

STUDENT CODE OF CONDUCT

1. PREAMBLE

We, the students and faculty of the University of Arkansas School of Law (“Law School”), desiring to prepare graduates for a profession that requires high trust, honor, and irreproachable conduct, and affirming that any dishonest, unethical, or otherwise improper means used by law students in such preparation would be incompatible with such requirements, hereby adopt this Student Code of Conduct (“Code”). As with the American Bar Association’s *Model Rules of Professional Conduct*, the touchstone of our system is self-regulation. The policy of self-regulation demands the cooperation of each member of the Law School community. Conduct within the Law School community should be in full compliance with both the letter and spirit of this Code.

2. PURPOSE AND APPLICABILITY OF CODE

2.01. Purpose of Code

The purpose of this Code is to set out general guidance as to acceptable standards of conduct by students within the Law School community, and to establish guidelines for the imposition of sanctions for failure to comply with these standards.

2.02. Applicability of the Code

This Code applies to all students of the Law School.

2.03. Faculty Jurisdiction

- (a) When any issue regarding acceptable standards of student conduct is not covered by this Code, the faculty of the Law School continues to have jurisdiction to decide any case involving the possible violation of such standards and to impose sanctions for failure to comply with such standards.
- (b) Nothing in this Code is intended to supersede the authority and responsibility of a faculty member to control conduct in his/her classroom, to determine what factors are to be considered in assigning a grade and/or credit for student performance, and to determine the appropriate grade or credit to be assigned.

2.04. Discrimination Policy

The Law School is an inclusive community committed to fostering a learning environment that is free from unlawful discrimination and harassment. The Law School prohibits discrimination and harassment based on race/color, national origin, sex, gender, sexual orientation, gender identity, pregnancy, age, disability, religion, marital or parental status, protected veteran or military status, genetic information, and any other protected characteristic under applicable federal and state laws.

The University of Arkansas's Non-Discrimination policy governs all members of the Law School community. It is the responsibility of the University of Arkansas's Office of Equal Opportunity and Compliance (OEOC) to investigate and resolve all allegations of complaints of discrimination and harassment. The Council does not have authority to receive, investigate, or resolve discrimination or harassment complaints.

3. GUIDELINES TO INTERPRETATION

3.01. Scope

This Code establishes standards of acceptable conduct for students within the Law School community. General standards of conduct and specific examples of required conduct and prohibited misconduct are described herein. It is not intended that the failure of the Code to specifically address particular misconduct be interpreted to mean that the Code is not applicable to such misconduct. Proper enforcement of this Code shall necessarily require that the members of the Student Conduct Council (the "Council") attempt to apply their collective sense as to what conduct is required by both the letter and spirit of this Code.

3.02. Intent

The "intent" element of any conduct which is made a violation of this Code is satisfied if the student knew or a reasonable student should have known of the likely consequences of his/her conduct.

3.03. Dean

References herein to "Dean" of the Law School include any person serving as Acting or Interim Dean or, with respect to any matter requiring action by the Dean, any person designated by the Dean to act with respect to that matter.

3.04. Students

Except as may otherwise be indicated, references herein to "students" are intended to be limited to students of the Law School who are candidates for the J.D. degree, and enrolled in courses in the J.D. program, at the time of the conduct covered by this document. "Courses in the J.D. program" includes all courses, regardless of the means of delivery of courses for credit, including but not limited to in a traditional "face-to-face" classroom setting or a distance education format.

3.05. Law School Community

- (a) *Members:* References herein to members of the "Law School community" are intended to be limited to students of the Law School, including graduate students; distance education students; faculty; members of the administration; and staff.

- (b) *Community*: References herein to conduct within the Law School community are not limited to conduct on the premises of the Law School itself, but include conduct involving members of the Law School community in situations in which the Law School has a significant interest, including but not limited to such conduct over the Internet, through open or closed transmission, through video- or audio-conferencing or recording technology, whether in synchronous, asynchronous, or hybrid format, or by correspondence, or any combination thereof.
- (c) *Distance Education*: References herein to distance education are intended to encompass courses in which the class coverage is principally by electronic means, including over the Internet, through open or closed transmission, through video- or audio-conferencing or recording technology, whether in synchronous, asynchronous, or hybrid format, or by correspondence, or any combination thereof.

4. PRINCIPLES OF ACADEMIC RESPONSIBILITY

4.01. Accepted Principles of Honesty

- (a) *Violation*: It shall be a violation of this Code for a student to act contrary to accepted principles of honesty in any academic pursuit or competition.
- (b) *Examples*: Conduct in violation of accepted principles of honesty includes, but is not limited to, the following:
 - (1) Making a material misrepresentation to a member of the faculty or administration respecting Law School, University, or academic matters;
 - (2) Hiding, stealing, or mutilating any materials or property belonging to the Law School, library, the university, another student, a faculty member, or other member of the Law School community;
 - (3) Submitting plagiarized work in any academic pursuit or competition with the understanding that work may be considered plagiarized whether or not it was originally prepared by an individual or generated pursuant to a computer program and with the caveat that appropriate references identifying the source of the material may prevent the use from being plagiarism, even though the use may still violate other provisions of this Code if the academic or competition rules prohibit such use;
 - (4) Offering for credit any work prepared by another;
 - (5) Offering for credit work that has been previously offered for credit by that student, except as authorized by the instructor;
 - (6) Offering for credit work prepared in collaboration with another, except as authorized by the instructor;

- (7) Sharing or soliciting work that has been previously offered for credit with another student, except as authorized by the instructor;
- (8) Falsifying attendance sheets, as defined by the instructor;
- (9) Signing another's name or allowing another to sign one's name in any matter that can affect academic credit;
- (10) Submitting false travel or reimbursement claims on competitions and other travel funded by the Law School; and
- (11) Submitting a false statement of pro bono hours worked, as defined by the Director of Pro Bono and Community Engagement.
- (12) Violating the A.I. policy as set out in the faculty member's syllabus or in the written policies distributed in advance by persons in charge of a law school program or competition.

4.02. Abusive Misconduct within the Law School Community

- (a) *Harassment prohibited:* It shall be a violation of this Code for a student to harass any other member of the Law School community. For purposes of this Code, harassment is either
 - (1) extreme and outrageous conduct that unreasonably and substantially interferes with the work performance of another member of the Law School community, or
 - (2) extreme and outrageous conduct that creates an intimidating or offensive environment for any other member of the Law School community.
- (b) *Intent of Subsection:* The protection in subsection (a) is intended to ensure that each member of the Law School community shall have a reasonably fair and equal opportunity to enjoy the benefits of association with the Law School.
- (c) *Free Expression Rights:* These prohibitions shall be enforced in accordance with First Amendment rights and the Law School's policy of academic freedom.

4.03. Misconduct Concerning Examinations and Other Work for Credit

- (a) *Compliance With Instructions:* It shall be a violation of this Code for a student to fail to comply with all instructions and regulations for taking a Law School examination or performing other work done for credit or to obstruct the administration of an examination or of other work done for credit.
- (b) *Examples of Prohibited Conduct:* Specific prohibitions concerning examinations include, but are not limited to, the following:

- (1) Securing, giving, exchanging, or discussing any information about the contents of or answers to an examination in advance of or during such examination, except as authorized by the instructor;
- (2) Possessing or consulting, during an examination, books, papers, or notes or other materials of any kind, except as authorized by the instructor;
- (3) Retaining copies of any examination, except as expressly authorized by the instructor;
- (4) Retaining notes taken during an examination, except as expressly authorized by the instructor;
- (5) Beginning or continuing to write an examination at any time, except as authorized by the instructor;
- (6) Taking an examination outside the room(s) authorized for that purpose, except as authorized by the instructor;
- (7) Accessing unauthorized computer programs, files, or software during the course of an examination;
- (8) Talking in any room during an examination, except as authorized by the instructor or other individuals administering the examination;
- (9) Creating an unreasonable distraction during an examination;
- (10) Violating the rules designed to ensure that all grading of examinations is anonymous;
- (11) Taking an examination for another student, or permitting one's examination to be taken by another; and
- (12) Invading the administrative security maintained for the preparation and storage of examinations unless such invasion was unintentional and the instructor or a member of the administration of the Law School is promptly notified.

4.04. Misconduct Concerning Enforcement of the Code

- (a) *Obligation to Report:* Any student who in good faith suspects that a violation of this Code has occurred has an obligation to promptly report such suspected violation to a member of the Council, a faculty member, or administrator of the Law School. Failure on the part of any student properly to discharge this obligation is a violation of the Code.
- (b) *Prohibition on Interference:* It shall be a violation of this Code for a student to improperly interfere with the enforcement of this Code. Conduct in violation of this principle includes, but is not limited to, the following:

- (1) Accusing another student of a violation of the Code knowing that the accusation is false;
 - (2) Harassing another student for the reporting of a violation of this Code;
 - (3) Refusing to reasonably cooperate in an investigation of a possible violation of this Code;
 - (4) Failing, without a reasonable excuse, to appear and give testimony before the Council, the Review Board, or the faculty. However, no student shall be required to testify concerning violations or other conduct committed by him or her that would amount to a crime.;
 - (5) Misrepresenting material facts before the Council, the Review Board, or faculty; and
 - (6) Failing to comply with a final order of the Council or Review Board. An order is final for this purpose if the student elects not to appeal or has exhausted the appellate rights as described in Part 8 of this Code.
- (c) *Attempt and Conspiracy:* A student violates this Code when that student attempts or conspires to violate the Code.

4.05. Misconduct in Pursuit of Employment

It shall be a violation of the Code for a student to seek an advantage in pursuit of employment by means of material misrepresentations respecting that student's or another student's academic or professional record.

4.06. Law School Security

It shall be a violation of the Code for a student to possess, transfer, or duplicate keys to the Law School or any office or room in the Law School, including the law library, without proper authorization.

4.07. Library

- (a) *Non-Interference:* It shall be a violation of the Code for a student to unreasonably interfere with the appropriate use of the library by other law library users.
- (b) *Examples:* Conduct in violation of this standard includes, but is not limited to, the following:
 - (1) Hiding or damaging library materials or property;
 - (2) Removing materials or property from the library, except as authorized;

- (3) Accessing LEXIS, WESTLAW, or other computer data bases provided through the library without proper authorization as designated by the library staff;
- (4) Copying, modifying, or transferring any software or related documentation licensed to or developed by the Law School in violation of a software license or confidentiality agreement;
- (5) Using computer facilities to gain or attempt to gain unauthorized access to data or programs;
- (6) Sequestering, mutilating, or destroying any program or application on a Law School computer system; and
- (7) Sharing or transferring without authorization any user or system password.

5. MEMBERSHIP OF STUDENT CONDUCT COUNCIL

5.01. Student Members.

Except during the transition period each spring, as provided in section 5.03(a), there shall be eight student members of the Council, all of whom must be in good academic standing.

5.02. Faculty Representative

- (a) *Primary Faculty Representative:* Membership of the Council shall include one member of the faculty as the primary faculty representative. This faculty member shall be entitled to full membership and shall have the right to vote in Council proceedings. This member shall also be expected to provide such advice, recommendations, or other assistance as the faculty member may deem necessary or desirable.
- (b) *Alternate Faculty Members:* The Dean shall appoint the faculty representative to serve on the Council and shall appoint two alternate faculty representatives who shall serve when the primary faculty representative is unable to serve or is disqualified from serving. Both the primary and alternate representatives shall serve for a two-year term beginning on August 15 of the year appointed, and all faculty members whether or not voting may be present at any Council proceeding although only one faculty representative shall vote.
- (c) *Records:* The primary faculty representative shall be responsible for preserving a complete set of records, prepared by the Council secretary, with respect to any accused the Council determines to have committed a violation or violations of this Code. The primary faculty representative shall serve as principal custodian of such records and shall have the responsibility of insuring that information in these records shall be made available only as provided in section 9.03.

5.03. Selection of Student Members

- (a) *Elections:* The elections of the first year representatives shall take place as soon as reasonably practical at the beginning of the fall semester. The newly elected first year representatives shall immediately assume active membership following their elections. The elections of the second and third year student members shall take place with other student bar elections in the spring semester. The newly elected second and third year members shall immediately assume membership, at first as no-voting observers under the guidance of the outgoing Council until their terms are up at the end of classes each spring. The new representatives may assume active roles prior to that time if it seems likely that a new or pending matter will carry over into or following the exam period. The new representatives shall serve until the end of the following spring semester or until earlier graduation, under the guidance of the outgoing student chairperson.
- (b) *Voting:* Only members of a particular class shall vote for representatives of that class, and each member of that class shall be allowed to vote as follows: for two candidates from the first year class, for three candidates from the second year class and for three candidates from the third year class. The candidates from each class receiving the largest vote totals shall be elected.

5.04. Student Vacancies

- (a) *Replacements:* If an elected representative is unable to complete the elected term of office or is no longer in good academic standing, the Dean shall appoint a student to fill any such vacancy until the next scheduled election for that position. The student appointed to fill a vacancy as class representative should be a member of the same class as the student whose withdrawal created the vacancy.
- (b) *Temporary Vacancies:* If representatives are unable to discharge Council responsibilities for temporary periods — such as illness, disqualification with respect to a particular case, or during the summer term — the Dean is authorized to appoint temporary members to fill these vacancies.
- (c) *Role of Replacements:* These appointees should perform the role of a non-voting student member wherever feasible. If a voting member must be replaced by appointment, an elected non-voting member should move into the voting member role and the appointed member should assume the non-voting member role. This limitation does not apply if it would cause an investigator to change roles during the course of an investigation.

5.05. Selection of Chairperson, Secretary, and Investigators

- (a) *Transition Meeting:* Before the end of classes each spring, the chairperson of the outgoing Council shall call a final meeting at which the newly elected second and third year members shall assume active membership and choose from among themselves a chairperson of the Council and a secretary. The new Council will appoint one non-voting investigative member from each class.

- (b) *Transfer of Duties:* The outgoing chairperson, secretary, and investigators shall assist their successors in assuming the responsibilities of their roles by providing relevant information, documents, and sample communications subject to the requirements of confidentiality provided in section 9.03.

5.06. Orientation

As soon as possible after the both the spring and fall elections, the chairperson or other student members of the previous Council, if available, and the faculty representative shall conduct an orientation session for the benefit of the newly elected members. The purpose of the session shall be to familiarize the new members with the Code, the procedures described in the Code, and the role of the representatives as members of the Council.

6. REPORTING AND INVESTIGATING VIOLATIONS

6.01. Reporting.

- (a) *Mandatory Reporting:* Any student who in good faith reasonably suspects that a violation of this Code has occurred is required to report that violation to a member of the faculty, of the administration, or of the Council.
- (b) *Discretionary Reporting:* Any other member of the Law School community may report suspected violations of the Code.
- (c) *Referral to the Council:* Suspected violations reported to the faculty or members of the administration should be referred to the Council.

6.02. Possible Responses to an Alleged Violation

- (a) *Meeting required:* Upon receiving a report of a potential violation, the chairperson of the Council shall call an initial meeting at which the Council shall determine the appropriate initial steps.
- (b) *No further action:* When a suspected violation has been referred to the Council, the Council may vote not to investigate if it appears to the Council that the allegations, even if true, do not amount to a violation of the Code, or if it appears that the allegations are otherwise baseless. No record need be made of this determination.
- (c) *Preliminary fact finding:* When a suspected violation has been referred to the Council and the Council determines that more facts are needed to determine whether there is any likelihood that a violation of the Code has occurred, the Council may decide to undertake a preliminary fact finding.

- (1) The fact finding may involve one or more members of the Council speaking to the person(s) who made the claim, any faculty member whose course would have been directly affected by the alleged violation(s), the student, and any other relevant person. It is preferable for one or both of the non-voting members to conduct this fact-finding, but it is not necessary that this be the case.
 - (2) If after the preliminary fact finding, the Council concludes that no violation has occurred, a summary record shall be prepared. Such record shall indicate the nature of the fact-finding and disposition, but shall not identify the student(s) involved unless the Council determines that additional records must be kept in case further information or later events warrant additional actions be taken.
 - (3) The results of the preliminary fact finding shall be communicated informally to the person(s) who made the claim and any other person who had notice of the allegation and fact-finding. All of such persons other than the accused shall be reminded that the actions and report of the Council are to be kept confidential.
 - (4) If no further action is required, the student has not been formally “accused” for purpose of this Code, there has been no “investigation,” and no notice is given to the Dean or other Law School representative. The primary faculty representative shall keep any record that has been made.
- (d) *Reasonable possibility of Violation:* When a suspected violation has been referred to the Council, and after any preliminary fact finding under section 6.02(c) has been completed, if it appears reasonably possible that a violation has occurred, a non-voting member of the Council shall be designated as the Investigator. If necessary because of a conflict of interest or otherwise, the Council chairperson may designate a voting member as Investigator for a particular case. If a student other than a non-voting member is designated to investigate a particular case, that student shall be disqualified from voting with respect to that case, and if necessary for quorum purposes, a replacement shall be appointed for that case in accordance with the provisions of section 5.04(b).
- (e) *Notice of Honor Code Investigation:* Unless the Council determines not to investigate or to informally resolve the matter as provided in section 6.02(a) or (b), the Council shall promptly provide a written notice indicating the nature of the allegation(s), the name of the accused student, and the name of the person(s) making the claim, to the accused student, the person(s) who made the claim, and any faculty member whose course would have been directly affected by the alleged violation(s).

7. PROCEDURES OF THE STUDENT CONDUCT COUNCIL

7.01. General Guidance

The Council is charged with the primary responsibility for enforcement of the Code. The Council should seek to conduct itself in a manner that will permit fair and reasonable opportunity for consideration of relevant information concerning alleged violations and as to appropriate sanctions where violations are determined to have been committed. However, it should be understood that a Council proceeding is not a judicial proceeding and therefore is not bound by formal rules of criminal or civil procedure or strict rules of evidence. This Code does not attempt to establish detailed procedural rules, and the Council may on occasion be required to exercise its collective sense of what represents a fair and reasonable procedure.

7.02. Voting

- (a) *Members entitled to vote:* The six voting student members and one faculty representative shall each be entitled to one vote on any Council action or determination.
- (b) *Quorum:* A quorum shall exist if a faculty representative and at least four voting student members are present.
- (c) *Requirements for action or determination:* Except as otherwise specifically provided in this Code, if a quorum is present, any Council action or determination shall be approved if a majority of the members present who are entitled to vote, vote in favor of such action or determination.
- (d) *Determination that a violation has occurred:* If a quorum is present in a hearing on the merits to determine whether a particular student has committed a violation of this Code, a determination that the student has committed the violation shall require the affirmative vote of two-thirds of the voting members present at the hearing. The Investigator shall have the burden of proving by clear and convincing evidence that a violation of the Code has occurred.
- (e) *Sanctions:* The Council shall approve the imposition of sanctions by majority vote.
- (f) *Disqualification:* No member of the Council may participate in the investigation or hearing concerning any alleged violation if that member is disqualified because of conflicts of interest or other appropriate reasons. Each member shall generally have the responsibility of determining whether that member should disqualify himself or herself from participating in the Council deliberations and/or voting with respect to particular matters. However, a majority of the other voting members of the Council may determine that a particular member shall not be permitted to participate in Council deliberations and/or voting with respect to a particular matter. If necessary for quorum purposes, the Dean shall appoint a replacement member for purposes of a particular case.

7.03. Investigator's Responsibilities

- (a) *Investigation:* The Investigator shall conduct an investigation of the alleged violation, including, to the extent relevant, interviewing the person making the accusation, the person being accused, the faculty member(s) whose course(s) would be directly affected, any witnesses, and any other person who might have information relating to the Investigation. If necessary, the Investigator may seek the assistance of others in contacting potential witnesses or obtaining access to other sources of information.
- (b) *Cooperation:* Members of the Law School community are expected to cooperate with such investigation, and as described in section 4.04(b)(3), failure to cooperate may be a separate violation of this Code.
- (c) *Confidentiality:* All persons to whom the Investigator speaks should be warned that the investigation is confidential and that discussing the fact that an allegation has been made, that a particular student or students are being investigated, or the nature of the potential violation, may be a separate violation of this Code. The accused student shall, however, have the right to discuss this matter with persons outside of the Law School Community. If multiple students are involved in a single incident, the accused students shall be strictly prohibited from discussing any part of the investigation or any communications from the Investigator or Council with such other students, directly or indirectly.
- (d) *Report:* When an Investigator has completed an investigation, the Investigator shall render a written report to the Council. The report shall include:
 - (1) a statement as to the nature and basis of the allegation,
 - (2) the identity of the person(s) making the claim,
 - (3) the Investigator's recommendation as to whether there is a sufficient basis for further action by the Council if the Investigator elects to make a recommendation, and
 - (4) Such other information as the Investigator deems relevant, including any recommendations for the Council that the Investigator deems appropriate.

7.04. Council Meeting to Consider Investigator's Report.

- (a) *Council meeting required:* Following receipt of an Investigator's report, the Council must meet to decide what further actions to take.

- (b) *No further action:* If the Council decides that no violation of the Code has occurred, or that the available information could not establish a violation by clear and convincing evidence, no hearing is required. Instead, the Council shall provide notice to the person(s) making the claim, the person accused, and any faculty member(s) whose course is directly affected that the Council has determined that no violation of the Code has occurred or been demonstrated. A record of this determination is required to be prepared and sent to the Dean of Students and the Law School Registrar. The Registrar shall keep this notice in the student's Permanent File in case the student is required to report the investigation in connection with applying for application to the Bar.
- (c) *Additional information:* If the Council decides that additional information is required, the Investigator may be directed to obtain the needed data, and a supplemental report prepared, or the Council may consider other ways in which it might obtain the necessary information. Assistance of outside persons is permitted if necessary, provided reasonable precautions are taken to keep the investigation confidential.
- (d) *Hearing required:* If, after considering the report or reports of the Investigator and any additional information available to it, the Council determines that a violation may have occurred, a hearing is required. In this case, the Council shall promptly provide a written notice to the accused student, the person(s) who made the claim, and any faculty member whose course would have been directly affected by the alleged violation(s).

7.05. Hearing on the Allegations.

- (a) *Procedure at Hearings:* No strict procedure is required at hearings on allegations of Code violations, nor shall the rules of evidence apply. However, hearings shall be conducted in a manner which will allow the accused student and the Investigator a reasonable opportunity to present relevant information, to question witnesses, and to review and discuss all materials and information presented on the commission of the offense. The Council chairperson shall preside at the hearing. The accused student may be represented by any other law student or may be accompanied by any one person of the accused student's choosing. No one accompanying the accused law student who is not a student representative may address the Council.
- (b) *Notice of Hearing:* When the Council determines that a hearing is required, a notice shall be sent to the accused student, the person(s) making the accusation, and any faculty member whose course is directly affected by the alleged conduct. The required notice shall include the following:
 - (1) The date, time, and place of the hearing;
 - (2) A statement that the accused student must appear and either affirm or deny the alleged offense(s), along with a statement that if the student intends to deny the accusations, the student should be prepared to call present testimony, call witnesses, or otherwise present any defense to the accusation that the accused student deems appropriate;

- (3) A copy of the Code (this may be omitted from the notices to faculty and to the person(s) making the claim);
 - (4) A written copy of the Investigator's report and any supplemental report; and
 - (5) A statement that the accused may be accompanied by any person of their choice, but absent special accommodations granted in unusual circumstances, only the accused student may address the Council.
- (c) *Requirement of participation:* The accused student is required to be present, and willful failure to attend absent reasonable justification may amount to a separate violation of the Code.
 - (d) *Requirement of a plea:* The hearing must start with a statement from the accused student either admitting or denying the allegations.
 - (e) *Student admits the violation:* If the accused student admits the alleged offense(s), the Council shall proceed with a consideration of appropriate sanctions, unless it votes to defer that portion of the hearing to a later date. The sanctions portion of the hearing shall be conducted in accordance with section 7.07 of this Code.
 - (f) *Evaluation of the Merits of the Claim:* If the accused student denies the alleged offense(s), the Council shall proceed to evaluate the merits of the claim(s) in accordance with section 7.06 of this Code.

7.06. Hearing on the Merits

- (a) *Procedure at Hearing on the Merits:* No strict procedure is required at this hearing, nor shall the rules of evidence apply. However, the hearing shall be conducted in a manner which will allow the accused student, and the Investigator a reasonable opportunity to present relevant information, to question witnesses, and to review and discuss materials and information presented on the commission of the offense. The chairperson of the Council shall preside at the hearing. All information relevant to the issue of whether the accused student committed a violation or violation(s) of the Code as set forth in the notice described in section 7.05(b) shall be considered.
- (b) *Questions for Consideration:* The primary faculty member of the Council, after consultation with the other Council members, shall draw up a list of questions on which the Council must vote in order to decide all issues before the Council. A separate question shall be drawn up for each factual and legal issue.

- (c) *Deliberation on the Accusations:* After hearing from the Investigator, the accused student, all other relevant witnesses including the faculty member whose course was directly affected if the faculty member wishes to speak, the Council shall deliberate on the evidence presented at the hearing on the merits in private. If the Council determines that it is appropriate to do so, the accused student may be asked to wait while deliberations take place. If the accused student cannot wait, or it appears that deliberations will take a considerable amount of time, the accused student will be notified that they can leave, and they will be contacted with the results of the deliberation as soon as possible.
- (d) *Finding of No Violation:* If the Council determines that an accused has not committed a violation or violations of the Code, a written notice of the Council's determination shall promptly be provided to the accused, to the person(s) making the claim, to any faculty member whose course would be directly affected by the conduct, the Dean of Students, and the Law School Registrar. The Registrar shall keep this notice in the student's Permanent File. Oral communication of this finding may also be provided at the discretion of the chairperson of the Council.
- (e) *Finding of Violation(s):* If the accused student is found to have committed a violation or violations of the Code, the Council shall hold a hearing to consider appropriate sanctions. If the accused was able to wait, the sanctions portion of the hearing shall be held immediately unless the accused student or the Investigator requests additional time to gather and make available further information. The sanctions portion of the hearing shall be held in accordance with section 7.07 of this Code.
- (f) *Record of proceedings:* The secretary of the Council shall develop a reasonable record of the proceedings in order to enable the secretary to prepare a record of the proceedings in case of an appeal. This record shall at least include the witnesses called and a summary of their testimony, the specific question(s) decided by vote of the Council, and the specific decision(s) of the Council on those question(s).

7.07. Hearing on Sanctions

- (a) *Notice required:* Unless the sanctions portion of the hearing proceeds immediately after an admission under section 7.05(e) or after a Council determination under section 7.06(e), the Council will set a date for such hearing, with written notice to be given to the accused student, and if the Council deems it appropriate, to the accuser, any witnesses, and to any faculty member whose course would be directly affected by the conduct. The notice will include notice of the violation or violations that the student has been found to have committed, the time and place of the hearing on sanctions, a statement that the student is required to be present, and notice that the student may present any evidence relevant to the sanction that should be imposed.

- (b) *Procedure at Hearing on Sanctions:* No specific procedural or evidentiary rules are prescribed for this portion of the hearing. The Council shall hear all relevant evidence. Relevant evidence shall include, but not be limited to, evidence of mitigating circumstances, evidence of any previous violation(s) of the Code, and evidence of any conduct by the accused subsequent to the violation(s) that bears on the accused's culpability. The Council may also consider information as to sanctions imposed for similar violations committed in the past by persons other than the accused.
- (c) *Available Penalties:* The Council may impose any of the following penalties in light of the facts, the severity of the offense, and any aggravating or mitigating circumstances:
- (1) Disciplinary probation. As a condition of all disciplinary probation, the accused student shall be notified that another violation of the Code while on probation may result in suspension or expulsion from the Law School, even if sanctions for the separate violations would not give rise to such suspension or expulsion. The Council may attach other conditions to disciplinary probation as it deems appropriate including but not limited to ceasing contact with a student or limited access to facilities.
 - (2) Imposition of a monetary obligation to cover the value of any medical expenses, property damage or the value of any property destroyed or taken and not returned, suffered as a result of the violation(s);
 - (3) Suspension, temporary or permanent, of eligibility for any student organization, office or honor;
 - (4) Cancellation of grade for scholastic work done, as a recommendation only; the final determination of the grade to be assigned will be the responsibility of the faculty member concerned;
 - (5) Reduction of the grade assigned in a course, as a recommendation only; the final determination of the grade to be assigned will be the responsibility of the faculty member concerned;
 - (6) Recommendation to the Dean to refuse to certify the accused student to the Board of Bar Examiners or other licensing authority as being of good moral character (if the Dean is requested to provide such certification);
 - (7) Suspension from the Law School, either for a definite or indefinite period, during which time the student may not come onto campus, except when specifically authorized in writing by the Dean, Dean of Students, or Associate Dean for Academic Affairs;
 - (8) Expulsion from the Law School; and
 - (9) Any combination of the foregoing penalties which in the judgment of the Council is deemed appropriate to punish the offense or offenses committed by the accused student.

- (d) *Failure to Comply*: If the student fails to comply with a sanction imposed by the Council, this failure to comply shall be a separate violation of the Code and shall be treated accordingly.
- (e) *Record of Proceedings*: The secretary of the Council shall develop a reasonable record of the proceedings in order to enable the secretary to prepare a record of the proceedings in case of an appeal. This record shall at least include the witnesses called and a summary of their testimony; the specific issue(s) decided by vote of the Council and the specific decision(s) of the Council on those issue(s); the specific sanctions imposed; any terms or conditions which may be attached to any sanction(s); and an explanation of the reasons for the sanctions imposed.
- (f) *Notices*: Within five days after completion of the hearing on sanctions, the following notices and/or information shall be provided to the accused student, any faculty member whose course is directly affected by the conduct, the Dean, the Dean of Students, and the Law School Registrar:
 - (1) A copy of the record of proceedings required by subsection (e);
 - (2) Notice that the proceedings and results of the proceedings are confidential; and
 - (3) To the accused student only, notice of the appellate procedure described in section 8 of this Code.
- (g) *Records to be kept*: The primary faculty representative shall keep a copy of the notice described in the preceding section and the Law School Registrar shall place such notice in the accused student's permanent file.

8. APPELLATE REVIEW

8.01. Review Board

When necessary, the Dean shall appoint a Review Board composed of five faculty members. The Review Board shall select from its members a chairperson and secretary. A quorum of four members is required before any action can be taken. Unless otherwise stated in this code, an action is authorized by a majority vote of the quorum. In the event of an appointee being unable to carry out their duties or if they recuse themselves, the dean shall appoint another faculty member to replace them.

8.02. Appeal Procedure

- (a) *Notice of Appeal:* Within ten days after the notice required by 707(f) has been given, the accused student, the person(s) making the claim, or a faculty member whose course has been directly affected by the alleged offense(s), may appeal any of the Council's ruling(s) by notifying in writing the chairperson of the Council of such intention to appeal. Such notice to appeal shall include the ground(s) on which the appealing person is asking for relief and the relief requested.
- (b) *Notice to Review Board:* After receipt of such notification, the chairperson of the Council shall promptly notify the Dean to appoint a Review Board, members of which shall promptly be given notice of the appeal.
- (c) *Notice of Hearing:* The Review Board shall set a hearing date within ten days after receipt of the notice from the chairperson of the Council. After such notification, the chairperson of the Review Board shall notify in writing the appealing party of the date, time, and place for hearing before the Review Board.
- (d) *Record of Council Proceedings.* At least five days before the Review Board's hearing, the secretary of the Council shall deliver to the chairperson of the Review Board the record made of all proceedings before the Council relevant to the accusations made against the accused student and the sanctions imposed. The record shall include all notices and materials delivered to and received from the accused student.

8.03. Review Board Hearing

- (a) *Presentations:* The chairperson of the Council and the person asking for the appeal shall present his/her case to the Review Board at the hearing. The person asking for the appeal shall speak first, and the chairperson of the Council shall speak second. The person asking for the appeal may speak in rebuttal. If the accused student is not the person appealing, the accused student or his/her representative shall also be permitted an opportunity to speak to the Review Board after the other presentations are made.
- (b) *Action by Review Board:* After reviewing the record from below and the arguments presented to the Review Board, the board may take one or a combination of the following actions:
 - (1) The board may affirm the action(s) taken by the Council in whole or in part.
 - (2) The board may reverse the action(s) taken by the Council in whole or in part and/or remand to the Council for further proceedings. However, findings of fact by the Council in favor of the accused may not be set aside by the Review Board. Other findings of fact by the Council shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the Council to judge the credibility of the witnesses. The secretary of the board shall notify the chairperson of the Council in writing of the reasons for reversal and/or remand.

- (3) The board may impose a different sanction, including a harsher sanction, than that imposed by the Council if such different sanction is approved by at least two-thirds of the board members present.
- (c) *Hearings:* The Review Board may conduct such additional hearings as it deems necessary. The accused shall have the same rights at these additional hearings as is provided in the Hearings before the Council.
- (d) *Notices:* The secretary of the Review Board shall notify the accused student, the Dean, the chair of the Student Conduct Council, the person(s) making the claim, and any faculty member whose course is directly affected by the alleged conduct of the Review Board's decision. Notices to persons other than the accused student and the Dean shall contain a reminder of the requirements of confidentiality as provided in section 9.02.

8.04. Appeal to Full Faculty

- (a) *Limited Right of Appeal:* Once the Review Board has made its decision, there is no further right to appeal except under the circumstances described in paragraph (b) which follows.
- (b) *Change in Sanction:* If the Review Board imposes a different sanction on the accused student, the accused student, the person(s) making the claim, or a faculty member whose course has been directly affected by the offense(s) has a right to appeal this action to the full faculty. The scope of the appeal shall be limited to the review of the Review Board's imposition of a different sanction.

8.05. Procedure for Appeal to Full Faculty

- (a) *Notice of Appeal:* Any person having a right to appeal under section 8.04 may appeal by giving written notification of the intention to appeal to the Dean no later than ten days after the person appealing has received notification of the Review Board's decision.
- (b) *Faculty Meeting:* The Dean shall convene the full faculty for the hearing no later than twenty days after written notification of intention to appeal has been received by the dean.
- (c) *Notice of Meeting:* The Dean shall notify the accused student, the person(s) making the claim, and all faculty of the date, time, and place of the meeting.
- (d) *Presentation(s) at Meeting:* The chairperson or other member of the Review Board and the person asking for the appeal can present his/her case to the full faculty at a hearing. The person asking for the appeal shall speak first, and the chairperson or other member of the Review Board shall speak second. If the accused student is not the person appealing, the accused student or his/ her representative shall also be permitted an opportunity to speak to the full faculty after the other presentations are made.
- (e) *Faculty Vote:* A majority of a quorum of the full faculty entitled to vote, excluding members of the Review Board, shall either:

- (1) affirm the Review Board's decision, or
 - (2) reverse and remand to the Review Board with instructions to reinstate the original Council's sanction.
- (f) *Quorum Requirement:* A quorum of the full faculty exists if at least a majority of faculty members entitled to vote are present at the beginning of the meeting and at the time the vote is taken.

8.06. Notices of Faculty Disposition of Appeal

- (a) *To the accused and Dean:* The accused and the Dean shall be provided prompt written notice of the faculty's disposition of the appeal.
- (b) *To others:* The chair of the Council and the person(s) making the claim, and any Faculty member whose course would be directly affected by the conduct shall be provided with prompt written notice of the faculty's disposition of the appeal. These notices shall contain reminders of the requirements of confidentiality provided in section 9.03.

9. MISCELLANEOUS

9.01. Proceedings by Electronic Means

In any proceeding involving an alleged violation of the Code the Council may, at the request of the accused student or as the Council deems appropriate, hold the proceeding by electronic means, including video conference.

9.02. Calculation of Time Periods

In the calculation of any of the time periods referred to in this code, weekends, Law School holidays, and the day from which the time period begins to run shall not be included in the calculation of time period.

9.03. Confidentiality

- (a) *Obligation of Confidentiality:* Hearings and deliberations of the Council, Review Board and faculty with respect to any alleged offense under this Code shall be conducted in executive session in order to insure the confidentiality of such hearings and deliberations.
 - (1) All members of the Council shall keep in confidence all aspects of the case unless the Review Board, full faculty, or this code authorizes disclosure.

- (2) Except as provided in subsection (d), all other participants in any Council proceeding, including those persons entitled to notice of such proceeding(s), shall keep in confidence everything heard at such proceeding(s) and any information contained in notices received by such persons.
 - (3) After receipt of the notice provided in section 7.07(f) concerning the results of the hearing on sanctions in a particular case, if the Dean determines that disclosure will serve a substantial institutional interest, may provide information as to such results to the teaching faculty and reference librarians on a confidential basis.
- (b) *Purpose of Records:* The records prepared by the secretary, as required by this Code, are intended both to facilitate possible appeals and to provide precedential information to the Council with respect to future matters which may come before the Council. This information may be relevant to determine whether a particular accused before the Council was previously determined to have committed any violation(s) of the Code. It may also be relevant in providing guidance as to sanctions which may have been imposed in the past for similar misconduct.
 - (c) *Access to records:* The primary faculty representative on the Council shall act as principal custodian of Council records and shall ensure that the records are used only for the purposes described in this section.
 - (d) *Records concerning accused:* If the Council requests information as to whether the accused was previously determined to have committed any violation(s) under the Code, the faculty representative shall provide a brief summary of the previous violation(s) by the accused, if any, and of any sanction(s) which may have been imposed.
 - (e) *Records concerning past violations:* If the Council requests information as to sanctions imposed in the past for commission of violations similar to those before the Council, the faculty representative shall provide a brief summary of any such prior sanctions. This summary shall not include information identifying anyone who was previously accused.
 - (f) *General information:* If the council requests general statistical information — for example, as to the number of offenses committed during a particular period in the past— the faculty representative shall provide a brief summary of such information, but shall not provide information identifying any particular accused.
 - (g) *Faculty Members with Substantial Interest:* Any faculty member who has a substantial interest in knowing whether a particular person has ever been determined to have committed a violation of this Code may request that the faculty representative on the Council review the Council records to determine whether any such past violation was determined to have been committed. For example, a faculty member who has been asked to provide a letter of recommendation for a student or former student shall be deemed to have the “substantial interest” required by this subsection.

- (h) *Summary records:* When an accused is determined not to have committed an offense, a summary record only will be retained. Such record shall indicate the nature of the allegation and the disposition of the case, but shall not identify the accused student. For purposes of this section, an accused shall be deemed not to have committed an offense when that is the final disposition of the case, whether the final disposition occurs with or without a hearing. If the results of a hearing are appealed, final disposition is deemed to be the result following conclusion of the appeal.
- (i) *No recordings:* No proceedings can be recorded unless otherwise allowed by the Council.
- (j) *Posting:* At such times as the Council shall determine, an anonymized list of recent violations and penalties may be made available to students for purposes of warning members of the Law School community about the consequences of failing to comply with the terms of this Code. The Council shall determine the appropriate timing, means and manner of any such communication, keeping in mind the need to preserve student anonymity. The list may include violations from the prior several years, without indicating the year in which any such violation occurred.

10. AMENDMENTS

10.01. Proposal of Amendments

- (a) *Proposals:* A student or faculty member may suggest to any member of the Council changes in this Code.
- (b) *Council Approval:* The Council may propose amendments to the Code by a majority vote of all student representatives, including those members who are ordinarily non-voting, and the primary faculty member.
- (c) *Notice to Faculty:* Written notice of such action and the terms of any proposed amendment shall be presented to the faculty.
- (d) *Student Input:* If it deems it desirable, the Council may hold public hearings or otherwise solicit comments and suggestions concerning any proposed amendment under consideration by the Council.

10.02. Approval of Amendments

Any amendment to the Code shall become effective only after submission to and approval by a majority of the faculty. The amended Code shall be posted online and students shall be notified that the Code has been amended as soon as possible. The amended Code will go into effect ten days after being posted.

*April 1, 1996: This code was adopted in 1996 and became effective during the Fall 1996.
Amended April 22, 2005; October 2, 2015; November 20, 2015; March 12, 2019; April 10, 2020;
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