also conduct private fact-
167 finding conversations to investigate the report, and provide a report of
168 their findings and recommendations for possible next steps.
- 169 2. AAS also recommended looking into S*Marts Consulting, which
170 gives an example of an externally-contracted ombudsperson:
171 <http://smartsconsulting.com/>
- 172 3. Argonne National Lab have recently put together an ombudsperson
173 program. They considered having an employee ombudsperson as well
174 as contracting out the role, and eventually decided to employ someone.

175 4. The external contractors considered by ANL include (note that these
176 organizations were not recommended by ANL; because they decided
177 to employ someone for the role they did not follow up on any of these
178 links. These are simply the options that they found in their initial
179 search):

- 180 (a) <https://www.assentcompliance.com>
- 181 (b) <https://www.independentombuds.com>
- 182 (c) <http://www.dinajansenson.com>
- 183 (d) <https://bizexteam.com/index.php>

184 **Comments**

- 185 1. The example from AAS was very limited in scope to a particular inves-
186 tigation after a report had been made. However, there are organisations
187 available that offer ombuds functions as external contractors.

188 **Conclusions**

- 189 1. No specific recommendations based on these findings

190 **LHCb presentation² and implementation³ of recommen-** 191 **dations⁴ on Early Career, Gender and Diversity topics**

192 **Findings**

- 193 1. Two people are appointed as Early Career, Gender and Diversity (ECGD)
194 officers.
 - 195 (a) They are one woman and one man.
 - 196 (b) They are appointed for two years, as other collaboration coordi-
197 nation positions.
 - 198 (c) They remain active in their other tasks.

²https://indico.cern.ch/event/466934/contributions/2589544/attachments/1488699/2315285/170707_EPSECGD.pdf

³https://lhcb.web.cern.ch/lhcb/ECGD_Office/ECGD_actions.pdf

⁴https://lhcb.web.cern.ch/lhcb/ECGD_Office/ECGD_recommendations_final.pdf

199 (d) They are senior people with long-term contracts, such that they
200 are less easily intimidated.

201 2. ECGD activities

- 202 (a) Advise management on ECGD matters.
- 203 (b) Be available to listen and to advise in a confidential way colleagues
204 who feel they are victim of inappropriate behavior.
- 205 (c) Collate annual statistics about ECGD matters.
- 206 (d) Assist management in scheduling open meetings several times per
207 year to discuss ECGD concerns.
- 208 (e) Maintain a webpage as public face: [https://lhcb.web.cern.ch/
209 lhcb/ECGD_Office/ECGD-intro.html](https://lhcb.web.cern.ch/lhcb/ECGD_Office/ECGD-intro.html)
- 210 (f) Monitor gender and diversity in the collaboration as function of
211 age, including leadership positions and talks at conferences.
- 212 (g) Survey the collaboration on ECGD matters and document findings
213 in a collaboration note, which is to be reported to the collabora-
214 tion.
- 215 (h) Support newcomers to the collaboration.

216 3. ECGD meetings

- 217 (a) Plenary session organized at every collaboration meeting, each
218 with a different theme:
- 219 i. Mentoring
- 220 ii. Paternity/maternity leave
- 221 iii. Career options outside HEP
- 222 iv. Sexual harassment
- 223 v. Gender imbalance
- 224 vi. Representation of “young” people
- 225 vii. Human-human interactions within the collaboration
- 226 (b) Volunteers are involved in the preparation of the presentation.
- 227 (c) Attendance is greater than 100 people, typical value for plenary
228 meetings.

- 229 4. ECGD changes to the collaboration
- 230 (a) Instigated a mentor/mentee system.
- 231 (b) People in leadership roles are allowed to take a circumstantial
- 232 leave, i.e. a parental or illness leave, and return to their role
- 233 afterwards.
- 234 (c) While merit and suitability for a role are paramount, gender is
- 235 also taken into account for leadership roles.
- 236 5. ECGD outside LHCb
- 237 (a) LHCb contributed to CERN 5-yearly review of employment con-
- 238 ditions.
- 239 (b) LHCb is in contact with CERN ombudsperson.
- 240 (c) LHCb improved contact with current students and postdocs and
- 241 its alumni.
- 242 (d) LHCb participated in organisation of LHC career networking events.

243 **Comments**

- 244 1. The ECGD matters are broader in scope than strict Code of Conduct
- 245 matters, especially with the existence of Young DUNE.
- 246 2. Although several aspects are beyond the scope of this document, they
- 247 could be considered in the appropriate fora, for example the monitoring
- 248 of gender and diversity, the mentor/mentee system and the circumstan-
- 249 tial leave.
- 250 3. The diversity and seniority of the ECGD officers allow them to be better
- 251 suited to face reports from colleagues and to address ECGD matters
- 252 from different point of views.
- 253 4. The plenary sessions at the collaboration meetings offer visibility to
- 254 ECGD matters.
- 255 5. The collation of statistics allows to monitor the progress of the collab-
- 256 oration on ECGD matters.

257 **Conclusions**

- 258 1. Two long-term contract collaborators should be the chairs of the Code
259 of Conduct Committee with an emphasis on diversity when possible.
260 A Young DUNE representative should be part of the committee, but
261 should not have responsibilities concerning reports made by collabora-
262 tors.
- 263 2. The committee should collate statistics about Code of Conduct mat-
264 ters.
- 265 3. Plenary presentations about Code of Conduct matters should be held
266 at collaboration meetings
- 267 4. The committee should engage with similar efforts outside of the collab-
268 oration.

269 **Meeting with ATLAS expert on matters of Code of Con-** 270 **duct**

271 **Findings**

- 272 1. Real cases are complex and do not usually fall within predefined situ-
273 ations.
- 274 2. It is hard to legislate against situations. Real legalities are nearly im-
275 possible. Each case that occurred was handled differently. In the case
276 of interventions, multiple senior people approached the offending party.
- 277 3. There are differences between American and European cultures, among
278 others, of what constitutes normal social behavior.

279 **Comments**

- 280 1. Differences in what constitute normal behavior are not only limited to
281 cultural differences but could also be related to different generations,
282 due to evolving education.
- 283 2. Complex situations could be dealt by asking (multiple) people of same
284 seniority to talk to the concerned people, such as to help the message to
285 land and be taken seriously. However, this approach has the potential

286 problem that it may break confidentiality, or at least make it more
287 difficult to keep.

288 **Conclusions**

- 289 1. An oversight system should not be too prescriptive and should allow
290 for each report to be treated on a case-by-case basis.
- 291 2. Solutions should be strived for, more than punitive action.
- 292 3. Solutions should keep in mind cultural differences and should support
293 and protect junior people.
- 294 4. Illegal actions should be reported to the police by the people in charge
295 of deciding a course of action for every report.

296 **Recommendations for Disciplinary Process into Staff** 297 **Sexual Misconduct in UK Higher Education (by the** 298 **1752 group and McAllister Olivarius)**⁵

299 **Findings**

- 300 1. A named, trained first point of contact must be clearly signposted.
- 301 2. There must be clear ownership for informing, supporting, and regularly
302 updating complainants of the progress of any process (there must be
303 one point of contact, and a clear timeline should be given to all parties
304 at the start of the complaints process).
- 305 3. There should be no time limit for making a report, or restriction of
306 making a report.
- 307 4. Mediation should not be required in cases of sexual misconduct.
- 308 5. Safeguarding actions in the event of a report that suggests a risk must
309 be clearly set out and followed.

⁵https://1752group.files.wordpress.com/2018/09/the-1752-group-and-mcallister-olivarius-recommendations-for-disciplinary-processes-into-staff-sexual-misconduct-in-uk-higher-education_september-2018.pdf

- 310 6. Third party and anonymous reports should be part of the reporting
311 system.
- 312 7. In the case of an investigation, the investigator should define the is-
313 sues to be investigated and the range of outcomes, and meet with the
314 complainant to agree these at the outset.
- 315 8. The report says “at present, investigations tend to be carried out by
316 a senior member of academic staff, who are rarely truly independent.
317 This is inappropriate because the member of staff is likely to have prior
318 knowledge of the student or staff member, which constitutes a conflict
319 of interest. They are also unlikely to have the skills and expertise
320 to carry out such an investigation.” The report goes on to say that
321 the university should choose from a list of recommended independent
322 investigators to investigate any report.
- 323 9. Following the investigation, the investigation report should be submit-
324 ted to a panel for final determination, and the complainant and staff
325 member should both receive copies of the investigation report and the
326 evidence considered pertaining to them.
- 327 10. If a hearing is held, the complainant should not be required to be in
328 the same room or be questioned by the subject of the complaint.
- 329 11. The final outcome should be written and provided to the complainant
330 and subject of the complaint along with:
- 331 (a) Notification of the right to go to the review stage.
- 332 (b) Grounds to seek review (such as procedural irregularity during the
333 formal stage; unreasonable outcome; new material).
- 334 (c) The review procedure, which should be equally accessible for both
335 parties.
- 336 (d) Where and how to access support, both within and outside of the
337 university.
- 338 12. The report recommends a review process involving an independent
339 panel.

340 **Comments**

- 341 1. This report gives a good example of how to implement disciplinary
342 procedures for violations of a Code of Conduct in an academic setting.
343 The DUNE collaboration could benefit from incorporating some of this
344 research.

345 **Conclusions**

- 346 1. These above findings should be part of the code of conduct.

347 **Additional useful references**

- 348 1. <https://1752group.com>
- 349 2. Report by the 1752 group: [https://1752group.files.wordpress.com/](https://1752group.files.wordpress.com/2018/09/silencing-students_the-1752-group.pdf)
350 [2018/09/silencing-students_the-1752-group.pdf](https://1752group.files.wordpress.com/2018/09/silencing-students_the-1752-group.pdf)
- 351 3. Model code of conduct and procedures for handling violations by S*Marts
352 Consulting: [http://smartsconsulting.com/model-code-of-conduct-and-](http://smartsconsulting.com/model-code-of-conduct-and-procedures)
353 [procedures](http://smartsconsulting.com/model-code-of-conduct-and-procedures)
- 354 4. Select Task Force on the Study of Harassment in the Workplace (from
355 U.S. Equal Employment Opportunity Commission, June 2016):
356 https://www.eeoc.gov/eeoc/task_force/harassment/upload/report.pdf
- 357 5. Sexual Harassment of Women: Climate, Culture, and Consequences in
358 Academic Sciences, Engineering, and Medicine: <https://doi.org/10.17226/24994>
- 359 6. Example of an online reporting system allowing anonymous reports:
360 <https://report-support.ucl.ac.uk>
- 361 7. <https://reportandsupport.co.uk>
- 362 8. <https://www.ombudsassociation.org>
- 363 9. <https://www.projectcallisto.org>
- 364 10. <https://www.navexglobal.com>
- 365 11. <https://www.sacnas.org>
- 366 12. <https://www.nsbp.org>

Advice on Forming a System around the DUNE Code of Conduct

The members of the DUNE Code of Conduct proto-committee (Steve Brice, Kendall Mahn, Ryan Nichol) seek your advice. We are charged with preparing a proposal to the DUNE IB for the charge and scope of a DUNE Code of Conduct Committee and, more generally, a system within the collaboration for advancing the goals of the Code and addressing potential violations of it. There are no simple answers, so we wish to solicit the collaboration for their priorities and concerns about these issues, and any resources they wish to share. How do we want to report potential violations of the Code of Conduct, and what oversight is appropriate? How do we want to act on potential violations of Code of Conduct? How do we want to support collaborators in making a professional, positive and inclusive work environment?

1. What should be the role of a DUNE code of conduct committee (comprised of DUNE scientists)? (check all that apply)

Tick all that apply.

- ☐ Investigate complaints
- ☐ Provide formal resources to collaborators, including best practices on Code of Conduct issues
- ☐ Provide an informal interface to collaborators, including private consultation on sensitive issues (e.g. ombudsperson, a confidential channel of information)
- ☐ Mediate disputes or complaints
- ☐ Provide oversight of some other mechanism/person/group that responds to reports
- ☐ Other: _____

2. Which of the following mechanisms would you find useful for reporting potential violations of the DUNE Code of Conduct? (check all that apply)

Tick all that apply.

- ☐ Completely anonymous webform
- ☐ Informal conversation with a member of an equity and diversity or code of conduct committee
- ☐ Strict formal complaints
- ☐ Other: _____

3. How important is it that any investigation be conducted by suitable professionals rather than collaboration members

Mark only one oval.

	1	2	3	4	5	
Not at all	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Very

4. **If DUNE implements a system with an ombudsperson, how important is it that an ombudsperson is a physicist? (vs. HR or an independent professional)**

Mark only one oval.

	1	2	3	4	5	
Not at all	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Very

368

5. **What role should Fermilab HR (Human Resources) play in the DUNE Code of Conduct system?**

Mark only one oval.

- ☐ Fully engaged in all aspects
- ☐ Purely advisory with no role in individual cases
- ☐ None
- ☐ Other: _____

6. **Do you have any particular concerns or insight about balancing transparency and confidentiality in a DUNE Code of Conduct system?**

7. **Are there differences between cultures and countries that should be paid attention to when forming rules and procedures around the DUNE Code of Conduct?**

8. **Can you suggest any organizations that might provide advice or that DUNE might contract with to assist us in an ongoing way with Code of Conduct reporting and investigation?**

9. **Please mention any relevant resources you would like the committee to consider or use**

369

10. **Is there anything regarding a DUNE Code of Conduct system that you would like to say that has not already been covered in this questionnaire?**
