

## The Cleveland-Marshall College of Law Honor Code

### Preface

The Cleveland-Marshall Law School Honor Code is intended to serve three purposes. First, as the Ohio Code of Professional Responsibility requires attorneys to maintain the integrity and competence of the legal profession, the Honor Code similarly requires law students to maintain the integrity and competence of those who seek to become attorneys. Second, the Honor Code establishes rules and guidelines to define what conduct is proper and what is outside the bounds of propriety in the Law School community. All students are obligated to make themselves familiar with the provisions of the Code and to seek help from the appropriate instructor or administrator if they have questions about the Code. Ignorance of the provisions of the Code will not be a defense to a claimed violation. Third, the Honor Code demonstrates the commitment of the faculty and staff of the Law School to assuring high standards of ethical and professional conduct. Claims of violations of the Code will be taken seriously and handled expeditiously. Students who report possible violations will be treated with respect. Students who are charged with violating the Code will be afforded fair procedures for contesting the charges.

The procedures and penalties in this Code apply to cases involving alleged violations of the Honor Code Rules. The Code does not preempt other bodies established by the University or the College of Law from dealing with matters other than those set forth in the Honor Code Rules. Misconduct not subject to this code is subject to disciplinary action by the Dean's office or other bodies within the Law School or by the University. In particular, this Code does not preempt the authority of the Academic Standards Committee to make determinations in cases involving grade disputes and academic standing.

All members of the Law School community are obliged to report cases of suspected violations of the Honor Code to the Honor Council. Members of the Law School community are also obligated upon request of the Honor Code Committee to appear at hearings conducted by the Honor Council.

Upon obtaining information that gives an instructor reasonable grounds for believing that a violation of the Honor Code has occurred, the instructor shall report the matter to the Honor Council. The instructor is not authorized to resolve the matter by imposing a penalty on the student.

To interpret and apply the Honor Code effectively, faculty cooperation is essential. Faculty shall attempt to minimize misunderstanding in all assignments. Examination regulations shall be clearly explained on the examination document. Faculty shall endeavor to avoid ambiguity by stating clearly their policies and procedures concerning grading, daily assignments, class attendance, acceptable and prohibited materials, and acceptable levels of collaboration.

These rules assume that, in the absence of instructions to the contrary, students are invited to meet in groups to discuss class reading assignments and to study for written examinations. Unless instructed otherwise, students are expected to prepare written work individually using published research materials such as cases, law review articles, and other treatises on the law.

### Definitions

**Presiding Officer** – The Chairperson, Vice-Chairperson of the Honor Council or the person that has been designated by the Dean to act in the place of the Chairperson, Vice-Chairperson.

**Probable Cause** - Whether there is a reasonable basis for proceeding with the investigation.

### **Rules**

These rules describe conduct covered by the Cleveland-Marshall Law School Honor Code. Under many of the rules are specific examples of conduct covered by the rule. The specific examples are not intended to be exhaustive statements of the limits of the rule; they are meant to be descriptive of the purpose and intent of the rule.

### **I. Examinations**

A student shall not cheat or take unfair advantage of other students while taking an examination.

Cheating includes giving assistance to or receiving assistance from another person while taking an examination.

Cheating includes using any documents, materials or electronic devices for assistance while taking an examination other than those that are authorized by the instructor.

Copying or retaining any examination questions except as authorized by the instructor is a violation of this rule. Copying of examination questions placed on library reserve is permitted.

Commencing an examination before the stipulated starting time or working on an examination after the ending time specified by the instructor or proctor is a violation of this rule.

Violating any other reasonable regulation established by the instructor for the taking of the examination is a violation of this rule.

### **II. Plagiarism**

A student is prohibited from plagiarizing. Plagiarism is defined broadly as copying and representing as one's own the works of another in whole or in part regardless of whether such work is copyrighted; using the ideas of another without proper attribution; or any other effort to pass off the works of another, in whole or in part, as the work of the student.

Plagiarism includes using information, ideas, quotations or opinions that are not the student's without identifying the source. Students must use quotations when using the words of another and give credit to the source from which the words are drawn. Students must give credit for the material, ideas, or opinions drawn from others when restated in the students' own words. Paraphrasing, defined as presenting as one's own the words of another with minor modifications, is a violation of this rule.

Submitting a written paper as the sole work of the student when others have shared in preparation of the written work is a violation of this rule. Any written work that is the joint effort of more than one author shall bear the names or identification numbers of all persons who shared in the preparation of the work.

Authorization by an instructor for students to discuss an assignment with others shall not by itself be deemed to be authorization to prepare the written work jointly.

### **III. Unauthorized Assistance**

Knowingly providing unauthorized assistance to a student who is preparing written work, taking an examination, or doing a class assignment is prohibited.

#### **IV. Misuse of Prior Work**

A student shall not submit work for credit in a course when that work has been or will be used for credit in another course unless the student has obtained express permission to do so from the instructor.

#### **V. Compromising Anonymous Grading**

A student who is submitting work that will be graded anonymously shall not take any action for the purpose of revealing or suggesting the identity of the student as the author of the work.

#### **VI. Misuse of Law Library and Other Law School Books, Materials and Equipment**

A student shall not steal, deface, destroy, or otherwise misuse law library and other law school books, materials or equipment.

It is a violation of this rule for a student to hide or otherwise make law school materials unavailable to other students in order to put others at a disadvantage in performing a law school assignment.

It is a violation of this rule for a student to use a law school computer or a research terminal for work undertaken in the course of outside employment or for other non-law school purposes.

#### **VII. Falsifying Documents**

A student or applicant for admission or readmission shall not knowingly alter or falsify any documents or materials relating to the Law School including application and financial aid papers, transcripts, bar admission papers, resumes, or job application forms.

#### **VIII. Unauthorized Recording**

No student shall install or use any device for listening to, observing, recording, photographing, transmitting, or broadcasting any meetings or conversations among members of the Law School community not open to the public without express consent of all persons involved. This provision does not apply to classes, which remain subject to the individual rules of each instructor.

#### **IX. Interference with the Educational Process**

The orderly pursuit of legal knowledge is the primary mission of the Law College. Accordingly,

**A.** No student shall make any threat of physical harm or engage in intimidating conduct with the intent to prevent or materially to hinder: (1) a student from pursuing an education in the College of Law; (2) a faculty member from teaching, engaging in research, or performing institutional duties; or (3) a staff member from performing institutional duties.

**B.** No student shall steal, deface, hide, or otherwise sabotage another student's books, notes, outlines, papers, or other work products or material.

**C.** No student shall intentionally:

- (1) give information that is materially false or misleading or contains a material omission to; or
- (2) otherwise materially deceive a faculty member, a member of the law school administration, or a law school committee.

## **Honor Council Procedures**

### **I. Selection of Council Members**

The Honor Council shall consist of eight members: four faculty, three students, and one administrator.

The Dean shall appoint the faculty members and designate one member to serve as the chair and another to serve as vice chair. During the initial selection, two faculty members shall be appointed for two-year terms, and two shall be appointed for a one-year term. Thereafter, appointments shall be for two-year terms.

The Dean shall select student members upon recommendation of the Student Bar Association (SBA). The SBA shall recommend at least five upper level students from whom the Dean shall select three to serve. The other students shall be available to serve as interim members should one of the students have a conflict of interest or otherwise be unable to serve in an individual case. Students shall be appointed for one-year terms. If the SBA fails to recommend students to serve on the Council, the Dean is authorized to appoint the student members at the Dean's discretion.

The administrative member shall be appointed by the Dean.

If a member of the Council has a conflict in any case, either because the member is a witness, party, or complainant, or the member is otherwise unable to render a disinterested decision, the member shall recuse himself or herself and an interim member shall be appointed for that case. The Dean shall appoint a faculty member to replace a faculty member, a member of the administration to replace the administrator and a student, from the list of students previously recommended by the SBA, to replace a student member when necessary. If no student on the list is eligible to serve, the Dean shall select an upper level student to serve on the committee.

### **II. Prehearing Procedures**

Whenever the Dean, or designated administrative officer is informed that a suspected violation of the Honor Code has occurred, that person shall first make a determination as to whether a probable cause investigation is warranted by conducting a preliminary interview with the complainant and/or accused.

Any complaint of a suspected violation which is brought to the attention of the Dean or designated administrative officer after the spring or fall semester following the semester in which the suspected violation is discovered shall be deemed untimely and shall not be investigated.

When meeting with the accused, the student shall be fully informed of his or her rights including the right to retain counsel if there is a full investigation.

Any person having direct knowledge or information concerning a suspected violation of the Honor Code shall report the matter to the designated administrative officer within a reasonable time, after the alleged violation has been discovered.

Within fifteen (15) business days of the report of a suspected violation, the person to whom the report is made shall make a preliminary determination on the facts alleged by the reporting party, whether to proceed with a probable cause investigation.

When an alleged violation of the Honor Code is reported to the Council, a file shall be opened and all documents, records and statements regarding the alleged violation shall be maintained in the file. The administrative member of the Council shall be responsible for maintaining the case files. The files shall be confidential. Prior to a decision by the Honor Council access shall be limited to members of the Council during the time that they are

investigating or considering a particular case. If an accused is found to have violated the Honor Code and an appeal is taken, the file may be viewed by any person who is authorized to participate in a determination of the appeal. After an alleged violation has been finally determined, access to the file shall be limited to administrators of the Law School who need information in the file for necessary administrative purposes such as determining the status of the student or deciding whether to recommend the student for admission to the bar.

If there is a determination that a probable cause investigation should be conducted, the administrative member of the Council shall notify the student that an investigation is taking place. The notice of a pending prosecution may include a brief statement of the nature of the charge, if known by the investigators.

The Honor Council Chair shall assign a team of investigators to the case no later than 10 business days, after the decision to investigate has been made. The team shall consist of one faculty member and one student member from the list of students previously recommended by the SBA to serve along with the administrator as investigators of the alleged violation. The rest of the members of the Honor Council shall serve as the Hearing Board for that case. When the chair serves as an investigator, the vice chair shall serve as the chair in all subsequent proceedings related to that case.

The investigators shall gather information about the alleged violation, obtain statements when appropriate, determine if there is sufficient information in support of the alleged violation to justify pursuing the matter and present evidence to the Hearing Board if the case proceeds to a hearing.

If a majority of the investigators determines that there is insufficient information in support of an alleged violation to justify pursuing the matter, the investigators shall inform the chair and the case shall be closed. The matter may be reopened if additional or related charges are reported to the Honor Council, or if additional information is presented to the investigators. The student will be so informed.

When the investigating team concludes its probable cause inquiry, the designated administrative officer shall meet with the student and informally present the findings of the probable cause investigation.

**A.** If the accused admits the charges during this interview:

- (1) The administrative officer will consult with the chair of the Honor Council about the range of sanctions, and the proposed sanction(s) in the case.
- (2) If the Honor Council and the accused agree the sanction(s) shall be imposed.
- (3) If the accused admits the violation(s), but does not agree with the sanction(s) the matter shall proceed to a hearing before the Honor Council, for the sole purpose of determining the appropriate penalty.

**B.** If the accused denies or does not respond to the charge(s) a hearing will be held by the Honor Council.

Upon receipt of notice of a pending prosecution the Chair of the Honor Council shall set a date and time for the hearing on the charges, which shall be no later than 45 days after the decision to prosecute has been made. The accused shall be given at least ten days notice of the hearing.

The presiding officer may conduct a pre-hearing conference with parties to determine issues including the number of witnesses and /or to accept stipulations.

Unless instructed otherwise by the Hearing Board, or presiding officer, investigators shall give a witness list and copies of any statements or exhibits to the accused. This information may

be withheld and replaced with a summary if the presiding officer determines that there is reason to believe that the witnesses are likely to be harassed or that the information in the statements is not relevant to the charges. All exculpatory evidence shall be given to the accused.

The prehearing conference and any subsequent hearings in a case shall be recorded on tape. The tape shall be kept with the case file and shall be retained at least until all hearings and appeals of the case have been completed.

### **III. Hearing Procedures**

When a hearing is scheduled, either the accused or the investigators may request the Hearing Board to send a letter asking any person believed to have relevant information about the alleged charge to attend the hearing as a witness. The Hearing Board shall send such letter unless it determines that the witness does not have any relevant information about the matter or that the request is intended for purposes of harassment or delay rather than a fair adjudication of the charges.

Except for statutory privileges, hearings shall not be conducted according to strict rules of courtroom procedure and strict rules of evidence. The Chair of the Hearing Board shall serve as judge and shall rule on any objections to questions or procedures. The Chair shall take care to assure that all parties have a fair chance to present their case, and that all witnesses are treated with respect. The Vice-Chair shall assume the duties of the Chair when the Chair is not present. The hearing may not be set during any period when classes are not in session without the written permission of the accused.

The accused shall have the right to the assistance of any person including a faculty volunteer or retained counsel.

The presiding officer shall have the right to exclude testimony irrelevant to the charges being prosecuted. Where the substance of the proffered testimony is not in dispute, written summaries may be accepted instead of oral testimony.

An investigator may make a brief opening statement setting forth the alleged violations and the essential facts intended to be established at the hearing. The accused may make a brief responsive statement.

Generally, the investigators shall call witnesses, introduce exhibits and present written statements first and the accused shall present any defense in response. The Hearing Board may modify the timing of the presentation of the case or calling of witnesses to promote efficiency so long as the accused shall not suffer an unfair disadvantage. The Hearing Board may call witnesses in addition to those called by the investigators and the accused when additional information is needed.

The Hearing Board may conduct the initial questioning of each witness while permitting an investigator and the accused to ask additional questions. Alternatively, the Hearing Board may permit the parties to conduct the initial questioning, and reserve the right to ask questions after the parties complete the examination of each witness. The Chair may disallow questioning that is repetitive, irrelevant, cumulative, or harassing.

Upon completion of the presentation of evidence, an investigator and then the accused may make a brief closing statement.

Upon conclusion of the hearing, the members of the Hearing Board shall meet in closed session. The Hearing Board shall determine whether a violation has been established by clear and convincing evidence and, if so, what penalty should be assessed. Decisions shall be made by majority vote of the members present. The Hearing Board shall prepare a written statement

setting forth the reasons for the decision and shall mail a copy to the accused and to the accused's attorney or advisor within ten days of the decision. The Honor Council may establish additional procedures that are consistent with the procedures set forth in these rules.

If an Honor Code investigation or proceeding is pending and the accused is scheduled to graduate, the student's degree may be withheld until completion of the investigation and/or hearing. The Honor Council shall make every effort in such cases to complete the matter before graduation.

#### **IV. Penalties**

Upon a finding of a violation of this Code by the Hearing Board, the Board shall determine the penalty to be imposed. The Board shall impose only those penalties provided for in this Code. In determining the appropriate penalty, the Board shall consider the nature and seriousness of the offense, the intent or knowledge of the student committing the violation, the truthfulness of the student charged during the course of the disciplinary proceedings and hearings, any prior record of violations by the student and any factors in mitigation presented by or on behalf of the student.

The penalties that may be imposed for violations of the Code are as follows:

- A.** Permanent expulsion from the College of Law;
- B.** Suspension from the College of Law for a determinate period of time, not to exceed four years, subject to such terms and conditions as the Board deems appropriate. The Board may require that application for readmission be approved by the Admissions Committee of the College of Law;
- C.** Partial or total revocation or suspension of scholarships;
- D.** Restriction of access to Law School;
- E.** For violations related to course work, penalties may include:
  - 1.** Assignment of a failing grade;
  - 2.** Change of grade in a course;
  - 3.** Withdrawal of Academic Credit or
  - 4.** Receiving no credit for the work product, with or without the opportunity to repeat the assignment;
  - 5.** Assignment of additional course work or reexamination if the instructor involved agrees;
- F.** Imposition of an order of restitution or community service equivalent to such restitution;
- G.** Probation for a specified period of time, under terms and conditions determined by the Board, including loss of privileges such as the privilege to run for or serve as an officer or member in any student organization;
- H.** Written reprimand.

Except for permanent expulsion and reprimand, the above penalties are not mutually exclusive.

At the close of each academic year the Honor Council may post and/or otherwise publish a summary of its actions for that year which provides, in anonymous fashion, a statement as to each charge brought to the Honor Council, the findings as to that charge, and the penalty for each violation.

Absent extraordinary circumstances, the penalty for cheating on any examination shall be no less than suspension from the College of Law for one semester. Absent extraordinary circumstances, a subsequent violation of the Code shall result in permanent expulsion from the College of Law.

When the Hearing Board determines that a student has violated the Honor Code and has imposed a penalty, the Board shall distribute its decision as follows:

- A. In all cases the Board shall place a copy of the decision in the Honor Council case file and shall send a copy of the decision to the student and the student's attorney or advisor;
- B. In all cases except those in which the penalty is a written reprimand, the Board shall submit a copy of the decision to the Dean of the College of Law and shall submit a copy of the decision to the records officer with instructions to include the decision in the student's file. Where the penalty imposed is permanent expulsion or suspension, the Hearing Board shall also instruct the records officer to include a notation of the action on the student's permanent record card (transcript). Where the penalty is less than permanent expulsion or suspension, the Hearing Board may order that a notation be placed on the student's permanent record card;
- C. The Hearing Board may also transmit a copy of the written statement to other appropriate persons including an instructor if the misconduct involved a course, the librarian if the misconduct involved misuse of library materials, or another student if the misconduct involved a violation of the rights of the student;

Where the penalty imposed is a written reprimand the Hearing Board may limit the notice of the decision to that provided in subsection A above, or the Board may notify the persons designated to receive notices pursuant to subsections B and C above.

## **V. Appeals**

The student may appeal a decision of the Honor Council to the faculty as of right. The faculty may take such action as it deems appropriate including affirming the decision of the Honor Council, reversing the decision, or modifying the penalty assessed.

The faculty shall consider an appeal of a decision of the Honor Council in executive session. The appeal shall not be heard *de novo*, but shall be a review of the decision below based upon information presented to the faculty by the student or by the Honor Council or by information contained in the case file.

The student and the student's advisor or attorney shall have the right to appear at the faculty meeting, to make a brief statement, not to exceed ten minutes in length, in support of the appeal and to answer any questions raised by members of the faculty.

All faculty members, other than the members of the Honor Council, shall have the right to vote on the appeal. Members of the Honor Council may participate in the deliberations of the faculty prior to voting. Decisions of the faculty shall be by majority.

The standard for determining whether to vote to affirm, reverse, or modify a decision of the Honor Council should be whether the decision was clearly erroneous. The vote of the faculty on appeal from a decision of the Honor Council shall be final.

If the faculty reverses or modifies a decision of the Honor Council, any information contained on the student's permanent record card or the student file shall be corrected.

## **VI. Time Limits**

Time limits stated herein that extend beyond the last day of classes during the Fall semester shall begin again with the first day of classes of the following Spring semester. Time limits stated herein that extend beyond the last day of classes during the Spring shall begin again with the first day of classes of the following Fall semester. Alleged violations that occur during the Summer Session will be referred to the Honor Council in the following Fall semester.

Any time limit within this code may be altered for good cause by the chair or vice-chair of the committee.

## **VII. Emergency Suspensions**

In an extreme, dangerous or unusual circumstance the Dean or Dean's designate may suspend any law student pending an investigation. An emergency suspension may be granted when there is probable cause that the student has engaged and/or will continue to engage in intentional conduct that will:

- A. disrupt or interfere with the operation of a class or the law school;
- B. endanger the physical safety of students, faculty or employees of the law school;
- C. inflict emotional distress on faculty, students or employees of the law school.

Before such suspension takes place the Dean or Dean's designate shall make reasonable efforts to interview the accused. At that interview the student will be told that he/she has the right to retain counsel and/or seek advice from his or her representative for the pending hearing.

The suspension may be imposed without a hearing. A written notice of the suspension and the reasons shall be given within 2 business days after the suspension is imposed. An opportunity for an informal hearing shall be given the student as soon as practicable but no later than four business days after the suspension is imposed.

At the informal hearing :

- A. The Chair or Vice Chair will be the hearing officer.
- B. The hearing will be recorded.
- C. The student shall have the right of the assistance of any person, including retained counsel.
- D. The hearing officer may question witnesses who may appear.

Within 24 hours the hearing officer shall make a determination in writing as to whether the suspension should continue. If the hearing officer finds that a return to school would seriously disrupt or interfere with the operation of the law school or a class, or that reinstatement before a full honor code hearing would threaten the safety or well being of students, faculty or employees, the suspension shall continue until complaint proceedings are concluded.

A student suspended under this section shall have the right to an expedited hearing before the Honor Council to be held no later than 10 days after the written findings of the hearing officer.

During the period of suspension the student shall not enter the University campus, except to meet with officials in pre-arranged conference(s) concerning pending procedures.

Should the suspended student be vindicated and as a result of the suspension, classes missed cannot be made up to the satisfaction of the faculty or the absences would violate law school, AALS or ABA rules concerning attendance, such student shall be entitled to a refund for those classes.

## **VIII. Finality**

Once a final decision has been made by the Honor Council, the matter is concluded and can not be reopened by this committee except for compelling circumstances, a referral from the full faculty, or unless there is new evidence, not reasonably discoverable at the time of the proceedings.