

Appendix B: Student Honor Code and Code of Conduct

A. Honor Code

The Charleston School of Law Honor Code provides: “I will neither lie, cheat, nor steal nor tolerate anyone who does.”

Allegations and Trials

• **Self-admitted guilty plea¹**

If a student believes they may have committed an honor code violation they will self-report to the Vice Chair of Administration (hereinafter “the VCA”). The VCA will alert the members of the Self Report Committee, which will be composed of the VCA, the Judicial Affairs Officer², and the Associate Dean for Academic Affairs.

The Self Report Committee will consult with the appropriate faculty/staff member to determine whether the purported violation could have occurred.

The Self Report Committee will determine with the advice of the faculty/staff member whether the matter should be forwarded to the Honor Council (hereinafter “the Council”) to proceed with the formal process.

If the Self Report Committee determines the matter is best handled between the faculty/staff member and the student (due to mistake, confusion, etc.) the matter will be left to the faculty/staff member and student, with the Council considering the matter closed.

If the Self Report Committee determines the matter should be forwarded to the Council because a violation may have occurred, the Council will handle the matter as if it were an allegation by a third party, beginning with the Pretrial Determination process.

• **Accusation Process**

The Accuser may contact any member of the Council to make a personal report; he or she must then return a typed accusation form with a statement within two business days³ and submit it to the VCA.

Upon receipt of the accusation report, the VCA will notify the Accused of the allegation within two business days. Notification occurs when the VCA personally contacts the Accused. The Accused then has three business days to select a two-person Defense Trial Team.⁴ The Accused may choose any current student at the Charleston School of Law (hereinafter “the School of Law”) to represent them. Should the Accused elect self-representation, the VCA will appoint a two-person Defense Trial Team to advise the Accused.

The VCA will also notify the Honor Chair (hereinafter “the Chair”) and the Dean of the CSOL, disclosing only the name of the Accused and the alleged offense. The VCA will discuss the matter with the Judicial Affairs Officer and keep him apprised of the matter as it develops.

¹ The rules outlined in the “self-admitted guilty plea” section apply only to a self-admission before an accusation. If a person offers a guilty plea after the accusation of a third party, these rules do not apply.

² The Judicial Affairs Officer will be an *ex officio* member of all Honor Council Proceedings. The Judicial Affairs Officer will be available for advice at proceedings, provide secure storage for all files, notes, and evidence and be a voting member of the Self Report Committee.

³ A “business day” is defined as a day when the Charleston School of Law campus is open. Additionally, the time periods provided are ministerial and are designed to promote efficiency. Failure to meet these guidelines will not dispose of a case.

⁴ If no selection is made, the VCA will appoint a two-person defense team comprised of Council members, to represent the Accused.

The VCA will appoint a two-person Prosecution Trial Team within one business day of the selection of the Defense Team.

After both the Defense and Prosecution Trial Teams have been selected, the Judicial Affairs Officer will distribute the formal allegation and copies of any accompanying documents to both parties concurrently.

- **Trial Team Removal**

Members of a Trial Team may dismiss themselves from proceedings with good cause, upon approval of the Chair. The Accused may enter a motion to have any member of the Prosecution Trial Team dismissed for good cause. The VCA will appoint new members to a Trial Team as necessary.

Per the School of Law Honor Council Bylaws, Trial Teams will keep separate records of the time spent on working on the trial. These records will be given to the Judicial Affairs Officer at the end of each week.

Preliminary Investigation

The Vice Chair for Investigations (hereinafter “the VCI”) shall appoint a first or second-year member to assist in the investigation within 3 days after the formal allegation is filed. The Investigation Team shall maintain the strict confidentiality of the investigation.

The VCA and VCI shall determine jurisdiction upon receipt of a formal allegation.

The Investigation Team shall (1) collect and preserve evidence and (2) make a presentation, along with a written report detailing the summary of their findings to the Pre-Trial Determination panel (hereinafter “PTD”). The Trial Teams and Accused may attend the interviews, but shall not participate.

The PTD Investigation Report shall not contain opinions of witness credibility, reliability of evidence, or guilt or innocence. The Accused and Accuser may submit a written statement to be included in the Investigation Report. On the day of the PTD panel, the Accused and Trial Teams will receive a copy of the PTD Investigation Report.

Neither member of the Investigation Team may testify at trial.

Pre-Trial Determination Hearing

Within a reasonable time, the Investigation Team shall make a presentation to the PTD panel, comprised of one member from each class chosen by the VCA. The PTD panel may ask questions about the Investigation and the Report.

The PTD panel shall decide by majority vote whether there is probable cause to believe a violation occurred based on the facts and evidence presented. The panel shall consider the quality of evidence offered in support of the accusation, but shall not consider the guilt or innocence of the Accused.

The PTD panel shall provide a written statement of whether probable cause was found and submit it to the VCA.

Dismissal by the PTD panel does not preclude initiation of any other, or future, investigation based on the same set of circumstances, should new evidence or allegations be presented.

The Trial Teams and Accused may attend the hearing but shall not participate.

- **Pre-trial Disclosure to School**

Disclosure will be made to the School of Law regarding allegations of Honor Council violations if the PTD panel finds probable cause.

Disclosure will include only a notice that an allegation has been made, an investigation by the Council is underway, and a reminder to students they are to follow the Honor Code.

At this time the VCA will inform the Judicial Affairs Officer of the outcome of the proceeding and ask for advice or help as needed.

Pre-trial Discussions

Arbitration or mediation may produce recommendation and will be considered by the Chair.

The Chair, VCA⁵, and either VCE or VCR may consider an admission of guilt from the Accused. The Accused will be warned prior to his/her admission that it will be binding. Thereupon the Accused will make a hand-written statement surrounding his/her admission.⁶ The Chair and either VCE or VCR will then make a recommendation to the Dean of the School of Law.

- **Trial Team Interviews**

Within a reasonable time after the PTD panel and before the Pre-Trial Conference, the VCA shall provide the Trial Teams the concurrent opportunity to interview any potential witness. The interviews shall not constitute formal testimony.

- **Pre-Trial Conference**

Within a reasonable time after PTD panel, the Chair shall convene a Pre-Trial Conference with both Trial Teams. The Trial Teams shall determine the witnesses, the order in which they will testify at trial, the nature and scope of evidence to be presented during trial, and other measures that will serve the interest of a fair and efficient trial. If no mutual agreement can be reached, the Chair shall make such determinations.

Selection of the Honor Court

Honor Court members (hereinafter “the Court”) are chosen from current members of the Council currently enrolled in classes at the School of Law.⁷

The Court sitting will consist of a total of six members: a Vice Chair and five members of the Council, with at least one member from each class.

The VCA will select three alternates, to serve on the Court if needed.

- **Alternate Court Members**

Should a member of the court be challenged by the Accused, an alternate will take his or her place on the court.

Alternate Honor Court members are able to take notes, ask questions (through the Chair), and hear all testimony in the event that another Court member is removed.

⁵ The VCA’s role is strictly administrative.

⁶ The Chair and VCE or VCR can accept or reject the admission of guilt at which time, if the admission of guilt is accepted, it becomes binding on the Accused.

⁷ All Council members must attend a yearly training session before serving on the Court.

Alternate Honor Court members are not allowed to participate in the deliberation process unless the Alternate has replaced another member of the Court.

- **Circumstances Affecting Composition of the Court**

If a trial occurs during the summer months, recent graduates shall represent the 3L class, and students who have completed the requisite courses as 2Ls or 1Ls will serve as 2Ls or 1Ls, respectively.

If a trial occurs before a new 1L class of Honor Council members has been selected, representatives will be chosen from the 1L class by the VCA.

If there are not enough members from any particular class available to serve, the VCA may appoint members of the Council from other classes to fill the Honor Court.

In an extreme circumstance⁸ the VCA may select the necessary number of students from the student body to expressly serve on the Court.⁹ These students must be selected in accordance with the class requirements set forth, at least one member from each class. Upon conclusion of the Court, the students selected will be relieved of their responsibilities with the Council.

- **Recusal**

Appointed members of the Court may recuse themselves from participation in the Court for good cause with the approval of the Chair.¹⁰

If the Chair feels that he or she is unable to participate in the proceedings, the VCA will appoint another Vice Chair as Acting Chair for the remainder of the trial and any post-trial appeals.

The Trial

- **Duties of the Court**

The Court shall hear allegations pertaining to the accused.

The Court shall serve as finders-of-fact.

The Court shall weigh evidence presented at trial.

The Court shall vote to acquit or convict the Accused by a majority with equal weight accorded to each member's vote. A unanimous vote is necessary for a recommendation of expulsion. In the case of a split Court, the Chair shall cast the deciding vote.

The Court shall determine the appropriate penalty in the event of a conviction.

- **Pre-trial Motions**

After the Court is called to order, but prior to opening statements, the Chair will receive pre-trial motions from both parties.

⁸ An "extreme circumstance" may include but is not limited to multiple trials, too many conflicts with the Accused, etc.

⁹ The VCA will randomly select these students from a generated list provided by the Judicial Affairs Officer.

¹⁰ "Good cause" may include, but is not limited to, a conflict of interest or a personal relationship with the Accused that the Council member feels would affect his or her impartiality.

- **Procedural Motions**

Either party can submit a motion to the VCA to be ruled on by the Chair within 24 hours.

These motions may include, but are not limited to, change of venue, change of time, or challenges of the Court members.

Either party may move to continue for cause; continuance is to be ruled upon by the Chair.

- **Motions to Exclude Evidence**

The Trial Teams may submit objections prior to, or during, the Pre-Trial Conference to be ruled on by the Chair.

- **Motions to Remove a Member of the Court**

The Accused may challenge, for good cause, a member of the Court, excluding the Chair.

Any challenge to a member of the Court must be made when the Chair opens proceedings to receive motions. If no challenge is made the opportunity to challenge is waived.

The Chair shall rule upon any challenge.

- **Motions to Dismiss**

Either party may submit a Motion to Dismiss prior to, or during, the Trial to be ruled on by the Chair.

- **Oath of Confidentiality**

All Council members will take an oath of confidentiality regarding the evidence prior to the trial proceedings. Breach of that confidentiality will be considered grounds for removal from the Council.

- **Setting the Trial Date**

The VCA will set a date for trial no less than two weeks and no more than four weeks from the date he or she distributes the case materials to both Trial Teams, regardless of school being in session.

- **Administration**

The VCA will administer procedure during the trial. He or she will escort all witnesses in and out of the Courtroom. The VCA will defer to the Chair for questions of procedure that have not already been discussed by the parties in the Pre-Trial Conference.

There will be no oaths or affirmations taken for witnesses, accused, or participants.

The Chair will preside over the trial and will be the only member of the Court who will speak to witnesses and Counsel. All communications of other Court members must be made to the Chair by written note. The Chair may interrupt proceedings at any time to consult privately with Counsel, the VCA, or simply to take a break.

Breaks will be taken every 45-60 minutes. During that time, all participants are free to leave the Court, but are not allowed to discuss the case in any respect. An exception shall be made if a Court member wishes to discuss a matter with the Chair or if the VCA needs to address a matter with Counsel or the Chair. Counsel and the Court may not communicate ex parte.

- **Outline of Trial Schedule**

The VCA will make a brief introduction of the participants.

The VCA will make a brief overview of the Trial Procedure and distribute the Evidence and Trial Materials.

The Chair will call the Court to order.

The VCA will distribute and read the PTD panel finding and any Pre-Trial Discussion Statement agreed upon by the Parties. Any other germane issues are presented by the VCA at this time.

Counsel will present any Pre-Trial Motions, which will be heard and ruled on by the Chair.

The parties will give their opening statements.¹¹

Arguments will consist of both penalty and verdict arguments concurrently. The trial shall not be bifurcated.¹²

The VCA will escort witnesses in and out of the courtroom.

Witnesses will be questioned in the following manner: (1) Counsel who calls the witness will question first; (2) Opposing counsel will cross-examine the witness; (3) Members of the Court will question the witness, through the Chair; and (4) Counsel who called the witness may re-direct.

Parties will give their closing statements.¹³

At the Conclusion of the trial, all parties will be dismissed except the VCA and the Court.

The VCA will briefly meet with the Chair and the Court to answer any procedural questions. The Court will deliberate and concurrently determine a verdict and possible penalty.

Deliberations are not taped and will be completely confidential except for the ultimate decision.

There is no requirement that deliberations occur at the site of the trial, as long as they retain their character of privacy, discretion, and confidentiality.

Upon reaching a verdict and penalty, the Court will be dismissed by the Chair. The Chair will then notify the VCA of the decision.

The VCA will make a notification to both Trial Teams, the Judicial Affairs Officer, and any relevant faculty/staff members.¹⁴

- **Evidentiary Rules**

Willful and malicious attempts to subvert these Rules are considered acts of cheating.

Witnesses may consist of any member of the School of Law student body, faculty, or staff member, as well as any member of any organization associated with the School of Law, including but not limited to

¹¹ The Prosecution Team will present its opening statement first, followed by the Defense Team.

¹² Parties will present their arguments and call their witnesses. The Prosecution Team will present first, followed by the Defense Team.

¹³ The Prosecution Team will present its closing statement first, followed by the Defense Team.

¹⁴ The Defense Team will notify the Accused, and will include in this notification a reminder that the Accused has the right to appeal the decision of the Honor Court within five days of the release of the opinion.

individuals involved in any extern program or pro bono program.¹⁵ Because the Council has no subpoena power, it may be necessary to restrict the questioning of certain witnesses or may be impossible to hear their testimony.

- **Gathering of Evidence**

The VCA shall not actively gather evidence but shall assist members of the Trial Teams within reason. All evidence shall be delivered to the Judicial Affairs Officer and shall be made available to the Trial Teams as soon as possible. If there is evidence or testimony which the VCA is made aware of, but which the Trial Teams are not, the VCA shall pass on that information to both Trial Teams as soon as reasonably possible.

- **Voluntary Discovery and Delivery of Evidence**

All evidence gathered by any member of either Trial Team shall be delivered to the Judicial Affairs Officer within one business day or as soon as reasonably possible. The members of the Trial Teams must share all evidence.

All evidence to be used at trial shall be delivered to the VCA no less than 36 hours before trial. If new evidence comes to light on the eve of a trial, a motion for a continuance must be for deliberation on the admissibility of that evidence.

A list of individuals who may be called as witnesses at trial will be exchanged among the Trial Teams and be shared with the Chair at the Pre-Trial Conference.

The Judicial Affairs Officer will secure all evidence, notes, and related documents at the end of each day.

- **Admissibility of Evidence**

Governing Authority: The Honor Court Rules of Evidence is the governing authority for all evidence issues presented before the Court.

Relevant Evidence: All evidence must be relevant to be admissible. All relevant evidence is admissible unless otherwise proscribed by these rules.

Testimonial Evidence: Any and all testimony shall be heard by the Court without objections, except for one exception. A party may object to testimony given, or about to be given, but only on the ground that *it is not reliable*. From there, the Court shall hear the testimony and note the objection. During deliberation, the Court as a whole shall determine the reliability of the evidence.

- Example: A witness is about to testify about what someone has told him while he was part of an earlier conversation:
 - Counsel: “Mr. Chair, I would like to point out to the Court that Mr. Smith is about to testify to what he heard in a conversation, I would object to this testimony since its reliability for accuracy is diminished at this time.”
 - Chair: “Thank you Counsel, we will hear the testimony and then it is up to each individual

¹⁵ The overriding policy of the Council evidence rules is to allow any student at the School of Law to understand the rules and allow any student to effectively represent either the Accused or the School of Law. Having simply a rule, which will allow all evidence to be heard by the panel sitting in judgment, along with a rule which allows counsel to point out that the evidence may not be reliable, ensures that the fact-finders will have all facts in order to make an appropriate determination. Further, the intent of the Council is to sever the Federal Rules of Evidence and the S.C. Rules of Court from its proceedings.

member of the Court to decide whether to accept the testimony as reliable or discount the witnesses' testimony.”

Character Evidence: Character evidence is only admissible in favor of the accused. Once his character is sufficiently established, the Chair may rule that his/her character is sufficiently established and no more character witnesses may then testify.

At no time, may the Prosecution Team attack the character of the Accused. However, they may still cross-examine the character witnesses.

At no time may either party attack a witness with evidence of character.

- **Standard of Guilt**

In order to find a violation, the Court must determine by a majority vote that facts sufficient to constitute a violation have been proven by clear and convincing evidence.

- **Penalties**

Upon a finding of “guilt,” the Court may impose the following penalties:

(1) Warning: A warning is written statement to the convicted which may be imposed when an individual commits an Honor Code violation, but does so innocently, unknowingly or unintentionally. A simple majority of the Court shall be sufficient to impose a warning.

(2) Sanctions: Sanctions are penalties left to the discretion of the Court, and may include, but are not limited to:

- (a) Extra community service,
- (b) A ban from participating in school activities,
- (c) A public address,
- (d) A letter of reprimand to be made a permanent part of the student’s record, and/or
- (e) Suspension.

The aforementioned sanctions increase in severity from (a) to (e). A simple majority of the Court shall be sufficient to impose a sanction.

(3) Expulsion: Expulsion by unanimous vote of the Court may be imposed when an individual knowingly or intentionally violates the Honor Code or when an individual displays a pattern of behavior that is inconsistent with the Honor Code or its principles.

Post-trial Process

Disclosure will be made to the School of Law community following any Honor Court proceeding. Such disclosure will be made via TWEN with emailed notice sent to students. The Court must unanimously agree on the content and wording of the disclosure. All disclosures will include at minimum a notice that a conclusion has been reached, judgment of guilty or not guilty was made, and a reminder that students are to follow the Honor Code.

- **Opinion**

Following the trial, the Chair shall write and issue an opinion.

Written opinions will be available to, and read by, all members of the Council and distributed to the Dean

of the School of Law, the Dean of Academic Affairs, the Dean of Students, the Dean of Admissions, and the Judicial Affairs Officer. The School of Law students will receive the opinion and faculty or staff will have it disseminated to them as necessary on a discretionary basis.

The Chair shall disclose all necessary information to the proper parties.

- **Trial Materials and Record**

To provide a proper record for appeals and inquiries by relevant authorities, for all proceedings a Trial Record must be prepared by the Council and provided to the Dean of the School of Law.

The Trial Record should include all trial documents, the written notice to the Accused of the allegation, any correspondence between the Accused and the VCA, the Formal Allegation, the PTD Investigation Report, the PTD opinion, all trial documents and evidence presented (even that which is not admitted), the Trial Opinion, written notice of the disposition provided to the Accused, and written notice of the disposition to the Students of the School of Law.

The Trial Record shall begin with a summary of the case, stating the name of the accused, the date of disposition, the allegation, and the disposition, including any punishment. Following this summary it shall be organized chronologically with a copy of each item listed in the "Trial Materials and Record" section of the Rules of the Council, with each item clearly labeled. Evidence excluded from consideration by the Trial Court shall be labeled as such.

The Judicial Affairs Officer and Secretary shall compile the Record and provide it to the Dean of the School of Law.

- **Following Conviction**

Upon a finding of guilt, the convicted will have two courses of action: (1) he or she may appeal within five business days of the conviction to the Dean of the School of Law, or (2) in the recommendation of expulsion, the convicted may resign.

Appellate Process

All appeals from the Court rulings shall be submitted to the Dean of the School of Law for review.

Changes to Honor Code and Honor Council Rules

All changes to the Honor Code, Rules, or Bylaws must be approved by the Dean of the School of Law.

B. Student Code of Conduct

ARTICLE I – Student Code Authority

The Dean of the School of Law or his/her designee shall retain authority to develop policies for the administration of the student conduct system and procedural rules for the administration of Code of Conduct Hearings. The Dean shall appoint an administrator or faculty member as “Judicial Affairs Officer” to assist in student conduct matters. The Judicial Affairs Officer will serve at the discretion of the Dean and in all functions as outlined within this Code.

ARTICLE II – Proscribed Conduct

Jurisdiction

The Charleston School of Law Student Code of Conduct shall apply to conduct that occurs on the School of Law campus, at the School of Law sponsored activities, and to off-campus conduct that adversely affects the School of Law and the pursuit of its objectives. Each student shall be responsible for his or her conduct from the time of application for admission through the conferring of a degree. The Code of Conduct shall apply to a student's conduct during periods between terms of enrollment and if the student withdraws from the School of Law while a disciplinary action is pending. The Dean of the School of Law shall decide whether the Student Code of Conduct shall be applied to alleged misconduct on a case by case basis in his/her sole discretion.

Violation of Law and Conduct Code

Students who are arrested or otherwise charged with a violation of law or ordinance outside of law school have an on-going obligation to disclose this information to the school in a timely fashion. Disclosure should be made in writing or in person to the Associate Dean of Student Affairs within 14 days of receipt of said charges. Students are also reminded to update their application with The Office of Admission.

Conduct Subject to Disciplinary Action

Preamble

Charleston School of Law students are expected to show both within and without the Charleston School of Law such respect for order, morality, personal honor and the rights of others as is demanded of good citizens.

Any student found to have committed, aided in the commission, or attempted to commit the following misconduct may be subject to disciplinary action:

1. Violations of any Charleston School of Law policy, rule, or regulation published in hard copy or available electronically on the School of Law website. Examples include but are not limited to the following policies:
 - Diversity Policy;
 - Harassment-Free Environment Policy;
 - Threats, Violence, & Weapons;
 - Sexual Harassment Policy;
 - Alcohol Beverage Policy;
 - Drug Policy;
 - Library Policies; and
 - Computer and Telecommunications Systems Use Guidelines

Several of the policies set forth about their guidelines are described in the *Law Student Handbook*, which can be found on the Charleston School of Law official website and in the Department of Student Affairs.

2. Violation of any federal, state, or local laws. The School of Law reserves the right to impose disciplinary action without regard to pendency or disposition of civil or criminal litigation. Proceedings under the Code of Conduct may be carried out prior to, simultaneously with, or following legal action in another forum. The nature of the disposition of legal action in another forum. The nature of the disposition of legal action in another forum shall not be determinative of the outcome of disciplinary action under the Code of Conduct but may be a consideration in reaching a determination regarding disciplinary action. The Judicial Affairs Officer shall reserve the right to stay a determination of probable cause pending legal disposition in his/her discretion.
3. Any disruption, abuse or obstruction of teaching, research, administration, disciplinary proceedings, technology systems, or other Charleston School of Law functions, or any act not specifically addressed

above, not regulated exclusively through the Honor Code, which undermines the mission of the School of Law activities when the conduct occurs on School of Law premises.

ARTICLE III – Student Conduct Code Procedures

Reporting Alleged Violations

Any member of the Charleston School of Law community may submit an allegation reporting a student for violations of the Code of Conduct. A person submitting an allegation shall be deemed the “complainant” as the term is used in the Code of Conduct. If a member of the School of Law community believes there has been a violation of the Code of Conduct, that person should report the violation to the Office of the Dean of the School of Law. Students who knowingly violate the Code of Conduct are expected to self-report to the Office of the Dean of the School of Law. If the violation is academic in nature, it should be directed to the Associate Dean for Academic Affairs for referral to the Honor Council. Upon receipt of an allegation of misconduct, the Office of the Dean of the School of Law shall forward the allegation to the Judicial Affairs Officer for review.

Probable Cause

The Judicial Affairs Officer shall review the allegation to determine whether probable cause exists to initiate a disciplinary proceeding. “Probable cause” is defined under the section as a reasonable belief that the accused student has committed a violation of the Code of Conduct. The Judicial Affairs Officer, personally or through his/her designee, may conduct an independent investigation of the allegations prior to rendering a determination of probable cause and may initiate an investigation when no formal allegation has been submitted. A probable cause review may be waived at the request of the accused student and with the consent of the Judicial Affairs Officer.

In some instances, particularly those in which a student has self-reported a violation, the Judicial Affairs Officer may choose to recommend a warning or services to a student without rendering a determination of probable cause. If the Dean of the School of Law issues a warning based upon such recommendation, it will not be deemed the result of disciplinary proceeding and should not appear on the student’s disciplinary record.

If probable cause is found, the Judicial Affairs Officer shall issue a written notice to the accused student, the complainant, and the Dean of the School of Law of the disciplinary proceeding and inform the accused student of the right to a hearing. The accused student shall submit a written request to the Office of the Dean of the School of Law for a hearing on the alleged violation of the Code of Conduct within two (2) business days of the probable cause determination. Upon receipt of the request for a hearing, the Office of the Dean shall forward the request to the Judicial Affairs Officer. Failure to request a hearing in a timely manner will be treated as a waiver of the right to a hearing unless the Dean of the School of Law determines that the failure should be excused and accepts a late request for a hearing. Upon receipt of the request of the accused student, a hearing on the violation shall be scheduled by the Judicial Affairs Officer within 30 business days unless the Judicial Affairs Officer issues an extension for good cause shown and includes a date certain for the hearing. Notice of the hearing, which shall include the identity of the chairperson of the Panel, shall be given to the accused, the complainant, and the Dean of the School of Law at least 3 business days prior to the hearing. If the right to a hearing is waived, then the Judicial Affairs Officer should issue a written determination on the matter and recommendation to the Dean of the School of Law, and a copy should be forwarded to the accused and the complainant, if any.

In certain circumstances, it may be possible that the matter can be disposed of administratively prior to a hearing by mutual consent of the parties involved and with the approval of the Dean of the School of Law. For example, a self-reported incident may be resolved between the Judicial Affairs Officer and the student subject to disciplinary action without a need for a hearing on the matter if an agreement can be reached as to the appropriate sanction. Any such agreements or waivers should be in writing and signed by the

necessary party or parties as well as the Judicial Affairs Officer and submitted to the Dean of the School of Law as early as possible.

If the Judicial Affairs Officer does not find any probable cause, the parties shall be notified that the allegation has been dismissed and the matter is sealed and closes. This shall not prevent the Dean of the School of Law from future inquiry into any alleged violation and/or reinitiating an action in light of additional evidence of change in circumstance.

Code of Conduct Panel Hearing

Code of Conduct Hearings shall be conducted by a Code of Conduct Hearing Panel (“Panel”) pursuant to the following guidelines:

1. The Judicial Affairs Officer shall create a Panel consisting of 2 members of the School of Law faculty or staff selected by the Judicial Affairs Officer and 3 students from the Honor Council. The Judicial Affairs Officer shall not be part of the Panel, however may act in an advisory role to members of the Panel with respect to procedural matters.
2. Code of Conduct hearing shall be conducted in private and are confidential. Members of the Panel shall not discuss any details of the hearing with anyone outside of the Panel except as necessary to administer the Code of Conduct. Failure to uphold confidentiality may constitute a Code of Conduct violation.
3. When allegations involve multiple accused students, the chairperson shall have discretion in whether to proceed with joint or separate hearings for the accused students.
4. The complainant and accused student may be assisted by no more than 2 advisors of their own choosing. All advisors must be students of the School of Law and shall not be compensated for their involvement. The complainant and accused student shall be responsible for presenting their own information at the hearing and the advisors shall not be permitted to speak or participate directly in the hearing except at the discretion of the chairperson. Delays will not normally be allowed due to the scheduling conflicts of an advisor.
5. The complainant, the accused, and their respective advisors shall be allowed to attend the entire hearing at which information is received. Admission of any other person to the hearing shall be at the discretion of the chairperson.
6. The complainant, the accused and the Panel may arrange for witnesses to present pertinent information at the hearing. Generally, neither party shall present more than 3 witnesses, to include their own testimony, unless otherwise authorized by the chairperson. Notice of potential witnesses shall be made to each party and the chairperson at least 2 business days prior to the hearing with the exceptions in the discretion of the chairperson. Witnesses, including the complainant and accused should provide information and answer questions by the Panel. The complainant and accused may suggest questions for the Panel but shall not be permitted to make direct questioning of witnesses except in circumstances where the chairperson permits. The chairperson shall have discretion in the admissibility of testimony and all other evidence.
7. All procedural questions are subject to the final decision of the chairperson. The chairperson shall have the authority to permit continuances but shall do so sparingly and only upon good cause shown. In granting a request for continuance, the chairperson shall consider the circumstances requiring the continuance of the matter, the timeliness of the request, and the inconvenience caused to the parties and Panel if the request is granted.
8. Upon receipt of all pertinent information, the Panel shall determine by majority, whether the accused has violated each section of the Student Code of Conduct with which the student has been charged. Deliberations shall be made privately outside the presence of the parties. The determination may be issued at the hearing or the Panel may adjourn for further deliberation. The determination shall be in writing and delivered to the Dean of the School of Law, with a copy of the determination to the accused and the complainant and may include sanctions with the determination. In all cases the determination

shall be within 5 business days of the hearing unless an extension of time is permitted at the discretion of the Judicial Affairs Officer. The Panel may include recommendations for sanctions, though the imposition of sanctions is solely in the discretion of the Dean of the School of Law.

9. The standard of review Panel hearings shall be whether it is more likely than not (a preponderance of the evidence) that the accused student violated the Code of Conduct. However, formal rules of process, procedure and/or technical rules of evidence as applied in criminal and civil courts do not apply in Code of Conduct hearings.
10. The Panel shall keep a record of the proceedings (i.e., tape recording) of all hearings but shall not record deliberations, which the Panel shall conduct in private. All Code of Conduct records shall remain the property of the School of Law.
11. Where an accused with notice fails to appear at the hearing, the information in support of the charges may be presented and considered even if the accused is not present. A final determination may be issued unless the accused can offer a reasonable explanation for his/her failure to appear. The chairperson may re-open the matter for further consideration of evidence prior to the issuance of determination from the Panel only if he or she finds exceptional circumstances excusing the failure to appear and that the interests of justice are best served in doing so.
12. The Panel may accommodate concerns for the personal safety, well-being and/or fears of confrontation of the complainant, accused or other witnesses during the hearing by providing separate facilities, by using a visual screen and/or permitting participation by telephone, videophone, closed circuit television, video conferencing, video tape, audio tape, written statements or other means as determined to be appropriate by the chairperson.

Sanctions

Upon determination that a violation of the Code of Conduct has occurred, the Dean of the School of Law shall have full discretion in imposing disciplinary action. Notice of the sanction(s) should be in writing and may be included as part of the written determination from the Code of Conduct Hearing Panel. The Dean of the School of Law shall have the option of meeting with the parties prior to issuing sanctions but is not required to do so. The following sanctions may be imposed, individually or in combination, upon any student found to have violated the Code of Conduct:

Warning – A notice in writing to the student that the student is violating or has violated the Code of Conduct. Warnings shall include notice that continuing violation(s) may result in more severe sanctions but any warning issued to a student shall not appear on the student's permanent disciplinary record. Only warnings issued after a finding of probable cause should be considered a sanction resulting from a disciplinary proceeding.

Probation – A written private reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to violate any institutional regulation(s) during the probationary period.

Loss of Privileges – Denial of specific privileges for a designated period of time.

Restitution – Compensation for loss, damage or injury. This may take the form of appropriate service and/or monetary or material replacement.

Discretionary Sanctions – Work assignments, essays, service to the School of Law, counseling or other rehabilitative services, and other related discretionary assignments.

Suspension – Separation of the student from the Charleston School of Law for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified. The Dean of the

School of Law has discretion in determining what access to campus facilities a student may have during a period of suspension.

Expulsion – Permanent separation of the student from the Charleston School of Law. The Dean of the School of Law has discretion in determining what access to campus facilities a student may have upon expulsion.

Revocation of Admission and/or Degree – Admission to or a degree awarded from the Charleston School of Law may be revoked for fraud, misrepresentation or other violation of the Charleston School of Law standards in obtaining a degree, or for other serious violations committed by a student prior to graduation.

Withholding Degree – The Charleston School of Law may withhold awarding a degree otherwise earned until the completion of the process set forth in the Code of Conduct, including the completion of the process set forth in the Code of Conduct, if any.

Other than expulsion or revocation or withholding of a degree, disciplinary sanctions shall not be made part of the student's permanent academic record but shall become part of the student's disciplinary record, with exceptions as previously noted. Upon graduation, but no less than 3 years after the final disposition case, the student's disciplinary record may be expunged of disciplinary actions other than suspension, expulsion, or revocation or withholding of a degree, upon application to and approval by the Dean of the School of Law.

Interim Suspension

In certain circumstances, the Dean of the School of Law may impose a suspension prior to a determination of violation under the Code of Conduct. Interim suspension may be imposed only: (1) to ensure the safety and well-being of members of the Charleston School of Law community or preservation of School of Law property; (2) to ensure a student's own physical or emotional safety and well-being; or (3) if the student poses an ongoing threat of disruption of, or interference with, the normal operations of the Charleston School of Law.

During the interim suspension, a student shall be denied access to the School of Law campus (including classes) and/or all other School of Law activities and privileges for which the student may be eligible, as the Dean of the School of Law may deem appropriate. The interim suspension does not replace the regular process, which shall proceed on the normal schedule, up to and through a Code of Conduct hearing, if required.

Appeals

Appeals from the determination by the Panel of the Code of Conduct violation(s) shall be submitted in writing to the Dean of the School of Law within 2 business days of issuance of the determination. The Dean of the School of Law may review the record to determine whether the Code of Conduct hearing was fair and offered the accused a reasonable opportunity to be heard and whether there exists substantial information in the record to support the Panel's decision. The Dean of the School of Law shall also have the authority to re-open matters at any time upon the discovery of new evidence not available at the time of the hearing tending to negate the likelihood of the founded violation.

Sanctions, while not subject to appeal, may be subject to reconsideration where there is a change of circumstances or new information warranting modification.

ARTICLE IV – Interpretation and Revision

Any question of interpretation or application of the Code of Conduct shall be referred to the Dean of the School of Law or his designee for final determination. The Code of Conduct shall be reviewed on a regular

continuing basis as mandated by the Dean of the School of Law. To this end, the Dean of the School of Law designates a Judicial Affairs Committee comprised of students with faculty and/or administrative advisor(s) to regulate procedures under Article III of the Code of Conduct and recommend modifications to the other Articles of the Code of Conduct to the Dean of the School of Law as outlined below.

Judicial Affairs Committee Charter

Purpose

The Judicial Affairs Committee (“Committee”) is a committee of students, faculty and staff that oversees procedural aspects of the Code of Conduct.

Nothing in the Charter limits or contravenes the authority of the Dean of the School of Law to promulgate and enforce regulations governing student conduct.

Composition

The Judicial Affairs Committee shall be comprised of members from the SBA Judicial Committee and the Judicial Affairs Officer appointed by the Dean of the School of Law. In addition, the Dean may appoint up to 2 additional faculty or administrators. Each student member shall have a single vote. Faculty and administrators shall act as non-voting members in an advisory capacity.

The appointing bodies (the SBA Senate and Dean) shall determine the date on which the terms of their respective members of the Committee shall begin and end. The Judicial Affairs Officer shall have permanent Committee membership throughout his/her appointment by the Dean of the School of Law under Article I.

Powers

Exclusive power to adopt or modify bylaws specifying policies and procedures pertaining to Judicial Affairs Committee hearings. All such bylaws must be consistent with this Charter.

Whenever the Committee adopts or modifies its bylaws, it shall inform the Dean of the School of Law.

Any bylaw adopted or modified by the Committee can be overruled by the Dean of the School of Law.

The Committee has the authority to adopt or modify procedures for Code of Conduct hearings under Article III.

The Committee may also present recommendations of future modifications to all other Articles of the Code of Conduct to the Dean of the School of Law.

Whenever the Committee adopts or modifies the Code of Conduct procedures under Article III or makes formal recommendations for changes to the other Articles, it shall inform the School of Law community and forward a text of the changes to the chair of the SBA Senate, the faculty, the Dean of the School of Law and the President of the Charleston School of Law, LLC.

Any adoption or modification of the Code of Conduct procedures under Article III can be overruled by the Dean of the School of Law.

The Committee shall have the power to propose amendments to this Charter, which must be approved as specified below.

Procedures

The Committee may conduct business only in the presence of at least 4 members, provided at least 3 students and a faculty member, administrator or the Judicial Affairs Officer are present.

Actions of the Committee shall require a majority vote of those present and voting.

The Committee shall have the power to adopt rules of procedure to govern its own actions, provided that a majority of those present and voting agree.

All members of the School of Law community are invited to propose suggestions about modification of the judicial procedures to the Committee.

Amendment of Charter

The provisions of this Charter are subject to amendment in any and all respects. Amendments shall be enacted by a majority vote of the Judicial Affairs Committee and shall go into effect immediately upon approval by the Dean of the School of Law.

No amendment by vote of the Judicial Affairs Committee changing the membership of the Committee, however, shall go into effect until the time of the next regular election of members.

The Dean of the Law School maintains authority to unilaterally amend or dissolve the Judicial Affairs Charter and the Code of Conduct unconditionally and at any time.

ARTICLE V – Conflicts of Interest

When an apparent conflict of interest arises at any stage of the proceedings, the party having such a conflict shall recuse himself or herself from the proceedings and a new party shall be appointed in that person's stead. If the Judicial Affairs Officer has a potential conflict, the Dean of the School of Law shall appoint a new party to carry out the functions of the Judicial Affairs Officer under the Code of Conduct. Likewise, if the Dean of the School of Law has a potential conflict, the Judicial Affairs Officer shall appoint a new party to carry out the functions of the Dean of the School of Law under the Code of Conduct.