

# STUDENT CODE OF PROFESSIONAL RESPONSIBILITY

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## Preamble

The law is a learned profession that demands from its members standards of honesty and integrity that are far higher than those imposed on society as a whole. A dishonest attorney is a menace to the profession and to society. Because there is no reason to believe that dishonest students will become honest attorneys, insistence on the highest ethical standards must begin in Law School. This Student Code of Professional Responsibility is dedicated to that end.

The Code is designed to assure that each student can be evaluated on his or her own merits, free from the unfairness of competing with students who attempt to enhance their own efforts unfairly. This Code describes the obligations of students, faculty, and administrators; the composition and jurisdiction of the Honor Council; and the procedures to be followed in determining whether a student has violated the Code and the sanctions that may be imposed. Although law students are subject to this Student Code of Professional Responsibility, as students of Southern Methodist University they are also subject to the University Student Code of Conduct to the extent that the latter is not inconsistent with this Code.

Although the failure to report one's own act or the act of another student that may constitute a violation of this Code is not itself a violation of this Code, it is the sense of the Law School community that a student should report conduct that he or she reasonably suspects does constitute a violation.

## Section I. Definitions

A. Assistant Dean the Assistant Dean for Student Affairs, or that person to whom the Dean has delegated the functions of that office.

B. Chair that faculty member serving as the Chair of the Honor Council. (See Section II. A. 3.)

C. Code the Dedman School of Law at Southern Methodist University Student Code of Professional Responsibility.

D. Complaint the formal charging document submitted to the Council by the Investigating Committee when it finds probable cause to bring a reported violation to a hearing. (See Section VIII. F.)

E. Council the Honor Council. (See Section II.)

F. Days calendar days.

G. Dean the Dean of the School of Law.

H. Defense Counsel the individual who, either by the accused student's selection or by appointment, shall represent the accused student during an investigation, hearing, or appeal. (See Section IX. A.)

I. Instructor any person, regardless of rank or title, who teaches law students at the Law School.

J. Investigating Committee the committee appointed by the Dean to investigate possible violations of the Code. (See Section VIII. 13 and F.)

K. Knowingly A person acts knowingly, or with knowledge, with respect to the nature of his or her conduct or to the circumstances surrounding such conduct when he or she is aware of the nature of such conduct or that such circumstances exist. A person also acts knowingly, or with knowledge, with respect to a result of his or her conduct when that person is aware that the conduct is reasonably certain to cause that result.

L. Law School the Dedman School of Law at Southern Methodist University.

M. Negligence A person acts negligently with respect to circumstances surrounding his or her conduct or the result of that conduct when he or she ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur.

N. Purposefully A person acts purposefully, or with purpose with respect to an act or to a result, when it is his or her intention, conscious object, or desire to engage in the act or to cause the result.

O. Recklessly A person acts recklessly, or is reckless, with respect to circumstances surrounding his or her conduct or the result of that conduct when he or she is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur.

P. Report of an Alleged Violation a report to the Assistant Dean of a possible violation of the Code. (See Section VII.)

Q. School Prosecutor the member of the Investigating Committee chosen by that committee to prosecute the accused student at the hearing and any possible appeal. (See Sections VIII. F and IX. E.)

R. Student any person who is, or has been, enrolled at the Southern Methodist University School of Law.

S. Transactional Immunity immunity which bars prosecution under this Code of the immunized person for any activity mentioned in the immunized testimony.

T. Use Immunity immunity that bars the admission of the immunized testimony, and any evidence derived therefrom, and the same from being used against the immunized person, at any hearing before the Honor Council.

## **Section II. The Honor Council**

A. The Honor Council shall consist of six members.

1. Three of the members shall be students. Under rules promulgated by the Student Bar Association, the student body shall elect the three student members and one alternate at the time the Student Bar Association representatives are elected. Student members shall serve oneyear terms. If for any reason a student member cannot complete his or her term, attend a particular hearing, or vote on a particular question (for example, whether to decline jurisdiction over a matter), the alternate shall complete such term, attend the hearing, or vote, as the circumstances may require.

2. Three of the members shall be law faculty members appointed by the Dean of the Law School with the advice of the Faculty Executive Committee. The Dean also shall appoint an alternate faculty member. The Dean shall not appoint an Assistant or Associate Dean or him- or herself to the Council. Faculty members shall serve threeyear staggered terms, so that no two faculty members will have the same number of years remaining in their terms of appointment. If for any reason a faculty member cannot complete his or her term, attend a particular hearing, or vote on a particular question (for example, whether to decline jurisdiction over a matter), the alternate shall complete the unexpired term, attend the hearing, or vote, as the circumstances require.

3. The faculty member who is serving in the last year of his or her term on the Council shall be the Chair. The Chair's term shall be for one year. If, at any time, the Chair is unavailable to perform Chair duties, the faculty member on the Council with the next longest tenure shall act as the Chair.

B. The Council shall have jurisdiction over any conduct by a student, which is prohibited by this Code. A student's conduct is not subject to this Code unless it has occurred while the student is enrolled at or was seeking admission to the Law School. For good cause, the Council may decline or postpone asserting jurisdiction over the conduct of a student. For example, any of the following may constitute good cause for declining or postponing jurisdiction: (1) the fact that such conduct is being, or has been handled by federal, state, or local authorities; (2) the conduct is only a *de minimis* violation of this Code; (3) the conduct in question is not sufficiently related to Law School matters; or, (4) assuming the allegation to be true, the conduct does not evidence a lack of honesty, integrity, or trustworthiness on the part of the student.

## **Section III. Limitations**

The Council may not exercise jurisdiction over student conduct unless a complaint is filed within one year of graduation, withdrawal, or dismissal of the student from the Law School; however, this limitation shall not apply to conduct involving either serious academic misconduct, such as plagiarism or cheating, or serious misrepresentation with respect to the student's application for enrollment in the Law School.

## **Section IV. Standards of Conduct**

### **A. Prohibited Conduct: Generally**

The following student conduct shall constitute a violation of the Code:

1. Any conduct pertaining to academic or other University matters that evidences fraud, deceit, dishonesty, or an intent to obtain unfair advantage over other students, or that interferes unreasonably with the rights of other students, and
2. Any conduct that violates University regulations not inconsistent with this Code, and
3. Any criminal act that raises serious doubts about the accused student's honesty, integrity, or fitness to practice law.

### **B. Prohibited Conduct: Nonexclusive Examples**

To assist students in understanding their responsibilities under the Code, the following is a nonexclusive list of examples of conduct pertaining to academic or other University matters that violate this Code:

1. A student shall not commit plagiarism. Plagiarism is appropriating another's words, ideas, or modes of analysis and representing them in writing as one's own. Whenever a student submits written work as his or her own, the student shall not use the words of another verbatim without presenting them as quoted material and citing the source. If the words of another are paraphrased, there must be a clear attribution of the source. If the student uses another's ideas, concepts, or modes of analysis, there must be a clear accompanying attribution of the source.
2. A student shall not invade the security maintained for the preparation and storage of examinations. If a student learns that the security maintained for the preparation and storage of examinations has been compromised, he or she shall notify the instructor immediately.
3. A student shall not take an examination for another, nor permit another to take an examination for him or her.
4. While taking an examination, a student shall neither possess nor refer to any material (such as books, notebooks, outlines, papers, or notes) not authorized by the instructor for use during the examination.
5. A student shall follow all instructions concerning the administration of examinations.
6. In connection with an examination or an academic assignment, a student shall neither give, receive, nor obtain information or help in any form not authorized by the instructor or the person administering the examination or assignment.
7. A student who is taking or has taken an examination shall not discuss any part of that examination with another student who is taking the examination or will be taking a deferred examination, or with anyone else when such discussion is likely to endanger the security of the examination questions.

8. While taking an examination, a student shall neither converse nor communicate with any person, other than the person(s) administering the examination, except as permitted by the administrator(s) of the examination.

9. A student shall not submit to any instructor or Law School organization any written work (or part thereof) prepared, submitted, or used by him or her for any other purpose (such as, by way of example, work prepared for or submitted in another course, or work prepared for a law journal, clinic, law firm, government agency, or other organization), or prepared by another, except upon specific disclosure of the facts and receipt of permission from the instructor or organization to whom the work is submitted.

10. A student shall not take or copy material (such as personal items, books, notebooks, outlines, papers, or notes) belonging to another student without the consent of the latter.

11. A student shall not make a false statement to a Law School instructor, administrator, or organization, or to the Honor Council or an Investigating Committee.

12. A person shall not refuse to cooperate with the Honor Council or an Investigating Committee constituted under this Code, except that a student who is being investigated or who is charged shall not be obliged to provide oral or written testimony without a grant of use or transactional immunity.

13. Unless authorized by this Code or required by law or court order, no member of the Law School faculty, administration, Honor Council, or an Investigating Committee shall disclose information concerning the identity of the accused, the accuser, or witnesses without the express permission of the Council or Committee. Students who are questioned by a member of the faculty, administration, Honor Council, or Investigating Committee about a suspected Code violation by another student shall not disclose to anyone else information concerning the identity of the accused, the accuser, or witnesses learned during the questioning without the express permission of the Council or Committee.

14. With respect to the Law School Library or other University Library, a student shall not: (a) mark, tear, mutilate, or destroy library material; (b) hide, mis-shelve, or misfile library material; (c) remove library material from the library without complying with library regulations; or (d) otherwise fail to comply with library regulations.

15. A student violates this Code by conspiring, soliciting, attempting, or agreeing to commit, assist, or facilitate the commission of any violation of this Code.

16. A student shall comply with any requirement imposed upon him or her by the Honor Council as a sanction under this Code.

17. A student shall not engage in any act that materially disrupts a class, meeting, or other function of the Law School so as to interfere unreasonably with the rights of other students in the pursuit of their education.

18. Purposefully engaging in racial, ethnic, religious, or sexual harassment of a student interferes with the rights of that student; accordingly, such conduct violates this Code.

19. A student shall not knowingly make a false allegation of a violation of this Code.

20. A student shall not utilize computer information systems for nonLaw School related activities (such as employment outside of Law School) without authorization or for assignments, projects, or course work where use of such systems is prohibited.

C. Before a student may be found to have violated this Code, there must be clear and convincing evidence that the accused committed the act or acts constituting the violation and that the accused did so purposefully, knowingly, recklessly, or negligently.

D. Extenuating circumstances or good motives (such as, by way of example, pressure from school or outside work, family obligations, or to help a friend) are no defense to a violation of the Code but may be relevant to the determination of sanction.

E. It is not a defense to charges of violating this Code for a student to claim he or she has not received, read, or understood this Code, or is otherwise ignorant of its provisions. A student is held to have notice of this Code by enrolling in Law School. (See Section II. C, 4.) A copy of the Code will be distributed to each entering firstyear student, placed on file in the Law School Library, and made available from the Law School's Office of Academic Services.

## **Section V. Sanctions**

A. Sanctions for violations of this Code may include but are not limited to one or more of the following:

1. public or private admonition, warning, reprimand, or censure;
2. counseling;
3. additional academic work;
4. a requirement that a student take extra credit hours;
5. public or University service;
6. suspension or loss of specific Law School benefits, privileges, memberships, and/or honors, including financial aid and scholarships;
7. fines;
8. compensation for or replacement of any damaged or destroyed property;
9. recording of findings in the student's Law School file for any length of time;
10. probation, with or without conditions;
11. suspension for a period not longer than two (2) years;
12. expulsion;
13. recommendation of a lowered grade;
14. recommendation to the Board of Trustees that an awarded degree be withdrawn; or

15. request to the Dean that he or she take other appropriate action.

B. The Honor Council has no authority to determine or change a student's grade based upon the student's conduct in connection with a course or other graded academic activity.

C. Notwithstanding the provisions of this Section, any official student organization may suspend, expel (with or without retroactive effect), or terminate any membership or honors accorded a member found to have violated this Code.

## **Section VI. Responsibilities of Faculty and Administration**

A. By the second meeting of a course, each instructor shall identify with precision the materials (if any) that the students may use during the instructor's examination, and shall describe the condition (for example, annotated or unannotated) in which those materials may be used; provided, however, that if an instructor does not identify the materials usable during the final examination and their condition, students must assume that the examination in that course is "closed book," that is, that no materials will be permitted to be used by students during the final examination. In order to eliminate ambiguity or uncertainty, the instructor shall answer any student question concerning those materials and shall communicate that same information to all students in the course.

B. Each instructor shall include the instructions described in Paragraph A, above, in the written instructions accompanying the examination.

C. Each instructor shall exercise caution in preparing, administering, and discussing an examination to ensure that no student receives an unfair advantage.

D. Each instructor and member of the Law School staff shall report to the Assistant Dean for Student Affairs any student conduct that is reasonably believed to constitute a violation of this Code.

E. It is the responsibility of the Dean, or his or her delegate, to supervise the imposition of any sanction directed by the Council or modified by any appeal.

## **Section VII. Report of an Alleged Violation**

A. If a person wishes to initiate a disciplinary proceeding against a student for violating this Code, the person must report the matter to the Assistant Dean for Student Affairs. The report of the suspected Code violation may be either written or oral. Such report may not be made anonymously; however, confidentiality relating to the identity of the accuser shall be maintained, subject to the provisions of Sections VIII. C, E and IX. B, K, L, and M. If the Assistant Dean is not available to receive the report, then the suspected violation must be reported to the Associate Dean for Academic Affairs or to the instructor, if any, whose course is affected by the conduct. An anonymous report will not be sufficient to initiate an investigatory or disciplinary proceeding under this Code.

B. If the report of the suspected violation is made orally, the person who initiated the report must submit a brief written report of the facts surrounding the suspected violation to the Assistant Dean, who shall in turn deliver the written report to the Chair of the Honor Council or the Investigating Committee, if one has been constituted.

C. The Assistant Dean for Student Affairs, upon receiving a report, and after consultation with the Chair of the Council, may determine that no violation of the Code has occurred even if the allegation is assumed to be true.

## **Section VIII. Investigation of Violations**

A. Upon receipt of a report of a suspected Code violation, the Assistant Dean for Student Affairs, Associate Dean for Academic Affairs, or instructor shall promptly notify the Chair of the Honor Council of the allegations contained in the report, including the names of the accused student(s) and the person(s) making the allegation. Upon receiving this report, the Chair shall promptly inform the members of the Council of the substance of the report and the identity of the members of the Law School community allegedly involved in the incident.

B. A meeting to determine whether to decline or postpone asserting jurisdiction shall be held if requested by at least two (2) members of the Council. The Council may not decline or postpone taking jurisdiction of a matter unless at least four (4) members of the Council, and/or their alternates if any members are not available, vote to decline or postpone taking jurisdiction.

C. If the Council elects to decline or postpone asserting jurisdiction, the Council shall submit a written report to the Dean giving its reasons. The Council may publish its decision, but in doing so no information identifying the accused or the accuser shall be revealed. The Council's election not to take jurisdiction of a matter for any reason shall not prevent the Dean from taking whatever administrative action against the student he or she deems appropriate. This report may include a recommendation that the Dean take administrative action against the student or consider the incident when deciding whether to recommend the student for the award of a degree or other purpose. Whenever the Council's report includes a recommendation of action by the Dean against the student, a copy of the report shall be sent to the student.

D. If the Council does not decline or postpone asserting jurisdiction over the matter, the Chair shall promptly notify the Assistant Dean for Student Affairs of that fact. Upon receipt of such notice, the Assistant Dean for Student Affairs shall promptly notify the accused student of the allegation and that an investigation will begin and shall furnish the student with a copy of this Code. Where a report of a suspected Code violation accusing a currently enrolled student is received by the Council at a time when it appears that the investigation and hearing before the Council, if any, could not be completed at least two weeks before the end of classes, the Chair of the Council may direct the Assistant Dean to postpone notification until after the accused student has completed his or her examination.

E. The Assistant Dean shall notify the accused student that an investigation is to be initiated and shall also notify the Dean, but such notice to the Dean shall not disclose the identity of the accused, the accuser, or the nature of the alleged violation. The Dean shall promptly appoint an Investigating Committee consisting of two faculty members and one student. The Associate and Assistant Deans and members of the Council shall not be appointed to the Investigating Committee.

### **F. Duties of the Investigating Committee**

1. Except for good cause shown, the Investigating Committee shall complete its investigation of the alleged violation within thirty (30) days of its formation.

2. The Committee shall have the power to question persons having pertinent information, examine any pertinent material, and question an accused student if he or she is willing to speak. If the Committee questions a student whom the Committee reasonably believes has committed a Code violation, it shall advise the student: (a) of his or her right not to speak, (b) that what the student says can be used against the student, (c) that the student has the right to consult an attorney or other representative before answering any questions, and (d) that the student has the right to have that representative present during the questioning. At the request of the Investigating Committee, the Chair of the Honor Council shall have the authority to subpoena law school instructors, staff,

and students to appear as witnesses before the Investigating Committee or the Council, and to grant use or transactional immunity to a witness or to an accused student if he or she is not willing to speak to the Committee.

3. Upon completion of its investigation, the Investigating Committee shall determine whether probable cause exists to believe that a student has violated this Code. A finding of probable cause must be supported by at least two (2) members of the Committee. The Committee shall promptly report its determination, whether affirmative or negative, to the Chair of the Honor Council, to the accused student, and to the person(s) who reported the alleged violation of the Code. A complaint issued by the Committee shall be sent to the Chair of the Honor Council.

4. If the Investigating Committee determines that a complaint shall be filed, the Committee shall also give to the accused student the following information in writing:

a. A copy of the complaint, which shall be a plain, concise, and definite written statement of the essential facts of the violation(s) charged, citing the specific provision(s) of this Code that the accused student is alleged to have violated;

b. The identity of known witnesses, a general description of what each is expected to testify about, their written statements, if any, and either copies or a description of any physical evidence that may be used at the hearing; all written reports concerning the alleged violation, if any, submitted to the Assistant Dean for Student Affairs or other member of the staff, faculty, or administration;

d. The names of the Honor Council members;

e. A statement that the student may be assisted by an attorney or other advisor of the student's choice (See Section IX. A.);

f. A statement that the student has a right to review any information gathered by the Investigating Committee during the investigation, other than the work product of the Investigating Committee.

5. The Investigating Committee shall not enter into any agreement with the accused student whereby the Committee agrees not to bring before the Honor Council any violations for which probable cause has been found, or which commits the Honor Council to any finding or sanction. The Committee must present all such violations to the Council for a hearing by filing a complaint as provided by this Code. The accused may admit guilt by testifying on the record before the Council that he or she committed the alleged act(s), and by waiving a hearing before the Council on the question of guilt. Upon receiving such an admission of guilt, the Council shall proceed by hearing to determine the appropriate sanction.

6. The Investigating Committee shall appoint one of its members to act as School Prosecutor in presenting the evidence against the accused student during the hearing and any appeal.

7. Notwithstanding that the Investigating Committee has issued a complaint, it shall be the duty of the School Prosecutor to continue to gather other evidence relevant to the determination of guilt or innocence of the accused and to present it to the Council at the hearing on the complaint. Any such evidence shall be disclosed to the accused student as soon as possible after it has been obtained.

## **Section IX. Hearing**

A. Upon receiving a complaint from the Investigating Committee, the Chair of the Council shall convene a hearing before the Honor Council. Before and during the hearing, and through any appeals within the University, the accused student shall be entitled to representation by or

assistance from a retained attorney or anyone else of the student's choice who agrees to represent or assist the student. If the student wishes to be represented by an attorney and is able to demonstrate to the satisfaction of the Assistant Dean for Student Affairs that he or she is financially unable to retain an attorney, the Assistant Dean shall arrange for a law faculty member or other attorney to represent the student without cost. It is the sense of the Law School community that the law faculty should provide pro bono representation to such accused students.

B. The hearing shall be attended by the Council, School Prosecutor, the remaining members of the Investigating Committee (if they so desire), the accused student, and the student's representative, if any. Witnesses may also attend unless exclusion is requested by any party. This section is subject to the following provisions:

1. The Council may proceed with no fewer than two faculty and two student members present.
2. No later than one day before the hearing, the accused student may request that the Chair allow other persons to attend; if the Chair grants that request, the Chair may also open the hearing to persons other than those requested by the accused student.
3. A request to open the hearing shall not preclude the Council, by majority vote of those present, from closing the hearing during the testimony of any witness who may be extraordinarily embarrassed by public testimony.

C. The Chair shall rule on all motions and objections and may be overruled only by a majority of the Council present.

D. The Council may consider only evidence made part of the record at the hearing. It shall not be bound by rules of evidence. All relevant evidence shall be admissible if it is not manifestly unreliable. Hearsay evidence may be admissible, but it shall be accorded only such weight, as it is entitled under the circumstances. Proof of conviction of a crime shall be *prima facie* evidence that the person committed the offense of which he or she was convicted and of any facts necessary for that finding of guilt. The Council, by majority vote, may grant use or transactional immunity to any witness. The Council may subpoena any Law School instructor, staff, or student to appear as a witness.

E. Normally, the Council shall hear evidence regarding the question of guilt before hearing evidence regarding sanctions. The School Prosecutor shall initiate the presentation of evidence. The accused student (or his or her Defense Counsel) may then offer evidence relevant to the charge(s). After the presentation of evidence regarding guilt, the Council shall meet *in camera* to decide the question of guilt. Upon reaching a decision, it shall reconvene before the parties and announce its decision. If it finds the accused guilty, it shall then give the parties the opportunity to present evidence, if any, relevant to sanctions. At that time, the student shall have the option either to proceed first or to follow the Prosecutor. The Prosecutor shall present all aggravating and mitigating evidence in his or her possession and may recommend particular sanctions. After hearing this evidence, the Council shall again meet *in camera* to decide the question of sanctions. Upon reaching a decision, the Council shall reconvene before the parties and impose sanctions, if any.

F. The Council, the School Prosecutor, and the student (or his or her Defense Counsel) may question any witness. However, the accused student shall not be required to testify, and no adverse inferences shall be drawn from the accused student's decision not to testify.

G. The School Prosecutor and the accused student (or Defense Counsel) may make opening and concluding statements. However, an accused student who has chosen not to testify may not make

a statement to the Council unless the student allows questions from Council members and the School Prosecutor.

H. The hearing shall be recorded by means of stenographic, or audio or video tape recording.

I. The Council may not find the accused student guilty of any Code violation not charged in the complaint. After the hearing begins, the complaint may be amended over the accused's objection, provided the accused is not thereby prejudiced in his or her defense. A continuance of the hearing may be granted to avoid such prejudice. The School Prosecutor shall bear the burden of proving the alleged violation(s) by clear and convincing evidence. A two-thirds (2/3) vote of the Council members present shall be necessary for a finding of guilt and the imposition of any sanction, except that expulsion or a recommendation that an awarded degree be withdrawn shall each require unanimity.

J. After the hearing is concluded, the Chair or the Council shall prepare a written report detailing the evidence considered, the reasons for its decision, and any sanction(s) imposed. Concurring and dissenting members may prepare reports explaining their positions. Copies of the reports shall be given to the accused and to the Dean.

K. At the conclusion of a case, including an appeal, if any, the Council shall publish the results of its decision (as amended by any appeal). The Council may publish the decision in any way it considers appropriate. Factors it might consider include, by way of examples, the relevancy of publicity as to the sanction or the informational value of the decision to the Law School community. In publicizing its decision, the Council shall not publish the name of any participant, except that in exceptional circumstances the Council may reveal the name of the student found guilty of the violation(s). Beginning with the effective date of this Code, all published decisions shall be maintained on reserve in the library.

L. Regardless of the decision on the merits, the Council shall keep a permanent record of the evidence presented at the hearing, the report(s) and the opinion(s) of the Council, if any, and any other information it decides should be retained. Such record may be referred to later by the Council for whatever purpose it considers relevant, but the Council shall not reveal the names of the accuser or the witnesses. At any time after three years from the conclusion of an appeal, the Council may destroy any record of the matter other than its written report(s) and the opinion(s) of the Dean, if any. When no complaint is filed because the allegation is deemed without merit, the conduct is *de minimis*, or the evidence is deemed insufficient, the Council shall nevertheless keep a record of the allegation, the reason(s) for nonaction, the name of the student whose conduct was under investigation, and the names of the accuser and/or the witness(es) for three years, after which time such record shall be destroyed. Subject to paragraph K hereinabove, neither the contents nor the existence of any record referred to in this paragraph may be disclosed except (1) when required by law or order of court, (2) when required by the Dean, or (3) when the concerned student has signed a written waiver of confidentiality.

M. At the end of each Chair's tenure, the Chair shall transfer all case files to the Dean's office, and the Dean shall transfer them to the next Chair. Such transfers shall be made without breach of the confidentiality of the files.

## **Section X. Appeal of Adjudications of Academic Dishonesty**

A. A student who is adjudged guilty by the Honor Council of a violation of this Code concerning a matter of academic dishonesty, an attempt to gain an unfair advantage over other law students, or an unreasonable interference with the rights of other students, may appeal such finding or any sanction imposed to the Dean of the Law School. A student who admits the truth of the complaint may challenge the Council's jurisdiction and the sanction on appeal. Normally, the filing of a notice

of appeal shall automatically stay the execution of all sanctions imposed by the Council on the student filing the notice; however, the Dean shall have authority to order that some or all of the sanction(s) be executed during the pendency of the appeal. Notwithstanding any further appeal by the student to the President of the University, all unexecuted sanctions upheld by the Dean shall be executed following the Dean's determination of the appeal.

B. Notice of intent to appeal must be given to the Dean and the Chair of the Council. The notice of appeal shall be in writing and shall contain the reasons for the appeal. Upon receipt of the notice of appeal, the Chair shall transmit its response(s) and the record of the hearing to the Dean.

C. If, following the Council's decision, the student discovers new information relevant to the merits or the sanction, the student may ask the Council to reconsider its decision or may ask the Dean to consider such new information along with the record of the hearing. The Dean may remand to the Council for consideration of the new information. If the student discovers new information after the Dean has decided the appeal, the student may ask the Dean to reconsider his or her decision. If the Dean decides not to change that decision, he or she shall give the reason(s) for not doing so to the student in writing. The student may then appeal the Dean's decision to the President of the University.

D. Normally, the Dean's appellate review will be based on the record of the hearing and any written submissions. However, the Dean may choose to hear oral argument by the student or by the Defense Counsel, and by the School Prosecutor.

E. The Dean may affirm, reverse, remand, or modify the decision of the Council, or the Dean may dismiss the complaint. If the Dean concludes that the decision of the Council is factually correct and that its sanction is appropriate, the Dean shall affirm. The Dean may dismiss the complaint only if he or she concludes that the Council lacked jurisdiction or that its determination was not supported by the greater weight of the evidence. The Dean may reduce the sanction if he or she believes that the sanction is inappropriate but may not increase the sanction. If the matter is remanded, the Council shall reconvene to reconsider the case.

F. The Dean shall prepare an opinion explaining the reasons for the decision. A copy of that opinion shall be given to the student and to the Council, and the Council shall keep a copy as part of its permanent record. Except as to sanctions, the decision of the Dean with respect to the student's guilt or innocence shall be final.

G. After the Dean's decision, the student may ask the President of the University to modify the sanction(s), but not the finding of guilt. The President may consider any information he or she considers pertinent, including the report(s) of the Council and the opinion(s) of the Dean. The President may not increase the sanction.

## **Section XI. Appeal of Adjudications of Non-Academic Violations**

A student who is adjudged guilty by the Honor Counsel of conduct that does not involve academic misconduct, an attempt to gain unfair academic advantage over other law students, or an unreasonable interference with the rights of other students, may appeal the determination of the Council to the University Judicial Council according to the University procedures for the appeal of Level II hearing boards. (See the University publication *SMU Policies for Community Life*.)

## **Section XII. Notification**

Whenever this Code requires notification and does not otherwise specify the manner by which such notification shall be accomplished, the following methods are proper:

- A. Verbal notification, either in person or by telephone, with written confirmation sent by regular mail; or
- B. Written notification sent by registered or certified mail to the last local address provided to the Law School by the recipient, or if the Law School is not in session, to the last home address provided to the Law School by the recipient.

## **Section XIII. Timeliness of Proceedings**

A. All actions taken pursuant to duties imposed by this Code shall be accomplished in a timely manner. The specific time guidelines are the following:

1. The Assistant Dean for Student Affairs shall bring a report of a suspected Code violation to the attention of the Chair of the Council within four (4) days of receiving it.
2. The Chair of the Council shall bring the substance of a report of a suspected violation to the attention of the Council within four (4) days of receiving notice from the Assistant Dean.
3. The Honor Council shall determine whether to assert, decline, or postpone taking jurisdiction of a reported matter within seven (7) days of the receipt by the Chair of the reported violation.
4. The Council's determination to decline or postpone asserting jurisdiction shall be reported to the Dean in writing within fourteen (14) days of the determination.
5. The Council's determination to assert jurisdiction, if such a determination is made, or the Chair's determination to initiate an investigation of a reported Code violation, shall be reported to the office of the Assistant Dean for Student Affairs and to the accused student within four (4) days of the determination.
6. The Dean of the Law School shall appoint an Investigating Committee within fourteen (14) days of the receipt by the Assistant Dean for Student Affairs of a report of a suspected Code violation from the Council Chair.
7. The Investigating Committee shall reach a determination regarding the reported Code violation within thirty (30) days of its appointment.
8. The Investigating Committee shall report its determination of whether to file a complaint to the Chair of the Honor Council, to the accused student, and to the person or persons initiating the report of the suspected violation within four (4) days of reaching its determination.
9. The Investigating Committee shall give to the accused student the information specified in Section VIII. F. 4. a.-f within seven (7) days of the notification to the student that a complaint will issue.
10. The Honor Council shall convene to hear a complaint within twentyone (21) days of receipt of the complaint by the Chair.

11. The Chair's written report of the Council's determination(s) and its summary of the evidence shall be submitted to the Dean within seven (7) days of the termination of the hearing.

12. A student's written notice of an intent to appeal an Honor Council determination must be received by the Dean's office within seven (7) days of that determination.

13. Except for the notice of appeal, deadlines for written submissions to the Dean from any party relating to a matter on appeal will be set by the Dean.

14. The Dean shall decide the appeal within thirty (30) days of the date the Dean's office receives the notification of an intent to appeal.

15. A student's written appeal of a sanction shall be submitted to the Office of the President of the University within fourteen (14) days of the student's receipt of the Dean's determination.

16. This Code imposes no period of time within which the President of the University must decide an appeal.

B. In computing any period of time prescribed or allowed by this Code, the day of the act or event from which the designated period of time begins to run shall not be included.

C. The accused may waive time periods imposed by this Code on others. Non-cooperation by the accused is a basis for the suspension of time requirements imposed by the Code. The Honor Council, by majority vote, and the Dean shall have the authority to extend time limits imposed upon the accused.

D. Failure by Law School personnel to abide by the time requirements of this Code without the accused's consent may be grounds for dismissal of the complaint or mitigation of sanctions only if a substantial delay has been caused and the accused has suffered prejudice thereby.

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Submitted by a joint StudentFaculty Committee.

Approved by Referendum of Students of the School of Law on April 19, 1990.

Adopted by the Faculty of the School of Law on May 15, 1990.