

# HONOR CODE AND DISCIPLINARY PROCEDURES

## A. DEFINITIONS

### 1. ACADEMIC PROGRAM

"Academic Program" means any graduate or undergraduate course, independent study or research for academic credit, internship, externship, clinical program, practicum, field placement, or other form of study or work offered in furtherance of the academic mission of the School of Law. Academic Program includes Extracurricular Activities.

### 2. ACADEMIC WORK

"Academic work" includes any work performed or assigned to be performed in connection with any Academic Program.

### 3. ADVISOR

"Advisor" means a person chosen by a Student to represent the Student in, and to present arguments and evidence on the Student's behalf to, the Hearing Panel.

### 4. CHAIR OF THE HEARING PANEL

"Chair of the Hearing Panel" means a faculty member appointed by the Dean to serve the role of carrying out the duties specified in Section C, Subsection 7.2 of these Procedures.

### 5. CHAIR OF THE HONOR COUNCIL

"Chair of the Honor Council" means the student-elected leader of the Honor Council.

### 6. CODE

"Code" means the University of South Carolina Joseph F. Rice School of Law Honor Code.

### 7. DAY

"Day" means the period of time as computed under Rule 6(a), South Carolina Rules of Civil Procedure.

### 8. DEAN

"Dean" means the Associate Dean of Academic Affairs or other designee of the Dean of the School of Law.

### 9. EXTRACURRICULAR ACTIVITY

"Extracurricular Activity" means any Student-performed activity associated with the School of Law or the University of South Carolina that is outside the scope of the normal school curriculum. Extracurricular Activity includes, but is not limited to, participation on Moot Court and Mock Trial teams, law journals, and other student organizations.

### 10. FORMER STUDENT

"Former Student" means any person who has accepted admission to the School of Law and has graduated, transferred to another institution or field of study, withdrawn, or otherwise no longer attends the School of Law.

### 11. HEARING PANEL

"Hearing Panel" means a five-member panel designated to determine whether a Student has violated the Code and, if so, to determine what sanction(s) should be imposed for such violation(s). The Hearing Panel

is comprised of three full-time faculty members appointed by the Chair of the Hearing Panel, which may include the Chair of the Hearing Panel, and two Honor Council members selected by the Chair of the Honor Council.

### 12. HONOR COUNCIL

"Honor Council" means the student organization of that name.

### 13. INVESTIGATOR

"Investigator" means a person appointed by the Dean pursuant to Section C, Subsection 4.1 for purposes of carrying out the duties in Section C, Subsections 4.4, 4.5, and 7.1. The Investigator is a neutral party—representing neither the School of Law nor the accused Student—whose functions are to obtain and transmit relevant information to the Dean and/or Hearing Panel and to present cases to the Hearing Panel. The Investigator must have been employed in an instructional capacity at an undergraduate or graduate institution for at least three (3) years, and cannot be an Instructor in the Academic Program in which the Code violation was alleged to have occurred.

### 14. INSTRUCTOR

"Instructor" means a person designated by the School of Law to teach, lead, or otherwise counsel students in an Academic Program, including persons who lead or facilitate Extracurricular Activities.

### 15. KNOWINGLY

"Knowingly" means an individual has actual knowledge or constructive knowledge of their conduct and the surrounding circumstance. An individual has constructive knowledge when they should have known of their conduct and the surrounding circumstance. Ignorance of the Code or classroom instruction is no excuse.

### 16. SUBSTANTIAL PORTION OF THE GRADE

"Substantial Portion of the Grade" means coursework that constitutes at least 10% of the overall final grade in the course.

### 17. SCHOOL OF LAW

"School of Law" means the University of South Carolina Joseph F. Rice School of Law.

### 18. STUDENT

"Student" means any person who has accepted admission to the School of Law, including Former Students.

### 19. TOLLING PERIOD

"Tolling Period" means the period of time that starts one calendar month before the first Reading Day of the Fall or Spring semester and ends on the last day of final examinations for that semester.

### 20. UNIVERSITY COMMITTEE

"University committee" means the University Committee on Academic Responsibility with the responsibility for conducting appeals of Hearing Panel decisions pursuant to Section D, Subsection 10.

### 21. UNIVERSITY

"University" means the University of South Carolina.

### 22. UNRELATED TO GRADED COURSEWORK

"Unrelated to Graded Coursework" means any code violation not directly linked to graded coursework. Examples include, but are not limited to,

lying in relation to an interview or committing a criminal act. H.C. § 2.3 & 2.4.

## B. HONOR CODE

### PREAMBLE

The preparation of Students for service in the legal profession requires not only academic rigor, but also adherence to the high standards of personal character and integrity expected of attorneys. As with the standards of the legal profession, the foundation of this Code is self-regulation. Whenever a Student is uncertain as to whether conduct would violate this Code or an Instructor's rules, it is the Student's responsibility to seek clarification from the Instructor in the affected Academic Program prior to engaging in such conduct.

### SECTION 1. GENERAL APPLICABILITY.

The following Rules govern the conduct of all Students at the School of Law. Former Students of the School of Law remain subject to this Code for violations committed while a Student. An applicant for admission to the School of Law who later becomes a Student is subject to this Code with respect to any statements or representations made in connection with the application process.

### SECTION 2. RULES

The scope of the Code is laid out in the following subsections. Student conduct that does not violate one of the following subsections does not constitute a violation of the Code, even if it may violate other rules (e.g., an Instructor's classroom rules or rules governing Extracurricular Activities). Nothing in the Code should be read to limit Instructors or others from imposing appropriate sanctions for violations of their rules regardless of whether these violations also constitute a violation of the Code.

#### 2.1 A Student shall not lie.

A Student shall not lie. For purposes of the Code, "lying" means Knowingly communicating, in any form, information known to be false or willfully omitting a material fact necessary to avoid a misrepresentation of the truth. A Student's knowledge of a statement's falsity may be inferred from relevant circumstances.

This prohibition applies to communications made in connection with Academic Programs and University and School of Law proceedings, including but not limited to Honor Code investigations and hearings. This includes Knowingly misrepresenting academic performance (e.g., grade point average) to employers, prospective employers, or other academic institutions.

#### 2.2 A Student shall not cheat.

A Student shall not cheat. For purposes of the Code, "cheating" means Knowingly gaining or attempting to gain, or giving or attempting to give, what a reasonable law student would believe is an unfair or prohibited advantage. This may include, but is not limited to, using unauthorized materials; disregarding rules of anonymity; or giving or receiving any unauthorized assistance in the completion of any academic coursework, paper, or examination, whether graded or otherwise.

This prohibitions applies to Student conduct related to Academic Programs and University and School of Law proceedings.

#### 2.3 A Student shall not plagiarize.

A Student shall not plagiarize. For the purposes of the Code, "plagiarism" means Knowingly and falsely representing words or thoughts as

one's original work. This may include, but is not limited to, replicating, paraphrasing, or otherwise presenting material from another source without crediting the source.

This prohibition applies to Student conduct related to Academic Programs and University and School of Law proceedings.

#### 2.4 A Student shall not commit any criminal act.

A Student shall not commit any criminal act. For the purposes of the Code, a "criminal act" means conduct that both

1. Violates any local, state, or federal law in effect at the time and place of the conduct in question, and
2. Reflects adversely on a Student's honesty, trustworthiness, or fitness for admission to the practice of law, consistent with the Model Rules of Professional Conduct § 8.4.

A conviction or plea of guilty in a criminal matter is conclusive proof that a Student committed the act that is the subject of that conviction or plea. The absence of a criminal conviction does not preclude a finding that a criminal act occurred for purposes of the Code.

### SECTION 3. DUTIES.

3.1 Duty to Report. A Student who reasonably believes that another Student or former Student may have violated this Code shall promptly report that information either to the Instructor in the affected Academic Program or to the Dean.

3.2 Duty to Self-report. A Student who reasonably believes that they may have violated this Code shall promptly report that information either to the Instructor in the affected Academic Program or to the Dean.

3.3 Duty to Cooperate. Any Student who is a witness to, or the subject of, an alleged Honor Code violation shall cooperate fully and truthfully during any investigation or hearing, including responding to communications in a timely manner and testifying when called upon to do so. The failure to cooperate or testify fully when called upon to do so may give rise to adverse inferences as to whether the Student violated the Code. Additionally, any failure to cooperate or testify fully and truthfully when called upon to do so that amounts to a willful omission of material fact necessary to avoid a misrepresentation of the truth may constitute a violation of Subsection 2.1 of the Code.

## C. DISCIPLINARY PROCEDURES

### SECTION 1. GENERAL APPLICABILITY.

1.1 Revision. The following procedures govern enforcement of the Code. Revisions to the Code or to these procedures may be adopted upon approval by a majority of both the faculty and the Honor Council, and become effective only after the proposed revisions have been posted for Student comment either in the School of Law building or on an internet vehicle for a minimum of fourteen (14) Days.

1.2 Procedures Held in Abeyance. To minimize the impact of investigations and disciplinary proceedings on student learning, no disciplinary procedures involving notice to, or participation by, an accused Student or any other Student shall take place during the Tolling Period, defined as the period of time that starts one calendar month before the first Reading Day of the Fall or Spring semester and ends on the last day of final examinations for that semester. Students who have been notified of an allegation against them (pursuant to Subsection 4.3) prior to the

Tolling Period may waive the abeyance requirement upon written notice to the Dean or Investigator.

## SECTION 2. REPORT OF ALLEGED VIOLATION.

2.1 Report by Instructor. Any Instructor who becomes aware of information that, if true, would indicate that a Student or former Student in any of the Instructor's Academic Programs has violated the Code shall promptly report that information in writing to the Dean. Any Instructor who reasonably believes that a Student or former Student has violated the Code in relation to an Academic Program other than one involving the Instructor shall promptly inform the Instructor in the affected Academic Program or the Dean.

2.2 Report by Persons Other than Instructor. Another person other than an Instructor who reasonably believes that a Student or former Student has violated the Code shall promptly report that information either to the Instructor in the affected Academic Program or the Dean.

## SECTION 3. DEAN'S INITIAL DETERMINATION OF PLAUSIBLE VIOLATION

Upon receipt of a report of an alleged violation, the Dean shall assess the preliminary information and determine whether the alleged conduct, if true, could plausibly constitute a violation of the Code. In making this determination, the Dean may consult with the Chair of the Honor Council.

3.1 Initial Determination of Non-violation. In the event that the Dean determines that the conduct described in the preliminary information, if true, would not constitute a violation of the Code, no further action is necessary.

3.2 Initial Determination of Plausible Violation. In the event that the Dean determines that the conduct described in the preliminary information, if true, could plausibly constitute a violation of the Code, the Dean shall refer the matter for investigation and appoint an Investigator consistent with Subsection 4.2.

## SECTION 4. INVESTIGATING OF ALLEGED VIOLATION

4.1 Appointment of Investigator. The Dean shall appoint as Investigator a permanent member of the faculty at the University of South Carolina Joseph F. Rice School of Law who has been employed in an instructional capacity at an undergraduate or graduate institution for at least three (3) years. The Investigator cannot be an Instructor in the Academic Program in which the alleged violation of the Code occurred.

4.2 Role of Investigator. The Investigator is a neutral party—representing neither the School of Law nor the accused Student—whose functions are to obtain and transmit relevant information to the Dean and/or a Hearing Panel and to present cases to the Hearing Panel.

4.3 Initial Notice to Accused Student. Upon the appointment of an Investigator, the Dean shall promptly notify the accused Student of the allegations which led to the initial determination of plausible violation by letter, addressed to the Student and delivered personally to the Student or by first-class mail to the accused Student's permanent address on record at the School of Law.

The initial notice must inform the Student of the following:

1. The initiation and conduct of an investigation into a possible Honor Code violation;
2. The general nature of the alleged violation;
3. The name of the Investigator; and

4. That, at the conclusion of the investigation, the matter, and any other matters discovered during the course of the investigation will either be closed or pursued in accordance with these procedures.

4.4 Conduct of Investigation. The Investigator may interview any person, including the accused Student, and review any documents or other information that the Investigator believes may assist in determining facts relevant to the alleged violation or potential violations discovered during the course of the investigation.

4.5 Submission of Investigator's Report. The Investigator shall submit a written report to the Dean within fourteen (14) Days of appointment, unless the Dean has granted a reasonable extension of time. The Investigator's report must summarize the factual findings of the investigation and identify with specificity any facts that, if true, could plausibly constitute a violation of the Code.

## SECTION 5. ADMITTED VIOLATIONS

5.1 Admission of Violation. An accused Student may, at any time, admit to violating the Code by providing to the Dean or the Investigator a written statement admitting to the alleged violation. The matter will then proceed as provided in this Section.

5.2 Disposition of Certain Admitted Violations. The Dean may, at their discretion, impose a sanction in cases involving a single violation of the Code that:

1. Has been admitted by the Student;
2. Is not related to any graded assignment;
3. Involves no one other than the Student; and
4. Had no effect on individuals other than the Student.

If the Dean elects to impose a sanction in such cases, that sanction shall be an oral reprimand of the Student, with a record of the reprimand to be maintained in the Office of Student Conduct and Academic Integrity and the Law Registrar's Office. If the Dean elects not to impose that sanction, the matter shall be referred to a Hearing Panel for determination of an appropriate sanction after a Sanctions Hearing as provided in Subsection 8.4(c).

5.3 Disposition of Other Admitted Violations. The Dean shall refer all admitted violations not subject to Subsection 5.2 to a Sanction Hearing to be handled as provided in Subsection 8.4(b).

## SECTION 6. CONTESTED ALLEGATIONS

6.1 Contested Allegations. Any alleged violation not admitted is considered to be contested.

6.2 Dean's Review of the Investigator's Report. Upon receipt of the Investigator's report, the Dean shall determine, based on the report, whether there is a reasonable possibility that a violation of the Code can be proven by clear and convincing evidence. In making this determination, the Dean may consult with the Chair of the Honor Council.

1. In the event that the Dean determines that the information in the report, if true, would not constitute a violation of the Code, the Dean shall close the matter. The Dean shall notify the accused Student in writing and notify, either in person or in writing, the person who initially reported the allegation and the Instructor in the affected Academic Program that the matter has been closed with a finding that no violation occurred.
2. In the event that the Dean determines that there is no reasonable possibility that a violation of the Code can be proven by clear and convincing evidence, the Dean shall close the matter. The Dean shall

notify the accused Student in writing and notify, either in person or in writing, the person who initially reported the allegation and the Instructor in the affected Academic Program that the matter has been closed with a finding that no violation can be proven.

3. In the event that the Dean determines that there is a reasonable possibility that a violation of the Code can be proven by clear and convincing evidence, the Dean shall refer the matter to the Chair of the Hearing Panel for a Violation Hearing, as provided in Subsection 8.4(a), and, if necessary, a Sanctions Hearing, as provided in Subsection 8.4(b). The Dean also shall notify the Investigator of the referral.

## SECTION 7. DUTIES AND PROCEDURES PRIOR TO HEARING

Upon the Dean's referral of a matter to the Chair of the Hearing Panel pursuant to Subsection 6.2(c), the following duties and procedures apply.

### 7.1 Duties of the Investigator.

1. No more than fourteen (14) Days after the Dean refers the matter to the Chair of the Hearing Panel, the Investigator shall provide to the Chair:
  - a. A copy of the Investigator's report;
  - b. A list of witnesses whom the Investigator is likely to call to testify at the hearing; and
  - c. Copies of any documents that the Investigator is likely to produce at the hearing.
  - d. The Investigator shall request information regarding any prior violation of the Code by the accused Student or any history of academic discipline for dishonesty as disclosed in the accused Student's application for admission to the School of Law. The Investigator shall not reveal such information to the Hearing Panel until a Sanctions Hearing under Subsection 8.4(b).

### 7.2 Duties of the Chair of the Hearing Panel.

1. The Chair of the Hearing Panel shall provide for the composition of the Hearing Panel as follows:
  - a. The Chair of the Hearing Panel shall select three full-time faculty members to sit on the Hearing Panel. The Chair of the Hearing Panel may serve as one of the faculty members on the Hearing Panel.
  - b. The Chair of the Hearing Panel shall notify the Chair of the Honor Council to select two Honor Council members to sit on the Hearing Panel.
2. The Chair of the Hearing Panel shall set a date for a hearing to be held not more than forty-five (45) Days after receiving the referral from the Dean, but not less than fourteen (14) Days after the Chair provides notice of the hearing to the accused Student pursuant to Subsection 7.2(c). The Dean may approve an extension of the hearing date for just cause, upon written request of the Chair of the Hearing Panel. In extenuating circumstances, the Chair and the accused Student may agree to waive the 14-Day requirement.
3. Upon setting the hearing date, the Chair of the Hearing Panel shall cause to be delivered to the accused Student, either personally or by email to the accused Student's School email on record with the School of Law, the following information:
  - a. A copy of that section of the Student Handbook entitled, *Honor Code and Disciplinary Procedures*;
  - b. A copy of the Investigator's report to the Dean;
  - c. The list of possible witnesses provided by the Investigator to the Chair of the Hearing Panel;

- d. Copies of any documents provided by the Investigator to the Chair of the Hearing Panel;
- e. A list of the names of the members of the Hearing Panel;
- f. Notice of the time and place of the hearing;
- g. Notice of the accused Student's rights set out in Subsection 7.3; and
- h. Specific notice that the hearing is the accused Student's opportunity to defend against the allegations brought and that one or more sanctions specified in Subsection 9 may result from a finding that the accused Student violated a provision or provisions of the Code.

### 7.3 Rights of the Accused Student.

1. The accused Student has the right to request recusal of any panel member(s) whom the accused Student believes to be unable to serve with impartiality. To exercise this right, the accused Student must request recusal by notifying the Chair of the Hearing Panel in writing no more than three (3) Days after the date the Chair of the Hearing Panel notified the accused Student of the membership of the hearing panel, pursuant to Subsection 7.2(c). The accused Student must show good cause why the member(s) should be removed from service on the Hearing Panel.
2. The accused Student has the right to be accompanied by an Advisor. To exercise this right, the accused Student must notify the Chair of the Hearing Panel in writing of the accused Student's intention to have an Advisor present at the hearing no less than three (3) Days before the scheduled hearing date. Should the accused Student fail to provide notice as required, the Chair of the Hearing Panel, at their discretion, may delay the hearing or refuse to allow the person selected by the accused Student as an Advisor to participate in the hearing.
3. The accused Student has the right to a hearing that is open to the public. To exercise this right, the accused Student must notify the Chair of the Hearing Panel in writing of the Student's desire for an open hearing. The Chair of the Hearing Panel must receive such notice no less than three (3) Days before the scheduled hearing date.
4. The accused Student (or the Advisor) has the right to call and question witnesses. To exercise this right, the accused Student must provide the Chair with a written list of intended witnesses no less than three (3) Days before the scheduled hearing date. Pursuant to Subsection 8.2, the Chair of the Hearing Panel may deny the request to call any witness for whom timely notice was not properly given.
5. The accused Student (or the Advisor) has the right to introduce documentary and other non-testimonial evidence. To exercise this right, the accused Student must provide the Chair of the Hearing Panel with copies of all documents intended to be introduced no less than three (3) Days before the scheduled hearing date. Pursuant to Subsection 8.2, the Chair of the Hearing Panel may deny the request to introduce documentary and other non-testimonial evidence for which timely production was not properly made.

## SECTION 8. HEARING PROCEDURES

8.1 Attendance at Hearing. All hearings shall be confidential and closed to persons other than members of the Hearing Panel, the Investigator, the Instructor of the affected Academic Program, the witnesses during the presentation of their testimony, the accused Student, and the Advisor, unless an open hearing was properly requested by the accused Student, pursuant to Subsection 7.3(c). The Instructor in the affected Academic Program may attend the hearing in its entirety but may not participate

unless called as a witness or questioned by the members of the Hearing Panel.

Nothing in this Section shall be construed to diminish the Chair's authority to take any necessary measures to maintain order and decorum during a hearing, including the removal of any persons acting in a disruptive manner.

In the event that the accused Student does not appear at the appointed time and place for the hearing, the Hearing Panel may elect to hear the matter in absentia.

**8.2 Chair Authorized to Prevent Prejudice.** The Chair may delay the hearing or exclude from the hearing any witnesses or documents not identified prior to the hearing as required by Subsections 7.1 or 7.3 if the Chair determines that the lack of prior notice would unfairly prejudice either the accused Student or the Investigator.

**8.3 Admissible Evidence for All Hearings.** The members of the Hearing Panel may hear any oral testimony or review documentary or other non-testimonial evidence that is relevant and material, including evidence that would be considered hearsay evidence under the South Carolina Rules of Evidence or the Federal Rules of Evidence. Oral testimony of all witnesses shall be under oath or upon affirmation. The Chair of the Hearing Panel may exclude evidence that is cumulative or repetitious.

**8.4 Conduct of Hearings.** The Hearings shall be conducted as set forth in paragraphs (a), (b), and (c) of this subsection. An audio recording or other record of the hearings must be made and retained in the Office of the Dean. All documents admitted into evidence shall likewise be preserved.

**1. Violation Hearing.**

- a. Prior to the hearing, the Chair of the Hearing Panel shall provide each member of the Hearing Panel with a copy of the Investigator's report and any prefiled materials provided by the Investigator, pursuant to Subsection 7.1(a), or by the accused Student, pursuant to Subsections 7.3(d) and (e). The Chair of the Hearing Panel shall allow a reasonable period of time for the members of the Hearing Panel to familiarize themselves with the prefiled materials prior to the opening of the hearing.
- b. The Chair of the Hearing Panel shall formally call the hearing to order and issue a reminder that the proceedings are confidential, unless the accused Student has properly exercised the right to an open hearing under Subsection 7.3(c), and recorded.
- c. All persons present shall identify themselves for the record.
- d. The Investigator shall make an opening statement.
- e. The accused Student or the Advisor may make an opening statement. An accused Student's decision to waive an opening statement shall not give rise to adverse inferences.
- f. The Investigator may call and question witnesses, introduce the documentary and non-testimony evidence prefiled under Subsections 7.1(a) and 7.3(e), and offer or summarize the statements obtained during the investigation. After the Investigator questions a witness or refers to any evidence, the accused Student (or the Advisor) may question the witness or provide a response to the evidence. Members of the Hearing Panel may, at any time, question witnesses, the Instructor(s) in the affected Academic Program(s), the Investigator, the accused Student, or the Advisor.
- g. The accused Student (or the Advisor) may call and question witnesses, refer to the documentary and non-testimony evidence

prefiled under Subsections 7.1(a) and 7.3(e). After the accused Student or Advisor questions a witness or refers to any evidence, the Investigator may question the witness or provide a response to the evidence. Members of the Hearing Panel may, at any time, question witnesses, the Instructor(s) in the affected Academic Program(s), the Investigator, the accused Student, or the Advisor. An accused Student's decision not to call witnesses or present evidence shall not give rise to adverse inferences.

- h. The members of the Hearing Panel may inquire into topics and information not presented by the Investigator or accused Student.
  - i. After all evidence has been presented, the Investigator shall make a closing statement.
  - j. The accused Student (or the Advisor) may make a closing statement. The decision to waive a closing statement shall not give rise to adverse inferences.
- k. At the Chair's discretion, the Investigator may make a rebuttal statement.
  - l. The members of the Hearing Panel shall deliberate in private to determine whether the testimony and materials provided, taken as a whole, establish by clear and convincing evidence that the accused Student violated the Code. The Hearing Panel may conclude that the Student's conduct before or during the investigation and hearing proceedings violated the Code, even if the relevant facts were not specifically identified in the Investigator's report. Determination by the Instructor(s) of the affected Academic Program(s) that the accused Student did, or did not, violate the Code is not binding on the Hearing Panel.

If a majority of the Hearing Panel determines that a violation has not been proven by clear and convincing evidence, the Chair shall reconvene the hearing, announce the determination, dismiss the allegation(s), and close the proceedings. The Chair or designee shall prepare a written memorandum containing findings of fact and dismissing the allegation(s). The Chair shall promptly send a copy of that memorandum to the Investigator, the Instructor(s) in the affected Academic Program(s), and the Dean. The Chair shall simultaneously provide the Student with a copy of the memorandum, either through personal delivery or by email to be delivered to the accused Student's School email on record at the School of Law. By written request, the Student may elect to receive a physical copy of the memorandum delivered to the accused Student's permanent address on record at the School of Law. The Dean shall provide a copy of the memorandum to the Law Registrar to be maintained in the Student's permanent record.

If a majority of the Hearing Panel determines that a violation has been proven by clear and convincing evidence, the Chair shall reconvene the hearing for a sanctions proceeding, pursuant to Subsection 8.4(b).

**2. Sanctions Hearing after Violation Hearing.**

- a. Upon reconvening the proceedings, the Chair shall announce the provision(s) of the Code that the Hearing Panel found, by clear and convincing evidence, the accused Student to have violated. The Chair shall also announce that the Hearing Panel will hear aggravating evidence and mitigating evidence for the purposes of determining the appropriate sanction(s).
  - i. Aggravating Evidence. "Aggravating evidence" means any facts or circumstances that increase the culpability of the

conduct that either a Hearing Panel has determined violated the Code or to which the Student has admitted. Aggravating evidence may include, but is not limited to:

1. The extent of the Student's premeditation;
2. The extent to which the Student's acts negatively impacted other individuals;
3. The extent to which the Student's acts presented a legitimate threat to the reputation or integrity of another student, individual, group, Academic Program, the School of Law, or any other institution, including a Student's employer;
4. The number and frequency of the Student's acts found to have violated the Code;
5. The Student's conduct during the investigation, violation hearing, and sanctions hearing, including lack of candor that would not constitute an independent Code violation; and
6. The Student's history of academic discipline, whether at the School of Law or another institution.

- ii. Mitigating Evidence. "Mitigating evidence" means extenuating facts or circumstances that, while not disproving a Student's violation of the Code, would reduce the Student's culpability for the acts that either a Hearing Panel has determined violated the Code or to which the Student has admitted. Mitigating evidence may include, but is not limited to:

1. The extent of the Student's candor and cooperation during the investigation, violation hearing (if any), and sanctions hearing;
2. The extent to which the Student has taken responsibility for the violation, including by self-reporting or admitting any violation;
3. The extent to which the Student has taken steps to remedy or address the underlying issues that may have contributed to any violation; and
4. Evidence that the Student's ability to think rationally at the time of the violation(s) was reasonably impaired by serious personal circumstances. "Serious personal circumstances" do not include circumstances that apply to or may be experienced by a student in the normal course of law school, such as the inherent stress of Academic Programs or employment.

A Student's ignorance of the Code, of an Instructor's rules relating to authorized and unauthorized materials and assistance, or of citation conventions of which a reasonable student would have been aware is not mitigating evidence.

3. The Investigator may call and question witnesses, refer to the documentary and non-testimony evidence provided under Subsections 7.1(a) and 7.3(e), and provide statements or documents obtained during the investigation in aggravation or mitigation of the violation. After the Investigator questions a witness or refers to any evidence, the Student (or the Advisor) may question the witness or provide a response to the evidence. Members of the Hearing Panel may, at any time, question witnesses, the Investigator, the Student, or the Advisor.
4. The Student (or the Advisor) may call and question witnesses, refer to the documentary and non-testimony evidence provided

under Subsections 7.1(a) and 7.3(e), and provide other evidence in aggravation or mitigation of the violation. After the Student questions a witness or refers to any evidence, the Investigator may question the witness or provide a response to the evidence. Members of the Hearing Panel may, at any time, question witnesses, the Investigator, the Student, or the Advisor. A Student's decision not to call witnesses or present evidence shall not give rise to adverse inferences.

5. Members of the Hearing Panel may inquire into topics and information not presented by the Investigator or Student.
6. After all evidence has been presented, the Investigator may make a closing statement.
7. The Student (or the Advisor) may make a closing statement. The decision not to make a closing statement shall not give rise to adverse inferences.
8. At the Chair of the Hearing Panel's discretion, the Investigator may make a rebuttal statement.
9. The members of the Hearing Panel shall deliberate in private to determine the appropriate sanction(s) pursuant to Subsection 9. The sanction(s) to be imposed shall be determined by a majority of the Hearing Panel.
10. The Chair of the Hearing Panel shall reconvene the hearing, announce the sanction(s), and close the proceedings. The Chair of the Hearing Panel, or designee, shall then prepare a written memorandum containing findings of fact, conclusions that such findings establish by clear and convincing evidence that the Student's conduct constituted a violation or violations of the Code, and identifying the sanction(s) to be imposed. The Chair of the Hearing Panel shall promptly send a copy of that memorandum to the Investigator, the Instructor, the Dean, the Law Registrar's Office, and the University Office of Student Conduct and Academic Integrity. The Chair of the Hearing Panel shall simultaneously provide the Student with a copy of the memorandum, either through personal delivery or by email to the Student's School email address on record at the School of Law. By written request, the Student may receive a physical copy of the memorandum delivered by first-class mail to the Student's permanent address on record at the School of Law.
11. Sanctions Hearing for Admitted Violation.
  - a. Upon receipt of a referral from the Dean of an admitted violation of the Code, pursuant to Subsections 5.2 or 5.3, the Chair of the Hearing Panel will appoint a Hearing Panel for the conduct of a Sanctions Hearing. The Chair of the Hearing Panel will notify the Student of the Sanctions Hearing not less than ten (10) Days prior to such hearing.
  - b. The Sanctions Hearing will be conducted consistent with the provisions of Subsection 8.4(b).

## SECTION 9. SANCTIONS.

9.1 Sanction Options. The following sanctions, listed in descending order of severity, may be imposed upon a Student found to have violated the Code:

1. Rescission of acceptance to the School of Law, permanent expulsion from the School of Law, or revocation of degree awarded by the School of Law;
2. Definite suspension from the School of Law for a period of at least one complete semester;
3. Exclusion from Extracurricular Activities for a period of at least one full semester, with a record of exclusion to be maintained by the Law Registrar's Office and the Office of Student Affairs;

4. A letter of reprimand from the Chair of the Hearing Panel to be recorded in the University Office of Student Conduct and Academic Integrity and the Law Registrar's Office;
5. A reprimand to be administered orally to the Student by the Chair of the Hearing Panel in the presence of the Hearing Panel, with a record of the reprimand to be maintained in the University Office of Student Conduct and Academic Integrity and the Law Registrar's Office;
6. Any combination of the above sanctions.

9.2 Sanction Guidelines. The sanctions in Subsection 9.1 shall presumptively be imposed on the following bases:

1. A Student who is found to have lied in connection with a Code investigation or hearing shall presumptively be sanctioned either by revocation of acceptance, permanent expulsion, or revocation of degree under Subsection 9.1(a) or suspension under Subsection 9.1(b) for a period of not less than one year;
2. A Student who is found to have committed a Code violation Unrelated to any Graded Coursework that constitutes a Substantial Portion of the Grade in the affected Academic Program shall presumptively be sanctioned either by permanent expulsion or revocation of degree under Subsection 9.1(a) or suspension under Subsection 9.1(b) for a period of not less than one year;
3. A Student who admits to having committed a Code violation unrelated to graded coursework, that involves no one other than the Student, and that has no effect on individuals other than the Student shall presumptively be sanctioned by an oral reprimand under Subsection 9.1(e).

For conduct not specified in these Guidelines, the Hearing Panel should determine the severity of the violation and the appropriate sanction(s) with reference to the conduct specified in these Guidelines that most closely resembles the violation at issue.

A Hearing Panel may deviate from these Guidelines. In the event that it does so, the Hearing Panel must explain the deviation in the written memorandum prepared under Subsection 8.4(b)(9).

## SECTION 10. APPEALS.

10.1 Grounds for Appeal of Dismissal. Upon a dismissal of an allegation by the Hearing Panel, the Presenting Party may appeal the decision to the University Committee of Academic Responsibility ("University Committee") only on the ground that the Hearing Panel erred in its conclusion that the facts as set forth by the Hearing Panel in its written findings did not constitute a violation of the Code.

10.2 Grounds for Appeal of Finding of Violation. Upon the finding of a violation by the Hearing Panel, the accused Student may appeal the decision to the University Committee on any or all of the following grounds:

1. that specific procedural rules were not followed, resulting in prejudice to the accused Student;
2. that the facts as set forth by the Hearing Panel in its written findings of fact do not establish a violation of the Code;
3. that there is no evidence in the record to support a finding of fact by the Hearing Panel;
4. that there is specific evidence of improper bias on the part of any member of the Hearing Panel;

5. that there is specific new evidence, which could not reasonably have been discovered prior to the hearing and which likely would have changed the outcome of the hearing.

10.3 Appeal of Sanction. Either the Presenting Party or the accused Student or both may appeal the sanction imposed by the Hearing Panel on the ground that the sanction is unjust or inappropriate.

10.4 Notice of Appeal. A party appealing the decision rendered or sanction imposed by the Hearing Panel must notify the Chair of the University Committee in writing not later than ten (10) business days after the written findings of fact and conclusions are sent to the party appealing. The Notice of Appeal should set forth the specific ground or grounds of the appeal. Copies of any Notice of Appeal shall be sent to the Presenting Party or the accused Student (whichever did not file the notice of appeal), the Dean, the University Office of Student Development, the School of Law Registrar's Office, and the Instructor in the affected Academic Program.

10.5 Access to Record. Upon receiving a Notice of Appeal, the Chair of the University Committee promptly shall request from the Chair of the Hearing Panel a copy of the record of hearing, as prepared pursuant to Section 4.11. Upon receiving the record, the Chair of the University Committee shall notify the Presenting Party and the accused Student of its availability. Both parties shall have ten (10) business days after notice of the record's availability is sent in which to submit to the Chair of the University Committee any further written argument or information from the record to substantiate or refute the appeal.

10.6 Consideration of Appeal. After receiving the Record of Hearing and any written materials provided under Section 6.5, the University Committee shall meet to consider the matter. The University Committee may decide the matter on the written record or may allow the accused Student and the Presenting Party to appear before the University Committee upon reasonable notice. The University Committee promptly shall issue a written opinion either

1. affirming the decision of the Hearing Panel;
2. remanding the matter to the Hearing Panel with a clear statement of specific reasons for requiring further consideration of the merits, the sanction, or both;
3. reversing or modifying the decision of the Hearing Panel as to the merits, the sanction, or both. (The University Committee also may, for example, affirm a matter in part, such as by affirming a finding of a violation, and remand in part, such as for reconsideration of sanction.)

The Chair of the University Committee shall send copies of the written opinion to the Instructor of the affected Academic Program, the Dean, and the University Office of Student Development. The Dean shall notify the Chair of the Hearing Panel and, if the matter is remanded, shall instruct the Chair to reconvene the Hearing Panel for any further proceedings that may be required.

## SECTION 11. PUBLIC NOTIFICATION OF DISPOSITION.

The Dean shall compile the Hearing Panel reports, as required by Section 4.11, not less than annually. The Chair of the Honor Council shall publish these reports to Students and faculty within the School of Law by public posting, distribution, or other appropriate means. The report shall not contain any information that would identify the parties or witnesses to the proceedings.

**SECTION 12. EFFECTIVE DATE.**

These Procedures as amended on May 4, 2010, take effect on August 19, 2010, and apply to all matters reported on or after August 19, 2010. The amended procedures also apply to any matters pending on that date unless, in the opinion of the Dean, the former procedures should apply in a particular case in the interest of fairness or because it would not be feasible to apply the amended procedures to the matter already pending.

**D. PROVISIONS ON ARREST REPORTING**

With the adoption of the School of Law Honor Code in August 2010 and the South Carolina Supreme Court's new requirement that the School of Law certify a graduate's fitness for admission to practice, a law student who is arrested for, charged with, or convicted of (including entry of a plea other than not guilty) any offense must report that information to the School of Law within 72 hours of the incident. This process replaces the prior obligation to report an arrest to the University's Office of Student Judicial Programs, although the School of Law will notify OSJP when a law student is arrested, as required by University policy.

Relevant provisions from the Honor Code are as follows:

**PREAMBLE**

The preparation of Students for service in the legal profession requires not only academic rigor, but also adherence to the high standards of personal character and integrity expected of attorneys.

**SECTION 1. GENERAL APPLICABILITY.**

The following rules govern the conduct of all Students at the School of Law. Former Students of the School of Law remain subject to this Code for violations committed while a Student.

**SECTION 2. PROHIBITIONS.**

2.3 A Student shall not commit any criminal act. For purposes of this rule, a criminal act is one that reflects adversely on a Student's honesty, trustworthiness, or fitness for admission to the practice of law. This rule will be interpreted in accordance with the Model Rules of Professional Conduct § 8.4 (2008).

Any criminal act that reflects adversely on the Student's honesty, trustworthiness, or fitness for admission to the practice of law and which occurs during the time that a Student is subject to this Code is a violation of this rule, regardless of where the conduct occurs. A conviction or plea of guilty in a criminal matter is conclusive proof that the Student committed the act that is the subject of that conviction or plea. The absence of a criminal conviction does not preclude a finding that a criminal act occurred for purposes of this rule.

In addition, as of August 2010, the Office of Bar Admissions of the Supreme Court of South Carolina adopted a requirement, already existing in many other jurisdictions, that applicants for admission to the Bar must obtain a character and fitness certificate from their law school. Questions relating to discipline include the following:

From the records in your office, including the applicant's law school application, and from your personal knowledge, [indicate if the applicant has ever been]:

- accused of a violation of the honor code or student conduct code, placed on academic or disciplinary probation, suspended, expelled, requested to withdraw, or otherwise subjected to discipline

for academic or personal conduct reasons by any educational institution?

- a party to legal or administrative proceedings?
- charged with, arrested for, or convicted of any traffic or criminal offense?
- accused of a violation of trust?

If you are arrested for, charged with, or convicted of an offense other than a minor traffic violation, you must report that fact to The Office of the Law Registrar and Academic Services within 72 hours of the event.

You will be asked to complete a short form giving relevant information including the date, location, nature of the charge, jurisdiction, a summary of the circumstances leading to the event reported, and the anticipated timetable for disposition, if known. If the matter has not been finally resolved at the time of your initial report, you will also have a continuing obligation to notify the Law School when the matter is resolved.

Contact information:

Office of the Law Registrar  
lawreg@law.sc.edu

**E. STUDENT PROFESSIONALISM CODE PREAMBLE**

The preparation of Students for service in the legal profession requires not only academic rigor but also adherence to the high standards of personal character and integrity expected of attorneys. All Students at the School of Law are expected to act with integrity and professionalism. The Bar admission process for South Carolina and several other jurisdictions requires the School of Law to certify whether graduates have the personal character and integrity expected of attorneys. South Carolina, for example, asks whether the Dean is "aware of any conduct or behavior by the applicant within the last five years that could call into question the applicant's ability to practice law in a competent, ethical, and professional manner." Consequently, when the Dean is aware of "Unprofessional Conduct," as defined below, the Dean is obligated to provide truthful responses to questions asked by state licensing authorities. This Student Professionalism Code ("the Professionalism Code") does not create grounds for disciplinary action but clarifies the predicate for existing reporting requirements.

**SECTION 1. SCOPE and GENERAL APPLICABILITY.**

The following applies to the conduct of all Students at the School of Law. Professionalism is a core tenet of the legal profession and cannot be disassociated from a lawyer's formal academic training. Accordingly, professional behavior within the law school community, including online platforms, is considered an essential element of a law school education.

**SECTION 2. DEFINITION.**

For the purposes of the Professionalism Code, "Unprofessional Conduct" means conduct that

1. reflects adversely on a student's adherence to principles and expectations of honor, decency, and civility as expressed in rules of professional conduct, standards of professionalism, the Carolinian Creed, and the Student Professionalism Oath;
2. is condemned by the legal profession's standards of professional responsibility; or
3. harms or threatens to harm any member of the Law School or the broader

Unprofessional Conduct includes conduct that violates the University's "Policy Against Discrimination, Harassment, and Sexual Misconduct."



USC Policy UNIV 1.00, revision date Aug. 7, 2023. Unprofessional Conduct does not include conduct and speech that is protected under the First Amendment and the University's policies concerning academic freedom and freedom of expression. Students may take positions that are controversial or unpopular and may express themselves through robust debate, demonstrations, or protests, as long as they do not become disruptive and interfere with law school functions or approved activities such as classes, meetings, library services, interviews, ceremonies, and public events. See USC Policy UNIV 6.00, Freedom of Expression and Access to Campus, revision date Nov. 8, 2023 (<https://www.sc.edu/policies/ppm/univ600.pdf>) (<http://www.sc.edu/policies/ppm/univ600.pdf>) and ABA Standard 208 (Resolution 300 adopted February 2024 [https://www.americanbar.org/news/reporter\\_resources/midyear-](https://www.americanbar.org/news/reporter_resources/midyear-) ([http://www.americanbar.org/news/reporter\\_resources/midyear-/](http://www.americanbar.org/news/reporter_resources/midyear-/)) [meeRng-2024/house-of-delegates-resolutions/300/](https://www.americanbar.org/news/reporter_resources/midyear-/) ).

### **SECTION 3. REPORTING.**

- Reports of Unprofessional Conduct. When the Dean has received credible reports of Unprofessional Conduct concerning a law student, the Dean may be obligated to convey incidents of unprofessional conduct to state licensing authorities. For example, South Carolina requires the Dean to certify in a verification form whether the Dean is “aware of any conduct or behavior by the applicant within the last five years that could call into question the applicant’s ability to practice law in a competent, ethical, and professional ” That question is to be answered by the Dean based on “the records in [the Dean’s] office, including the applicant’s law school application, and from [the Dean’s] personal knowledge.”
- Separate Action Under the Honor Code. Inclusion of a report of Unprofessional Conduct in a student’s record does not constitute a disciplinary action under the Honor Code. However, the Law School may take other action as necessary where the reported Unprofessional Conduct may violate public laws or interfere with the good order of the Law School.