

## VALPARAISO UNIVERSITY SCHOOL OF LAW HONOR CODE

### I. Citation

These provisions, the rules and procedures herein may be cited and referred to as the Valparaiso University School of Law Honor Code.

### II. Preamble

The Valparaiso University School of Law Honor Code is adopted to promote and ensure the opportunity of each student to pursue legal education to the best of his or her ability in an atmosphere of trust and mutual respect. The Code recognizes that achievement of these goals is ultimately dependent on the integrity of each individual student. Nothing herein, including the provisions of Article XII, shall be interpreted in conflict with standards 205 and 208 of the Accreditation Standards of the American Bar Association, requiring the dean and faculty to retain control over matters entrusted to them by the standards.

### III. Scope

The Honor Code applies to the behavior of any student of the Valparaiso University School of Law.

### IV. Canons

The following canons are general principles, representing objectives toward which every Valparaiso University law student should strive. They constitute standards of professional conduct which should provide guidance for students in many specific situations.

- a. A student should scrupulously regard the rights of others and should observe high ethical standards in his or her conduct. A student should strive to promote an academic environment where each student has an equal opportunity to use all of the resources of the school. A student should not take any action which deprives another student of a reasonable opportunity to use the resource materials.
- b. A student should never offer or render and/or receive aid of any kind from another student during an examination. A student who has taken an examination should never offer or render aid concerning the examination to a student who has not yet taken the examination. Likewise, a student who has not yet taken an examination should never request or accept aid from a student who has taken the examination, or obtain a copy of an examination before taking it.
- c. The Code recognizes that discussions between students are an integral factor of legal education. Within the parameters of specific instructions on any given assignment, students are encouraged to exchange ideas and alternative viewpoints. However, all work submitted for evaluation should ultimately be the result of that student's independent effort. A student should never submit the work of another as his or her own work.
- d. Except at a public trial, a student participating in or aware of any Honor Code Proceeding should not divulge any information concerning the proceeding outside of the proceeding itself. A student should obey all directions of the Honor Court or Honor Commission.
- e. Any student associated with the Honor System should be a person of high integrity, competence and of suitable temperament, and be a non-probationary student. The student should strive to maintain an independent and objective attitude in the performance of his or her duties.
- f. The enforcement of the Honor Code is ultimately dependent on the integrity of each individual student. A student should not initiate Honor Code proceedings if he or she is aware or should have been aware that the accusations are false, nor should a student initiate Honor Code proceedings for the sole purpose of injuring the reputation of another student or in a deliberate attempt to cause another student emotional distress.

### V. The Honor Code Pledge

It has been a tradition at the Valparaiso University School of Law to require all students to sign an honor code pledge on the work done for academic credit. This pledge reads as follows:

**I have neither given nor received unauthorized aid.**

Each student must sign the pledge by examination number.

### VI. Violations

As future members of the legal profession, students at the School of Law bear a special responsibility to insist upon and to maintain high standards of integrity. Accordingly, the School of Law has defined the following violations which are subject to discipline in accordance with the procedures set forth in subsequent sections of this Code.

- A. Misrepresentation. Misrepresentation includes any act of fraud or deception by which the student gains or attempts to gain an academic benefit or advantage from the University, its constituent institutions, its faculty, staff, or students, or persons dealing with the University. Examples of this offense include, but are not limited to, the following:
  1. forging or altering any University document, record, or instrument of identification;

## Honor Code

---

2. furnishing material information which is known by the student to be false to any official, other employee, or agent of the University;
  3. signing the school attendance policy indicating that the student has attended the requisite number of scheduled class meetings per course when in fact the student knows such to be false;
  4. falsely signing another student's name to the school attendance policy.
- B. Unfair Advantage. Unfair advantage includes any act of fraud, deception, or improper influence by which the student gains or attempts to gain an academic benefit or advantage from the University, its constituent institutions, its faculty, staff, or students, or persons dealing with the University. "Academic benefit or advantage" results from the student's course work as well as from co-curricular activities such as Law Review, Moot Court, Mock Trial and Client Counseling Competition. Examples of this offense include, but are not limited to, the following:
1. unauthorized copying, collaboration, or use of notes or books on any examination, project, or paper;
  2. failing to observe time limits set for an examination by the instructor in charge;
  3. lying about the performance of academic work;
  4. submitting as one's own and without citation, writings or ideas known by the student to be of another (including those of any person furnishing writing for hire) in any academic pursuit; offering or attempting to offer money or some other thing or service to a member of the University community, including its faculty, staff, and students, in an effort to gain unauthorized academic benefit or advantage;
  6. stealing, damaging, or destroying notes or books of students;
  7. stealing, hiding, or vandalizing library materials.
- C. Obstruction of Honor Code Process. This section includes any failure to cooperate with the Honor Court, a Presenter, or other agency acting hereunder with respect to the conduct of any investigation or proceeding held in connection with any alleged violation by any other person of the Honor Code.
- D. Accessoryship. This section includes any aid intentionally given to another student in violation of this Code.
- E. Corruption of Honor Code Process. This section includes the use of a position on the Honor Court, or Honor Commission, or as a Presenter, to obtain, or attempt to obtain, a special advantage in academic matters for himself for another where he knows or it is obvious that such action is improper.

### VII. Definitions and Guidelines

- A. Honor Commission. The Commission shall be composed of one (1) member and one (1) alternate appointed from among permanent members of the School of Law Faculty who are not administrative officers, and two (2) members and one (1) alternate elected from among full-time professional students of the School of Law. The faculty Commissioner and alternate shall be nominated, approved and appointed annually according to current procedures for appointment of Law School committees. Student Commissioners and alternates shall be elected annually according to Student Bar Association election procedures then prevailing. If a vacancy should occur for any reason, replacement members will be appointed or elected according to the same procedures. Upon notification of their appointment or election, the Commissioners shall select from their membership a chairperson to reside over the functions of the Honor Commission.
- B. Honor Court. The Court shall be composed of two (2) members and one (1) alternate appointed from among permanent members of the School of Law faculty who are not administrative officers, and three (3) members and two (2) alternates appointed from among full-time professional students at the School of Law. Justices and alternates shall be nominated, approved and appointed annually in accordance with the procedures set forth in Section A above. If a vacancy should occur for any reason, replacement members will be appointed according to the same procedures. Upon notification of their appointment, the Justices shall select from their membership a chairperson to preside over the functions of the Honor Court.
- C. Executive Committee. The Executive Committee shall be composed of two (2) members and one (1) alternate from the permanent members of the School of Law Faculty who are not administrative officers and one (1) member and one (1) alternate from full-time professional students at the School of Law. The faculty members shall be elected by permanent members of the School of Law faculty and shall serve terms of no longer than one year. The members cannot serve successive terms but may be reelected following at least a one-year interval between terms. The student members shall be appointed annually by the president of the Student Bar Association. All recommended appointments to the Honor Commissions, Honor Court and Executive Committee shall be forwarded to the Dean by the appropriate recommending body. The Dean shall forward such recommendations to the President of the University who shall either appoint those recommended or notify the Dean that the recommendations are, in whole or in part, unsatisfactory. In the latter case, the procedure for recommending the necessary persons will be repeated as above.
- D. Respondent. The law student to whom a formal complaint has been addressed.
- E. Administrative Officer. The Dean, Associate Dean(s) or Assistant Dean(s) of the School of Law, any officer of the University Administration and any employee of the University to whom supervisory responsibility over matters relating to student conduct has been delegated.
- F. Dean. The Dean of the School of Law or any Associate Dean or Assistant Dean of the School of Law to whom the Dean has delegated responsibility for matters relating to student conduct.
- G. Presenter. A full-time professional student of the School of Law who is not a member of either the Honor Court or the Honor Commission and who is assigned by the Dean to conduct an investigation relating to a formal complaint and to present information and evidence to the Honor Court if a formal charge is issued. The President of the Student Bar Association shall nominate annually eight (8) candidates for the positions of Presenter and Alternate Presenter. From these eight (8) nominations, the Student Bar Association Executive Board shall select three (3) persons to serve as Presenters and two (2) persons to serve as alternate presenters. The Dean will assign a presenter to each individual case. The Presenters

will be responsible for obtaining and presenting information and evidence which will assure an informed and fair administrative review and hearing and which will serve the interests of both the respondent and the School of Law and University communities.

- H. Honor Code Administrator. A permanent member of the School of Law faculty or an Associate Dean or an Assistant Dean appointed by the Dean to ensure that the administrative responsibilities of the Honor Code are fulfilled. In cooperation with the Dean, the Honor Code Administrator shall see that all students receive copies of the Honor Code and that all incoming students receive an Honor Code orientation as part of the Fall semester orientation and registration. In addition, the Honor Code Administrator may be delegated responsibility for the administrative processing of information or allegations concerning Honor Code rules or regulations, either generally on a case-by-case basis.
- I. Violation. Conduct proscribed by this Code.
- J. Sanction. Any formal disciplinary action allowed under School of Law Honor Code Rules.
- K. Right to Counsel. A law student shall have the right to consult with and be represented by counsel or advisor at all stages and in all proceedings under the School of Law Honor Code.
- L. Notices to Respondent/Student. All notices required to be delivered to a respondent and any correspondence directed to a respondent shall either be delivered to the respondent personally or mailed to the respondent by certified mail at the current address specified in the School of Law records. If mailed at a time when regular semester classes are not in session, a copy shall be mailed to any permanent address specified in the School of Law records. If a respondent has engaged counsel or an advisor and has notified the Dean of counsel's or advisor's name and address, a copy of all notices or correspondence to the respondent shall be mailed to counsel at the address specified. A notation of "return" shall be placed in the file to document all personal services.

#### VIII. Administrative Procedure

- A. In general. This Article specifies the procedures for the administrative processing of information or allegations indicating that a law student may have violated a School of Law Honor Code rule. The purpose of these procedures is to provide for the orderly receipt, consideration and conduct investigation of such information or allegations and, where appropriate, the resolution of such matters before referral to the Honor Court for a formal hearing.
- B. Responsibility. The Dean of the School of Law shall be primarily responsible for the conduct and supervision of these procedures. The Dean may delegate this responsibility, generally or on a case-by-case basis, to an Associate Dean, an Assistant Dean, or to the Honor Code Administrator.
- C. Outline of Procedures. The Administrative process is divided into five stages.
  - 1. Preliminary review: to make a preliminary determination as to whether a possible violation has occurred and to allow an informal resolution in appropriate cases.
  - 2. Issuance of formal complaint: to formally notify the respondent that disciplinary action may be initiated, to inform and secure the rights of the respondent, and to allow an informal resolution in appropriate cases.
  - 3. Referral of formal complaint: to assure an orderly investigation of the facts and circumstances which are the subject matter of the formal complaint.
  - 4. Review of investigation: to allow a final administrative review of the matter in light of facts and circumstances discovered in the process of formal investigation and to allow a final opportunity for informal resolution.
  - 5. Issuance of formal charge: to initiate formal disciplinary action and to invoke the jurisdiction of the Honor Court.
- D. Preliminary review.
  - 1. Notice of violation. All notices, complaints or information relating to a possible violation by a law student shall be presented to the Dean. Any person or agency may submit such notices. Such notice may be in any form; provided, however, that it must be presented in person or by signed writing, it should contain factual information sufficient to allow a preliminary determination as to whether there may have been a violation, and it should, if possible, identify the law student(s) involved.
  - 2. Preliminary determination. On the basis of the information presented, the Dean shall make a preliminary determination as to whether there has been a violation. In making this determination, the Dean may consult with other administrative officers and with members of the Faculty. If the information presented is insufficient for a preliminary determination, the Dean may request additional information. If the identity of the student(s) involved is unknown, the Dean may undertake or request inquiry or investigation sufficient to identify the student(s).
  - 3. Elements of preliminary determination. The Dean shall determine either that there is no apparent violation or that a possible violation has occurred. If the Dean determines that there was a possible violation, he or she may propose to issue a formal complaint or to resolve the matter informally.
  - 4. Review by the Executive Committee. If the Dean determines that there is no apparent violation or proposes to resolve the matter informally, the preliminary determination shall be submitted to the Executive Committee. Any modification of the preliminary determination shall be made by the affirmative vote of at least two members of the Committee.
  - 5. Informal resolution. Despite the appearance of a possible violation, it may be determined by the Dean that the interests of the student(s) involved and those of the School of Law and the University community are best served by informal resolution of the matter. At this stage of the procedure, such informal resolution shall be limited to counseling the student(s) involved. No sanction may be imposed or offered.
  - 6. Record. Unless it is determined that a formal complaint should be issued, no record of the alleged violation shall

## Honor Code

---

- be preserved except as otherwise provided in Article XII of this code.
- E. Issuance of formal complaint.
1. Preparation and contents. A formal complaint shall be prepared by the Dean. It shall be in the form of a letter addressed to the respondent. It shall contain a statement that the respondent is alleged to have been involved in a possible violation, a summary statement of the alleged facts, and specification of the violation(s) suggested by the alleged facts. It shall also refer to enclosed copies of relevant University regulations and School of Law Honor Code rules and call particular attention to respondent's right to counsel and right to reply at this stage of the procedure.
  2. Notice to respondent. The formal complaint shall be mailed to the respondent at the current local address specified in School of Law records. It shall be accompanied by a copy of the School of Law Honor Code and a copy of relevant University Regulations. If the Respondent has engaged counsel and has notified the Dean of the name and address of counsel, a copy of formal complaint and accompanying documents shall be mailed to respondent's counsel.
  3. Right to reply. Within ten (10) business days of the date upon which the formal complaint is mailed, the respondent or respondent's counsel may submit to the Dean, personally or by telephone or by letter, a request for an opportunity to reply. The Dean will establish a date for submission of any reply. All replies shall be in writing.
  4. Purpose and scope. The right to reply is offered to provide an opportunity for informal resolution prior to referral of the formal complaint. In any reply, the respondent may present any information in rebuttal of the summary of facts contained in the formal complaint, offer additional information relating to the subject matter of the complaint, information in mitigation of the alleged violations, or information which may relate to any allowable sanction.
  5. Action if reply is submitted. If a reply is submitted, the Dean may, after consideration of the reply, decide to withdraw the preliminary determination that there was a possible violation, or may adhere to the determination and either refer the formal complaint or attempt informal resolution.
  6. Review by the Executive Committee. If the Dean decides to withdraw the preliminary determination or to attempt informal resolution, this decision shall be submitted to the Executive Committee for review. Any modification of the Dean's decision shall be made by the affirmative vote of at least two members of the Committee.
  7. Informal resolution. It may be decided to resolve the matter informally by counseling or to offer the respondent the opportunity to accept a sanction without further proceedings. The Dean may consider any one or more of the following sanctions: (a) reprimand not of record, (b) reprimand of record, (c) conduct probation, (d) suspension, (e) dismissal from the School of Law, or (f) recommendation to the instructor of any course in which a violation occurred to change the assigned grade in that course. A sanction may not be imposed by the Dean without the consent of the respondent. The respondent shall have three days from notification to consent; silence shall be deemed a rejection of the proposed sanction.
  8. Acceptance or refusal to accept sanction. If a proposed sanction is accepted, it will be imposed forthwith by the Dean without further proceedings and without opportunity to appeal. If a proposed sanction is refused, the Dean shall refer the formal complaint for further proceedings. The fact that a sanction was offered and refused and the nature of the proposed sanction shall not limit or otherwise affect any further action.
  9. Record. If it is decided to withdraw the preliminary determination or to resolve the matter by informal counseling or by the imposition of a reprimand not of record, no record of the alleged violation or the resolution shall be preserved except as otherwise provided in Article XII of this Code.
- F. Referral of formal complaint.
1. Designation of Presenter; referral of formal complaint. The Dean shall determine a Presenter and refer the formal complaint to the Presenter for investigation.
  2. Notice to respondent. The Dean shall notify the respondent promptly of the name, title, address and telephone number of the Presenter and the date upon which the formal complaint was referred to the Presenter.
  3. Investigation by Presenter. The Presenter shall identify and interview available witnesses and shall identify and obtain relevant and available real or documentary evidence. Statements of witnesses or summaries of interviews shall be prepared or obtained and preserved.
  4. Rights of respondent. The respondent shall have the right to submit statements of real or documentary evidence to the Presenter and to suggest persons whom the Presenter should interview. The respondent shall have the right to inspect and copy any statements, summaries or real or documentary evidence obtained by the Presenter.
  5. Rights and obligations of witnesses. All law students shall cooperate with the Presenter in the conduct of the investigation. Any refusal to be interviewed or to produce evidence may be a matter for disciplinary action. However, any person has the right to refuse to testify or produce evidence as to matters which would tend to inculpate that person in any violation of University or School of Law Regulations or in any violation of law. Also, any statement by or evidence of the respondent made or produced by the respondent to counsel or to an advisor in that person's capacity of counsel or advisor shall be privileged.
  6. Report. Upon completion of the investigation, the Presenter shall prepare and submit a report to the Dean. The report shall be accompanied by all statements, summaries and real and documentary evidence obtained or prepared by the Presenter. The report shall contain a summary of relevant facts (as presently understood) and the Presenter's recommendations in regard to further action.
  7. Notice to respondent. The presenter shall mail a copy of the report to the respondent. If the Presenter is aware of any statements, summaries, or real and documentary evidence which have not been inspected by the respondent,

- the Presenter shall remind the respondent of respondent's right to inspect and copy all evidence.
- G. Review of investigation.
1. Scope. The Dean shall review the Presenter's report and accompanying documents. The Dean shall determine whether there has been substantial compliance with administrative procedures and rules. The Dean may request additional investigations and correction of any deviations from administrative procedures. In connection with this review, the Dean may consult with administrative officers, the Presenter, and members of the Executive Committee.
  2. Right to reply. Within ten (10) business days of the date upon which the Presenter's report is mailed to the respondent, the respondent may submit to the Dean, personally or by telephone or by letter, a request for an opportunity to reply. The Dean will establish a date for submission of any reply. All replies shall be in writing. The right to reply is offered to provide a final opportunity for informal resolution of the alleged violation.
  3. Final administrative determination. Upon the Presenter's report and any reply by the respondent, the Dean may determine that the evidence is insufficient to establish a violation and withdraw the formal complaint or may adhere to the preliminary determination and either prepare and refer a formal charge to the Honor Court or attempt informal resolution.
  4. Review by the Executive Committee. If the Dean decides to withdraw the formal complaint or to attempt informal resolution, this decision shall be submitted to the Executive Committee for review. Any modification of the Dean's decision shall be made by the affirmative vote of at least two members of the Committee.
  5. Informal resolution. It may be decided to resolve the matter informally by counseling or by offering the respondent an opportunity to accept a sanction without further proceedings. The Dean may consider any one of the following sanctions: (a) reprimand not of record, (b) reprimand of record, (c) conduct probation, (d) suspension, (e) dismissal from the School of Law, or (f) recommendation to the instructor of any course in which a violation occurred to change the assigned grade in that course. A sanction may not be imposed by the Dean without the consent of the respondent.
  6. Acceptance or refusal to accept sanction. If a proposed sanction is accepted, it will be imposed forthwith by the Dean without further proceedings and without opportunity to appeal. If a proposed sanction is refused, the Dean shall prepare and refer a formal charge to the Honor Court. The fact that a sanction was offered or refused and the nature of the proposed sanction shall not limit or otherwise affect any further action.
  7. Record. If it is decided to withdraw the formal complaint or to resolve the matter either by informal counseling or by the imposition of a reprimand not of record, no record of the alleged violation or the resolution shall be preserved except as provided in Article XII of this Code.
- H. Issuance of formal charge.
1. Preparation and contents. A formal charge shall be prepared by the Dean. It shall be in the form of a letter addressed to the respondent. It shall contain a statement of the violation(s) charged with reference to the relevant University regulations and School of Law Honor Code rules, and a statement of the ultimate facts which constitute the specifications of the violation(s) charged.
  2. Attachments. The formal charge shall be accompanied by the following attachments: (a) The names and titles or other identification of all witnesses presently known and statement or summary of the information possessed by those witnesses. (b) A list identifying all real and documentary evidence presently available.
  3. Referral of formal charge. The Dean shall refer the formal charge to the Chair of the Honor Court with a copy to the Presenter.
  4. Notice to respondent. The Dean shall notify the respondent promptly of the date upon which the formal charge was referred to the Honor Court. This notice shall be accompanied by a copy of the formal charge and its attachments, a list of the names of all members and alternate members of the Court and the name, mailing address and telephone number of the Chair of the Court.
  5. Withdrawal of formal charge. A formal charge may not be withdrawn from the jurisdiction of the Honor Court except upon recommendation of the Dean and approval of a majority of the members of the Court.

### IX. General Definitions and Guidelines Relating to Honor Court Procedures

- A. Nature of Hearing. The hearing provides an opportunity for the Court to be informed of the relevant facts relating to the subject matter of a formal charge so that it may make finding, draw informed conclusions and take action consistent with its findings. Although not a truly adversary proceeding, the Presenter and the respondent shall be permitted, at appropriate occasions during the hearing, to contest the veracity, reliability and relevance of any information, evidence or testimony presented and to suggest alternative conclusions which may be drawn from information presented.
- B. Questioning of witnesses. At the direction of the Chair of the Court, the Presenter, respondent or any member of the Court may question all witnesses. The Chair shall assure that no witness is abused or harassed.
- C. Requests for additional information. The Presenter, respondent and any member of the Court may request that additional information be obtained and presented to the Court. If any such request is granted, the Chair may nevertheless direct the hearing to continue without recess or continuance.
- D. Record. A minute record of any preliminary review and of the Court's deliberations shall be made and preserved. A verbatim transcript or recording of the formal hearing shall be made and preserved.
- E. Confidentiality. Access to the record and evidence presented shall normally be limited to the Presenter, Court and respondent, and administrative officers.
- F. Court Memorandum. At the conclusion of the hearing, the court shall draft a summary opinion briefly stating the nature of the violation charged, the general facts surrounding the dispute, its findings of facts, conclusions of law, and sanction(s) imposed. The respondent and Dean shall receive a copy of the opinion. During the last week of class of each academic year, the Dean shall publish or post a summary, prepared by him, of those decisions and interpretations of the Court necessary to a full understanding of the interpretation of Code provisions. The Dean's summary shall not reveal the identities of any party or witness.
- G. Spectators: presence of witnesses. Unless the respondent formally demands that the hearing be open to spectators, the hearing will be closed to all but the necessary parties. Witnesses may be present only while presenting evidence or testimony.
- H. General rights of respondent. The respondent shall have the following specific rights and privileges and such other privileges as the Court may grant upon request.
1. The right to be present at the formal hearing when evidence or testimony is presented.
  2. The right to be represented by counsel or advisor.
  3. The right to submit evidence and testimony on his or her own behalf.
  4. The right to question witnesses.
  5. The right to suggest in argument appropriate findings, conclusions, disposition and sanction.
  6. The right to transcribe or record the formal proceedings at respondent's own expense.
- I. Motions, challenges, and special requests. All permissible motions, challenges, and special requests shall be made at the time specified in the hearing procedures. Except in extraordinary circumstances, no motion will be considered unless timely made.
- J. Objection. Any objection to the presentation of any evidence or testimony shall be made at the time such evidence or testimony is proposed to be presented to the Court. No objection will be considered unless timely made.
- K. Evidence. The formal rules of evidence shall not apply and the Court may consider all relevant testimony or real or documentary evidence.
- L. Stipulation. All information, testimony or evidence which is not subject to dispute as to fact should be presented to the Court in the form of a stipulation of fact or of testimony. The agreement to stipulate as to fact or testimony shall not prevent any party from presenting evidence or testimony intended to rebut the fact or testimony or intended to suggest different or contradictory inferences to be drawn from the fact or testimony which is the subject of a stipulation.
- M. Rulings. Except as otherwise provided in the Hearing Procedures, all rulings shall be made by the Chair of the Court; provided, however, that any member of the Court may request that the ruling be submitted for a vote of the Court.
- N. Required vote. All rulings, findings and determinations which require a vote of the court shall be made by the affirmative vote of at least three members of the quorum.
- O. Quorum. A quorum shall consist of two (2) faculty and three (3) student members of the Court, excluding the alternate or replacement members unless such members have permanently replaced a member for the hearing and deliberations.
- P. Recesses, continuances. For good cause shown, the Chair may, subject to the request of any member that the question be put to a vote of the Court, grant any request for a recess or continuance made by the Presenter, respondent or a member of the Court.
- A. Two-stage hearing. Upon request by the respondent, the hearing shall be conducted in two stages: the first shall be limited to the presentation of evidence principally related to the question of whether the respondent committed the violation(s) charged, and the second shall be limited to the presentation of evidence principally related to an appropriate sanction if a violation is found. Upon request by the respondent, separate deliberations of the findings and the sanction (if any) shall be held.

### X. Honor Court Procedures

- A. In general. This article specifies the procedure for the consideration of a formal charge by the Honor Court. In the interests of fairness and upon good cause shown, the Court may approve deviation from these procedures.
- B. Responsibility. The Chair of the Court shall be primarily responsible for the conduct of the hearing procedures. Deviations shall be approved by a majority of the regular members of the Court.

- C. Outline of procedure. The hearing process is divided into five stages which have the following purposes:
1. Preliminary review: to consider all challenges, motions and requests which do not specifically relate to the fact finding process of the hearing.
  2. Preparation for hearing: to make all preliminary arrangements required to assure the orderly process of the hearing.
  3. Hearing: to assure the orderly presentation of relevant information and evidence to the Court.
  4. Deliberation: to secure the fair, thorough and undistracted consideration by the Court of proper findings and any sanction.
  5. Findings: to assure the orderly presentation of the Court's findings of fact, conclusions and actions, and the notice thereof to the respondent, the Dean and any appellate body.
- D. Preliminary review.
1. Refusal by Court member. The Chair of the Court shall provide copies of the formal charge to all members and alternate members of the Court. Any member or alternate member who believes that he or she would be unable to properly participate in the hearing, deliberations of findings because of serious illness, special interest or prior knowledge which has resulted in pre-judgment shall notify the Chair and shall be excused.
  2. Challenge for cause. The respondent may challenge any member or alternate member of the Court for cause. Any such challenge should be delivered in writing to the Executive Committee and the Court within five (5) business days of the date on which the formal charge was mailed or served upon respondent. It should state the special interest, prior knowledge or other cause for the challenge and sufficient facts to support the cause asserted. The Committee shall convene promptly to consider any such challenge(s). The Committee shall separately rule on each challenge. A challenge shall be granted upon a majority vote of the Committee. If the challenge is granted, that member shall be excused.
  3. Replacement of members. If any member or alternate member is excused, a replacement shall be nominated, approved and appointed promptly in accordance with current procedure for the appointment of members of the Honor Court.
  4. Procedure for submitting motions and requests. All allowable motions and requests should be delivered in writing to the Chair of the Court within ten (10) business days of the date on which the formal charge was mailed or served upon the respondent. The Court shall rule upon any such motions and requests after any challenges have been considered and any replacement members appointed.
  5. Nature of allowable motions. Normally, only two types of motions are allowable at this stage of the proceedings: (a) a motion to dismiss on the grounds that the facts alleged do not constitute a violation; and (b) a motion to dismiss on the grounds of substantial noncompliance with administrative procedures.
  6. Action on motions. The Court shall vote upon all motions. It may grant a motion, deny a motion or refer a motion to the Dean for correction of defects. In the course of its considerations, it may request the Presenter to comment upon the subject matter of any motion.
  7. Nature of allowable requests. Normally, only three types of requests are allowable at this stage of the proceedings: (a) a request that the hearing be open; (b) a request for a reasonable delay to permit respondent to prepare any motions or prepare his or her response; (c) a request for a "two-stage" hearing.
  8. Request that the hearing be open. This request will be granted by the Chair as a matter of respondent's right.
  9. Request for reasonable delay. Such a request shall specify the reasons for the request and the length of the delay requested. It may be granted by the Chair in his or her discretion. If the Chair decides to deny the request in whole or in part, the Court shall vote on the request.
10. Request for "two-stage" hearing. Such a request shall be made by the respondent. The Chair shall grant such requests as a matter of right.
- E. Preparation.
1. Meeting of Presenter and respondent. The Presenter and the respondent and/or his counsel or advisor shall meet promptly after the formal charge has been issued to agree upon convenient dates for the hearing and all stipulations.
    - (a) Dates for hearing. The Presenter and the respondent and/or his advisor shall take into account any matters that may be submitted for preliminary review, the availability of witnesses, and the reasonable time needed to prepare for the hearing. They shall agree upon no fewer than three dates. The Presenter should notify the Chair of the dates agreed upon and the Chair shall designate a date for the hearing after taking into account the availability of Court members. If the Presenter and the respondent cannot agree upon dates for the hearing, the Chair may designate a hearing date, provided that the hearing date shall be no less than ten (10) days from the date the formal charge was issued.
    - (b) Notice of hearing. The Chair shall give written notice to the Presenter and the respondent of the date, time and place for the hearing. It shall be the responsibility of the parties to notify and secure the presence of witnesses. It shall be the responsibility of the respondent to notify, obtain and secure the presence of any recording equipment or personnel it wishes to have present at the hearing. It shall be the responsibility of the Chair to notify, obtain and secure the presence of all members of the Court and the required recording equipment or personnel.
- F. Hearing.
1. In general. The hearing should normally proceed according to the schedule set out below. The Court, however, may deviate from the schedule in the interest of fairness.
  2. Schedule. The hearing shall proceed as follows:
    - (a) Identification of parties. The Chair shall ascertain that all necessary parties, including recording

## Honor Code

---

personnel or equipment, are present, that the Presenter and respondent have their witnesses and other evidence available, and that the parties are ready to proceed.

- (b) Entering of Respondent's Plea. The respondent may plead guilty or not guilty. A respondent shall not be called upon to plead until he has had a reasonable opportunity to retain counsel or to consult an advisor, if either alternative is desired by the respondent. A plea of guilty shall be received only from the respondent or counsel for the respondent. The Honor Court shall not accept a plea of guilty from a respondent without first addressing the respondent personally and:
  - 1) determining that he understands the nature of the charges,
  - 2) informing the respondent of the range of sanctions that may be imposed by the Honor Court, and that the sanctions imposed by the Honor Court may be in addition to any other actions that may be taken by authorities other than the Honor Court,
  - 3) determining the voluntariness of respondent's plea. The Honor Court should ascertain that the plea of guilty is entered by the respondent's free choice, and
  - 4) determining the accuracy of the plea of guilty. The Honor Court should not enter judgement without making such inquiry to ascertain the factual basis of a plea of guilty.
- (c) Opening statements. The Chair shall invite first the Presenter and then the respondent to make an opening statement if they wish. Opening statements shall be brief and should be addressed to the order which is proposed to be followed in presenting testimony or evidence to the Court. Any argument should be deferred until closing statements.
- (d) Presentation by Presenter. Stipulations, testimony and real or documentary evidence may be presented in any logical order.
- (e) Opening statement by respondent. Respondent may defer his or her opening statement until this time.
- (f) Presentation by respondent. Stipulation, testimony and real or documentary evidence may be presented in any logical order.
- (g) Special requests for or to submit additional evidence. Upon conclusion of the respondent's presentation, the Presenter or respondent may request an opportunity to present additional evidence not presently available. Such requests shall be granted by the Court only if the regular presentations have revealed an unanticipated need for such additional evidence. In the same circumstances, the Court may request the submission of additional evidence.
- (h) Closing statements. After all evidence has been received, the Chair shall invite first the Presenter and then the respondent to make a closing statement.

### G. Deliberations.

- 1. Meeting of Court. As soon as possible after the adjournment of the hearing, the court shall meet for deliberation. Such deliberations shall be closed and unrecorded. If all members present for the hearing are present for deliberation, alternate members shall be excused and shall not thereafter participate in any further action of the Court.
- 2. Deliberation on the merits. The Court shall consider whether, on the basis of all evidence presented, the conduct and violation charged were established. The standard for such a finding shall be "clear and convincing evidence." Such a finding must be made by a majority of the Court.
- 3. Hearing on Sanction. After a finding of violation, the Court shall give the Presenter and respondent the opportunity to introduce any additional evidence and to make argument on the issue of appropriate sanction.
- 4. Deliberation on the sanction. If the Court finds that the conduct and violation charged were established, it shall then consider the recommendation of an appropriate sanction, taking into account not only the seriousness of the violation within the University and School of Law communities but also its seriousness in light of the professional requirements and responsibilities of lawyers. An affirmative vote of a majority of the Court shall be necessary for the recommendation of any sanction.

### H. Findings.

- 1. Preparation. The findings shall be prepared by the Chair; provided, however, that if the Chair does not join in the findings, the findings shall be prepared by a member designated by those members who have joined therein.
- 2. Form and content. The findings shall be in the form of a letter or memorandum addressed to the Dean. The document shall contain a summary of the facts found by the Court, a statement of the violation(s) the Court finds to have been committed or a statement of the violation(s) the Court has not found, and a statement of any sanction the Court recommends. If any special aggravating, mitigating or extenuating circumstances were found by the Court, it may also include a statement of such circumstances.
- 3. Approval by Court. The Court shall meet to review, amend and approve the draft of the findings. Those members who join in the final draft will subscribe the findings. Concurring or dissenting views are permissible.
- 4. Transmittal. The findings shall be delivered by the Chair or principal author personally to the Dean.
- 5. Notice. A copy of the findings shall be delivered to the respondent by mail. Such notice to the respondent shall include a copy of the rules relating to appeal procedures.

### I. Sanctions

- 1. Upon a finding that a student has committed a violation of this Code, the Honor Court may recommend imposition of one or more of the following sanctions: (a) reprimand not of record, (b) reprimand of record, (c) conduct probation, (d) suspension, (e) dismissal from the School of Law, (f) recommendation to the instructor of any course in which a violation occurred to change the assigned grade in that course. The decision of whether or not to change such grade shall be in the instructor's discretion but should ordinarily be guided by the extent to

2. which the violation produced the grade originally assigned.
  2. In determining the appropriate sanction to be imposed, the court shall consider the seriousness of the violation and the presence or absence of mitigating factors. The fact that a student has been or may be subject to other sanctions for the same conduct, whether such sanctions have been or may be imposed by civil authorities or by academic officials, shall not bar the initiation of disciplinary proceedings or the imposition of sanctions for violations of this Code but shall be taken into account by the Court in determining whether a sanction should be recommended, and if so, the appropriate sanction to be recommended.
  3. If no appeal is taken by the respondent from the Honor Court's disposition of the case within the time limit prescribed below, the Dean shall implement the sanction recommended by the Court.
- A. Record. If it is decided to resolve the matter by imposition of a reprimand not of record, no record of the alleged violation of the resolution shall be preserved except as provided in Article XII of this Code.

#### XI. Appellate Review

- A. In general. The Article specifies the procedures for the processing of any action to modify or reverse the findings of the Honor Court or the recommended penalty or both. The purpose of these procedures is to provide one appeal as a matter of right for the respondent.
- B. Grounds for Appeal. The respondent shall have one appeal as a matter of right from any decision of the Honor Court. The following shall constitute grounds for appeal:
1. The absence of substantial evidence to support the findings of the Honor Court;
  2. The failure to observe procedural provisions of the Code thereby resulting in prejudicial error;
  3. An erroneous interpretation of the Code thereby resulting in prejudicial error and/or
  4. A recommended penalty which is too severe in light of the offense committed.
- C. Time Periods for Appeals
1. The respondent must deliver his/her appellate brief to the Chair of the Honor Commission, the Dean and the Presenter within ten (10) business days of the mailing of the findings of the Honor Court. Such action shall constitute notice of appeal.
  2. The Presenter shall deliver his/her appellate brief to the Chair of the Honor Commission, the Dean, and the respondent within three business days after receipt of the respondent's brief.
  3. The Chair of the Honor Commission shall notify the respondent and the Presenter at least three business days before the appellate hearing, indicating the date, time and place for the hearing.
  4. The appellate hearing will be held within ten business days after delivery of respondent's appellate brief to the Chair of the Honor Commission.
- D. Review by the Commission. Review by the Honor Commission will be governed by the following:
1. Review will be on the record. "Record" means the tape recording of the proceedings before the Honor Court or a transcript of said proceedings; any documents introduced into evidence at the hearing before the Honor Court; the formal charge served upon the respondent; any other pleadings filed with the Honor Court; and a copy of the report of the Honor Court issued at the conclusion of its proceedings.
  2. The Commission may either affirm or reverse the finding of guilty and remand for further proceedings.
  3. The Commission may either affirm or reduce the sanction recommended by the Honor Court.
  4. Upon completion of review, the Commission shall deliver written notice of its decision to the respondent, the Presenter, the Chair of the Honor Court, the Honor Code Administrator and the Dean. The Dean shall implement the sanction imposed by the Commission.
  5. If it is decided to affirm the sanction of reprimand not of record, no record of the alleged violation shall be preserved except as provided in Article XII of this Code.
- E. Review by the President
1. The decision of the Honor Commission is final.
  2. The President of the University does retain the power to pardon a student. Any student found in violation of any section of this Code shall have the right to petition the President of the University for a pardon. Within ten days of receipt of notification of the petition for pardon, the Dean shall transmit the record of the proceedings to the office of the President.

#### XII. Amendment Procedures

- A. Honor Code rules and regulations may from time to time be amended, supplemented, changed, modified or repealed by the Honor Commission, subject to Article 11. The Commission shall provide public notice of such proposals. In the case of a protest against such change, signed by either ten (10) percent of the full-time professional students at the School of Law or ten (10) percent of the permanent members of the School of Law Faculty (including the Dean and Associate Dean(s) of the School of Law), such amendment shall not become effective except by a favorable vote of a majority of both the student body voting and the members of the School of Law Faculty voting. The President of the University must approve all changes to the School of Law Honor Code.
- B. In order to fulfill its responsibilities under this section, the Commission shall maintain a file containing records of all proceedings initiated under this Code.

## Honor Code

---

1. If a proceeding results in a reprimand of record, conduct probation, suspension, suspended dismissal or dismissal from the School of Law, the record maintained by the Commission shall include a record of all administrative proceedings before the Dean and the Executive Committee; the tape recording of the proceedings before the Honor Court or a transcript of said proceedings; any documents introduced into evidence at the hearing before the Honor Court; the formal charge served upon the respondent; any other pleadings filed with the Honor Court, a copy of the report of the Honor Court; and a copy of the report of the decision of the Honor Commission, if an appeal has been made.
2. If a proceeding results in a reprimand not of record, or in resolution of the matter by informal counseling, or a determination that there is no apparent violation, or in the withdrawal of a preliminary determination that a violation has occurred, a record shall be prepared which will preserve the anonymity of the respondent but which will contain details of the investigation, the proceedings, findings and proposed sanctions, if any, sufficient to allow the commission to evaluate the effectiveness of the procedures used in each case as well as the fair and consistent application of the provisions of the Honor code. Any student who was the subject of any investigation or proceeding which terminates with no finding of violation may petition the commission for the expungement of all recorded references to his or her identity. The Commission shall grant such petition and implement the expungement.
3. This file should also include a record of determination made by the President of the University. The file shall be located in the Office of the Dean.