

## **APPENDIX TWO: STUDENT CODE OF CONDUCT**

### ***1. PREAMBLE***

We, the students and faculty of the University of Arkansas School of Law, 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. 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 School of Law of the University of Arkansas.

#### **2.03. Faculty Jurisdiction**

- (a) When any issue regarding acceptable standards of student conduct is not covered by this code, the faculty of the School of Law 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.

### ***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 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 School of Law include any person serving as acting or interim dean or, with respect to any matter requiring action by the dean, any person delegated 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 School of Law who are candidates for the J.D. degree, and enrolled in courses in the J.D. program. “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 School of Law, 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 School of Law itself, but include conduct involving members of the law school community in situations in which the School of Law 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) 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) 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 School of Law, 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;
  - (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.

##### **4.02. Abusive Misconduct within the Law School Community**

- (a) 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) The protection in subsection (a) is intended to insure that each member of the law school community shall have a reasonably fair and equal opportunity to enjoy the benefits of association with the School of Law.
- (c) 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) 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) 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) Using a computer or memory typewriter during the course of an examination, except as authorized by the instructor;
  - (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) Smoking during an examination, except in rooms or areas authorized for this purpose;
  - (11) Violating the rules designed to insure that all grading of examinations is anonymous;
  - (12) Taking an examination for another student, or permitting one's examination to be taken by another; and
  - (13) 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 School of Law is promptly notified.

#### 4.04. Misconduct Concerning Enforcement of the Code

- (a) 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 Student Conduct Council, a faculty member, or administrator of the School of Law. Failure on the part of any student properly to discharge this obligation is a violation of the code.
- (b) 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 Student Conduct Council, the Review Board, or the faculty. However, that student shall not be required to testify concerning alleged violations committed by him or her;
  - (5) Misrepresenting material facts before the Student Conduct Council, the Review Board, or faculty; and
  - (6) Failing to comply with a final order of the Student Conduct 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 sections 9.02 — 9.05.
- (c) 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 School of Law or any office or room in the School of Law, including the law library, without proper authorization.

#### 4.07. Library

- (a) 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) 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 School of Law 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 School of Law computer system; and
- (7) Sharing or transferring without authorization any user or system password.

## ***5. MEMBERSHIP OF STUDENT CONDUCT COUNCIL***

### **5.01. Voting Student Members**

Membership of the Student Conduct Council shall include six students in good academic standing, who shall be entitled to vote in council proceedings. Two members shall be elected from each of the three law school classes.

### **5.02. Nonvoting Student Members**

Membership of the council shall include two nonvoting student representatives-at-large in good academic standing, one from the second year class and one from the third year class. These student members shall generally have the responsibility for investigating alleged violations of the code and presenting evidence of violations at council hearings.

### **5.03. Faculty Representative**

- (a) Membership of the council shall include one member of the faculty. 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 member may deem necessary or desirable.
- (b) The dean shall appoint the faculty representative to serve on the council, and shall appoint alternate faculty representatives who shall serve when the regular faculty representative is unable to serve or is disqualified from serving. Both the regular and alternate representatives shall serve for a two-year term beginning on July 1st of the year appointed.
- (c) *Records:* The faculty member shall be responsible for preserving a complete set of records, prepared by the council secretary, with respect to any accused the Student Conduct Council determines to have committed a violation or violations of this code. The faculty member 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 8.02.

### **5.04. Selection of Student Members**

- (a) *Elections:* The elections of the second and third year class representatives and the representatives-at-large shall take place with other student bar elections in the spring semester. The first year representatives will be elected during the second full week of classes at the beginning of the fall semester. The newly elected

members shall immediately assume active membership following their elections. These representatives shall serve for a one year term or until earlier graduation.

- (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 for two candidates from that class. The two candidates from each class receiving the largest vote totals shall be elected. One non-voting member of the council shall be elected by the second-year class, and the other non-voting member by the third-year class.

#### 5.05. Student Vacancies

- (a) If an elected representative is unable to complete the elected term of office or is no longer in good academic standing, the dean of the school of law 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) 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 of the school of law is authorized to appoint temporary members to fill these vacancies.
- (c) In unusual circumstances the Dean may appoint a temporary voting member.

#### 5.06. Selection of Chairperson and Secretary

As soon as possible after the elections, the newly elected student representatives shall choose, from among the student voting members, a chairperson of the Student Conduct Council and a secretary.

#### 5.07. Orientation

As soon as possible after the fall election, 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 Student Conduct Council.

## **6. REPORTING AND INVESTIGATING VIOLATIONS**

### **6.01. Who May Report**

- (a) 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 Student Conduct Council.
- (b) Any member of the law school community may report suspected violations of the code.
- (c) Suspected violations reported to the faculty or members of the administration should be referred to the Student Conduct Council.

### **6.02. Investigation of Alleged Violation**

- (a) When a suspected violation has been referred to the Student Conduct Council, the council may vote not to investigate an allegation:
  - (1) that appears on its face to be baseless, or
  - (2) that the council in its discretion determines, while not on its face baseless, is a minor matter not involving dishonesty, abusive conduct, cheating, or unfair advantage, and is appropriate for informal investigation or resolution.
- (b) Unless the council determines not to investigate or to informally resolve the matter as provided in section 6.02(a), a member of the council shall be designated to investigate the allegation. Such member is referred to hereinafter as the Investigator. The representative-at-large will usually perform this function, but the council chairperson may designate another Investigator for a particular case. If a student other than the representative-at-large is designated to investigate a particular case, that student shall be disqualified from voting with respect to that case, and a replacement shall be appointed for purposes of that case in accordance with the provisions of section 5.05(b).
- (c) *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), the council shall promptly provide a written notice indicating the nature of the allegation(s), the name of the student, and the name of the person(s) making the claim, to the student, the person(s) who made the claim, and any faculty member whose course would have been directly affected by the alleged violation(s).
- (d) *Report:* After the completion of the 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, and
  - (4) such other information as the Investigator deems relevant.
- (e) The council may vote (following the procedure described in section 7.02) to either accept or reject the recommendation of the Investigator as to further action.



- (1) If the Investigator has recommended that no further action be taken, and the council approves that recommendation, no further action, except as provided in section 7.03, need be taken by the council.
- (2) If the council disapproves of an Investigator's recommendation that no further action be taken, the council shall then follow the procedures described in section 7.04 concerning further action.
- (3) If the council disapproves of an Investigator's recommendation that further action be taken, no further action need be taken by the council, except as provided in section 7.03.
- (4) If the council approves of an Investigator's recommendation that further action be taken, the council shall then follow the procedures described in section 7.04 concerning further action.

## ***7. PROCEDURES OF THE STUDENT CONDUCT COUNCIL***

### **7.01. General Guidance**

The Student Conduct 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 class representatives and the 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 a particular sanction in accordance with the general requirements described in section 7.02(c) above.

- (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. The dean shall appoint a replacement member for purposes of a particular case.

#### 7.03. No Further Action Required

- (a) *Notice:* If after considering the report and recommendation of the Investigator the council determines that no further action is required, the council shall promptly provide a written notice indicating the council's determination to the student, the person(s) who made the claim, and any faculty member whose course would have been directly affected by the alleged violation(s).
- (b) *Further action not precluded:* This initial determination shall not preclude a subsequent determination to take additional action on the basis of additional relevant information. The council shall determine the appropriate procedure for considering such additional information.
- (c) *Records:* If the council determines that no further action is required, a summary record shall be prepared. Such record shall indicate the nature of the investigation and disposition, but shall not identify the student(s) involved.
- (d) *Status:* If no further action is required, the student has not been formally "accused" for purpose of this Code, and no notice is given to the Dean or other law school representatives.

#### 7.04. Further Action Required

- (a) *Notice:* If after considering the report and recommendation of the Investigator the council determines that further action is required, the council shall promptly provide a written notice indicating what further action will be taken 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).
- (b) *Action:* If the council determines that additional action is necessary with respect to a reported violation, it shall determine the action to be taken, which may include
  - (1) referring the matter to a Preliminary Hearing as described in section 7.05; and
  - (2) deferring the determination of whether to refer the matter to a Preliminary Hearing pending
    - (A) requesting additional investigations by the Investigator; and/or
    - (B) calling and examining witnesses, other than the accused student, and in other ways gathering additional relevant information to be considered by the council before determining whether the matter

should be referred to a Preliminary Hearing. The accused student may be permitted but not required to present any relevant information to the council for its consideration in determining whether referral to a Preliminary Hearing is required.

- (c) If the council has initially deferred the determination of whether to refer the matter to a Preliminary Hearing, it shall subsequently make that determination as promptly as is reasonable under the circumstances.

#### 7.05. Preliminary Hearing

- (a) *Notice:* Once the council refers the matter to a Preliminary Hearing, the council shall promptly provide a written notice indicating the council's decision 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). This notice shall include the following:
  - (1) The date, time, and place of the Preliminary Hearing;
  - (2) A statement that the accused student must appear and either affirm or deny the alleged offense(s);
  - (3) A copy of the code (this may be omitted from the notices to faculty and to the person(s) making the claim), and a written copy of the Investigator's report; and
  - (4) A statement that the accused may be represented by a student of the accused's choice or accompanied by a person of the accused's choice. A student may only be represented by themselves or a student of his or her choice as defined by § 3.04. Any non-student who accompanies the accused may not address the council.
- (b) *Notice of possible Sanction Hearing:* If the council wants to preserve the option of holding a Sanction Hearing immediately after the Preliminary Hearing, a notice of the Preliminary Hearing shall also include a notice of those circumstances under which the Sanction Hearing may be held immediately after the Preliminary Hearing, as described in section 7.07(b)(1), and notice of the rights the accused will have at such Sanction Hearing, as described in section 7.07(a).
- (c) *Council Action*
  - (1) *Referral to Hearing on the Merits:* If the accused student denies the alleged offense(s), the council shall refer the matter to a Hearing on the Merits.
    - (A) *Notice:* The council shall provide written notice to the accused of the Hearing on the Merits. The notice shall comply with the requirements of section 7.06(a)(1).
  - (2) *Referral to Sanction Hearing*
    - (A) If the accused student affirms the alleged offense(s), the council may refer the matter to a Sanction Hearing to be held immediately following the Preliminary Hearing under the circumstances described in section 7.07(b)(1).

- (B) If the Sanction Hearing will not be held immediately after the Preliminary Hearing, the council shall provide written notice of the Sanction Hearing as described in section 7.07(a).

## 7.06. Hearing on the Merits

### (a) *Notices*

- (1) *Notice to accused:* The accused shall receive written notice of the Hearing on the Merits. This notice shall include the following:
  - (A) The date, time, and place of the Hearing on the Merits;
  - (B) The alleged violations that will be considered at the Hearing on the Merits;
  - (C) A statement that the presence of the accused is required;
  - (D) A statement that the accused may be represented by a student of the accused's choice or accompanied by a person of the accused's choice. A student may only be represented by themselves or a student of his or her choice as defined by § 3.04. Any non-student who accompanies the accused may not address the council;
  - (E) A statement that the accused or the student representative shall have the right to present evidence on the accused's behalf regarding the issue of whether the accused student has committed the alleged violation(s) of the code; and
  - (F) A statement that the accused or the student representative shall have a right to question any witnesses and to examine and discuss any information presented concerning the alleged commission of a violation of the code.
- (2) *Notice to person(s) making the claim:* The council shall notify the person(s) making the claim of the date, time, and place of the Hearing on the Merits, and the requirement that he/she appear at the hearing.
- (3) *Notice to faculty:* The council shall notify any faculty member who requests such notification of the date, time, and place of the Hearing on the Merits, and provide information on the pending charges.
- (4) *Notice to others with relevant information:* The council shall notify other persons known by the council to have relevant information and request them to appear at the hearing. Such persons will be notified only if it is reasonable to do so.
- (5) *Requests for notice:* Other persons with information can request that the council notify them and allow them to appear.
- (6) *Notice of possible Sanction Hearing:* If the council wants to preserve the option of holding a Sanction Hearing immediately after the Hearing on the Merits, notice of the Hearing on the Merits shall also include a notice of those circumstances under which the Sanction Hearing may be held immediately after the Hearing on the Merits, as described in section 7.07(b)(2), and notice of the rights the accused will have at such Sanction Hearing, as described in section 7.07(a).

- (b) *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, the student representative, 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 Chair of the Student Conduct Council shall preside at the hearing.
- (c) The faculty member of the Student Conduct Council, after consultation with the other council members, shall draw up a list of questions on which the Student Conduct 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.
- (d) *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).
- (e) *Action of the council*
  - (1) *Accused determined to have committed violation(s)*
    - (A) If the accused student is determined to have committed a violation or violations of the code, the council may refer the matter to a Sanction Hearing to be held immediately following the Hearing on the Merits under the circumstances described in section 7.07(b)(2). In this event, verbal notification shall be given to the accused, the person(s) making the claim, and to any faculty member entitled to notice under section 7.05(a) or 7.06(a)(3) of the specific violation(s) the accused is determined to have committed. Persons receiving notice, other than the accused, shall be reminded of the requirements of confidentiality as provided in section 8.01.
    - (B) If the Sanction Hearing will not be held immediately after the Hearing on the Merits, the council shall provide written notice of the Sanction Hearing as described in section 7.07(a).
  - (2) *Accused determined not to have committed violation:* If the council determines that an accused has not committed a violation 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 who requested notification under section 7.06(a)(3), the Dean of Students, and the Registrar. The Registrar shall keep this notice in the student's Permanent File.

## 7.07. Sanction Hearing

- (a) *Notices*
  - (1) *Notice to accused:* The accused shall receive written notice of the Sanction Hearing. This notice shall include the following:

- (A) A description of the specific violation(s) determined to have been committed by the accused;
  - (B) The date, time, and place of the Sanction Hearing;
  - (C) A statement that the accused must appear at the Sanction Hearing;
  - (D) A statement that the accused may be represented by themselves or a student of his or her choice as defined by § 3.04. Any non-student who accompanies the accused may not address the council.
  - (E) A statement that the council may take relevant evidence from others at the Sanction Hearing;
  - (F) A statement that the accused or the student representative shall have the right to present evidence on the accused's behalf regarding the issue of the appropriate sanction(s) to be imposed for the accused's violation(s) of the code; and
  - (G) A statement that the accused or the student representative shall have a right to question any witnesses and to examine and discuss any information presented concerning the appropriate sanction to be imposed for the accused's violation(s) of the code.
- (2) *Notice to person(s) making the claim:* The council shall notify the person(s) making the claim of the specific offense(s) the accused was determined to have committed, of the date, time, and place of the Sanction Hearing, and the requirement that he/she appear at the hearing. This notice shall contain a reminder of the requirements of confidentiality as provided in section 8.01.
  - (3) *Notice to faculty:* The council shall notify any faculty member who is entitled to notice under section 7.05(a) or 7.06(a)(3) of the specific offense(s) the accused was determined to have committed, and of the date, time, and place of the Sanction Hearing. This notice shall contain a reminder of the requirements of confidentiality as provided in section 8.01.
  - (4) *Notice to others with relevant information:* The council shall notify other persons known by the council to have relevant information and request them to appear at the Sanction Hearing. Such persons will be notified only if it is reasonable to do so.
  - (5) *Requests for notice:* Other persons with information can request that the council notify them and allow them to appear at the Sanction Hearing.
- (b) *Sanction Hearing immediately after Preliminary Hearing or Hearing on the Merits*
    - (1) *After Preliminary Hearing:* The council may hold a Sanction Hearing immediately after the Preliminary Hearing if the following requirements are satisfied:
      - (A) The accused student at the Preliminary Hearing affirmed commission of the alleged offense;
      - (B) The notice of the Preliminary Hearing also contained notice of these requirements for holding the Sanction Hearing immediately after the Preliminary Hearing, and contained the information required by section 7.07(a) to be provided to the accused;

- (C) No new witnesses are to be called for the purpose of sanctioning the accused student; and
  - (D) The accused student agrees to holding the Sanction Hearing immediately after the Preliminary Hearing.
- (2) *After Hearing on the Merits:* When the accused is determined to have committed a violation of the code, the council may hold a Sanction Hearing immediately after the Hearing on the Merits if the following requirements are satisfied:
  - (A) The notice of the Hearing on the Merits also contained notice of these requirements for holding the Sanction Hearing immediately after the Hearing on the Merits, and contained the information required by section 7.07(a) to be provided to the accused, except for the description of the violations committed;
  - (B) No new witnesses are to be called for the purpose of sanctioning the accused student; and
  - (C) The accused student agrees to holding the Sanction Hearing immediately after the Hearing on the Merits.
- (c) *Procedure at Sanction Hearing:* No specific procedural or evidentiary rules are prescribed for this Sanction 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.
- (d) *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.
- (e) *Notices:* Within five days after completion of the Sanction Hearing, the following notices and/or information shall be provided:
  - (1) *To the accused:* A copy of the record of proceedings required by subsection (d) above and by section 7.06(d) shall be provided to the accused. The records shall be accompanied by a written notice to the accused of the appeal procedure described in section 9.02.
  - (2) *To faculty and person(s) making the claim:* Written notices indicating the disposition of the case shall be provided to any faculty member who was entitled to notice under section 7.05(a) or 7.06(a)(3) and to the person(s) making the claim. These notices shall contain a reminder of the requirements of confidentiality as provided in section 8.01.

- (3) *To dean:* Written notice indicating the disposition of the case shall be provided to the Dean, the Dean of Students, and to the Registrar. The Registrar shall keep this notice in the student's Permanent File.

#### 7.08. Procedures involving Distance Education Courses

In any proceeding involving an alleged violation of the Student Code of Conduct in a Distance Education Course, including but not limited to the preliminary hearing, hearing on the merits, sanction hearing or appeal, the accused may appear by electronic means including video conference, when the accused is not in residence at the Law School and the appearance would occasion hardship due to the necessity of travel, or other extraordinary circumstances.

#### 7.09. Penalties

- (a) The Student Conduct 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;
    - (A) 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 School of Law, even if sanctions for the separate violations would not give rise to such suspension or expulsion.
    - (B) 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) Notification to the dean to refuse to certify the accused student to the Board of Bar Examiners as being of good moral character;
  - (7) Suspension from the School of Law, 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 Associate Dean for Academic Affairs or designee;



- (8) Expulsion from the School of Law; and
- (9) Any combination of the foregoing penalties which in the judgment of the Student Conduct Council is deemed appropriate to punish the offense or offenses committed by the accused student.
- (b) 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.

## **8. MISCELLANEOUS**

### **8.01. Confidentiality**

- (a) Hearings and deliberations of the Student Conduct 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.
- (b) All members of the Student Conduct Council shall keep in confidence all aspects of the case unless the Review Board, full faculty, or this code authorizes disclosure.
- (c) Except as provided in subsection (d), all other participants in any Student Conduct 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.
- (d) After receipt of the notice provided in section 7.07(e)(3) concerning the results of the Sanction Hearing in a particular case, the dean, if he or she 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.

### **8.02. Confidentiality of Records**

- (a) *Purposes 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.
- (b) *Access to records:* The faculty representative on the council shall act as principal custodian of council records, and shall insure that the records are used only for the purposes described in this section.
  - (1) *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.
- (2) *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.
  - (3) *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.
  - (4) 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 Student Conduct 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.
  - (5) All records will be stored on a secured server with access restricted as required by this section.
- (c) *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 without a Hearing on the Merits, after a Hearing on the Merits, or as a result of any subsequent appeal. No proceedings can be recorded unless otherwise allowed by the council.

### 8.03. Posting

At the beginning of each academic year no more than three weeks after the beginning of classes, the Student Conduct Council shall post in a conspicuous place a list of violations found by the council to have occurred since the last posting and a separate list of the sanctions imposed during previous years. The particular sanction shall not be linked to the specific violation. Under no circumstances shall the name of the guilty student be disclosed in this posting. This information will be accessible to students through a designated secured site.

#### 8.04. 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. APPELLATE REVIEW***

#### 9.01. Review Board

- (a) The Review Board shall be composed of five faculty members appointed by the dean. Each faculty member shall serve for one calendar year or until appointment of a replacement. The dean is empowered to appoint a replacement either temporarily or permanently for any Review Board member unable to meet his or her commitments during the year.
  - (1) A quorum of four members is required before any action can be taken.
  - (2) Unless otherwise stated in this code, an action is authorized by a majority vote of a quorum.
- (b) The dean shall appoint a chairperson and secretary of the Review Board to serve for one year, running from the fall semester through the following summer term, or until the appointment of a replacement.
- (c) If any Review Board member recuses him or herself, the dean shall appoint a temporary replacement.

#### 9.02. Appeal Procedure

- (a) Within ten days after the final action by the Student Conduct Council, 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 Student Conduct Council's ruling(s) by notifying in writing the chairperson of the Student Conduct 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. Action by the Student Conduct Council shall not be deemed final for this purpose until the accused, the person(s) making the claim, and faculty entitled to notice have been provided the notice of the council's action as required by section 7.07(e).
- (b) After receipt of such notification, the chairperson of the Student Conduct Council shall promptly notify the chairperson of the Review Board.
- (c) 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) This hearing shall take place no longer than ten days after the notification is received by the Review Board chairperson.
- (e) At least five days before the Review Board's hearing, the secretary of the Student Conduct Council shall deliver to the chairperson of the Review Board the record

made of the Hearing on the Merits if one has been held, the record made of the Sanction Hearing if one has been held, and copies of all materials delivered to the accused student.

### 9.03. Review Board Hearing

- (a) The Chairperson of the Student Conduct 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 Student Conduct 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 Student Conduct Council in whole or in part.
  - (2) The board may reverse the action(s) taken by the Student Conduct Council in whole or in part and/or remand to the Student Conduct Council for further proceedings. However, findings of fact by the Student Conduct Council in favor of the accused may not be set aside by the Review Board. Other findings of fact by the Student Conduct Council shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the Student Conduct Council to judge the credibility of the witnesses. The secretary of the board shall notify the chairperson of the Student Conduct 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 Student Conduct 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 Hearing on the Merits. The accused may be represented by Counsel at the Review Board Hearing.
- (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 entitled to notice as provided in section 7.05(a) or 7.06(a)(3) of the Review Board's decision. Notices to persons other than the accused and the dean shall contain a reminder of the requirements of confidentiality as provided in section 8.01.

#### 9.04. Appeal to Full Faculty

- (a) 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) 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.

#### 9.05. Procedure for Appeal to Full Faculty

- (a) Any person having a right to appeal under section 9.04 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) 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) 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) 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) A majority of a quorum of the full faculty entitled to vote shall either
  - (1) affirm the Review Board's decision, or
  - (2) reverse and remand to the Review Board with instructions to reinstate the original Student Conduct Council's sanction.
- (f) For purposes of this section:
  - (1) 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; and
  - (2) In the calculation of any of the time periods in this section, weekends, law school holidays, and the day from which the time period begins to run shall not be included in the calculation of the time period.

#### 9.06. 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 Student Conduct Council, the person(s) making the claim and faculty entitled to notice as provided in section 7.05(a) or 7.06(a)(3) 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 8.01.

## ***10. AMENDMENTS***

### **10.01. Proposal of Amendments**

- (a) A student or faculty member may suggest to any member of the Student Conduct Council changes in this code.
- (b) The Student Conduct Council may propose amendments to the code by a vote that meets the general procedural requirements for an action or determination as described in section 7.02(c). Written notice of such action and the terms of any proposed amendment shall be presented to the faculty. 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 proposed by the Student Conduct Council shall become effective only after approval by a majority of the faculty.

## ***11. EFFECTIVE DATE***

### **11.01. Adoption**

This code shall be considered adopted when approved by the faculty and students. The code shall be considered approved by the faculty upon approval by a majority of the faculty casting ballots, and by the students upon approval of a majority of the students casting ballots for this purpose.

### **11.02. Effective Date**

This code shall become effective after election of the members of the Student Conduct Council as provided in section 5.04(a) during the first fall semester after adoption of this code.

*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*