

RULES OF PROFESSIONAL CONDUCT FOR LAW STUDENTS

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I. PURPOSES AND SCOPE OF THE RULES

A. Purposes

The Rules of Professional Conduct for Law Students (hereinafter “the Rules” or “the Rules of Professional Conduct”) have been adopted by the students and faculty of the The Catholic University of America Columbus School of Law to effectuate several purposes. The Rules require observance of high standards of personal integrity by each student and give notice of norms of conduct to be followed by members of the law school community. This ensures the protection of the integrity of the academic program and allows imposition of sanctions on students who violate the Rules. In addition, the Rules are intended to prepare law students for participation in a self-regulated profession in which the students will be required to comply with an analogous set of standards.

The Rules of Professional Conduct for Law Students are intended to be administered and enforced through a process which avoids unnecessary formality while protecting the rights of the participants. The Rules should be interpreted in a manner consistent with these purposes.

B. Scope

Violation of the Rules and the duty to report violations are restricted to conduct that raises a question about the honesty, trustworthiness, or fitness of a student to become a lawyer. In interpreting this language, the law school may refer to the interpretation of this standard by state and federal courts and bars in similar circumstances, although no precedent from any particular court or bar will be considered binding.

These Rules of Professional Conduct apply to conduct that occurs between the time that a student first registers in the law school and the graduation of that student. If a violation is discovered after a J.D. degree has been conferred, the dean’s office shall determine what if any further action will be taken. Action could include revocation of the J.D. degree.

These Rules of Professional Conduct were written and ratified by both the faculty and the student body. They represent a delegation by the faculty to the students of responsibility for finding facts and recommending sanctions to be imposed on students who engage in conduct that is dishonest, reflects a lack of trustworthiness, or otherwise raises a question about a student’s fitness to become a lawyer.

These Rules require law students, faculty, and staff to report possible violations by law students. The effectiveness of the Rules depends on their enforcement by every member of the law school community.

These Rules govern student conduct, but they are not the exclusive means for doing so. Administrators and faculty members make and enforce rules of conduct for law students appropriate to their responsibilities. Moreover, law students also are subject to applicable rules of conduct promulgated by the university, which are published in the online Student Handbook.

The general standards for honesty and professional conduct set forth in this document should be used for guidance by faculty and staff as well as by students. However, allegations of misconduct by faculty or staff would be handled through the dean’s office or

through other university procedures, and not through the Council on Professional Conduct (hereinafter the “Council”). Any member of the law school community who has reason to believe that a member of the staff or faculty has engaged in dishonest or unprofessional conduct should bring that conduct to the attention of the dean’s office.

II. RESPONSIBILITIES AND RIGHTS

A. Responsibilities of Members of the Law School Community

1. Each law student must read and comply with the Rules of Professional Conduct and commit himself or herself to maintaining the integrity of the legal profession.
2. Each member of the law school community must report to the dean’s designate or to the chair of the Council any conduct he or she has reason to believe violates these Rules of Professional Conduct, unless the person receives the information in the context of a confidential communication, as defined below. Violations of the Rules which must be reported are those specified in Section IV. If the reporting person is an instructor or assigning person, as defined in paragraph 3. below, that person ordinarily should discuss the alleged violation with the respondent before reporting it to the Council in order to give notice to the respondent and to allow him or her an opportunity to explain the alleged misconduct. A confidential communication is one for the purpose of giving or receiving advice on whether to report a violation of the Rules or how to respond to a matter involving the Rules. Except as provided in the following sentence, any member of the law school community may engage in such confidential communication with another member of the law school community with the expectation that no duty to report will arise from that communication. Members of the Council on Professional Conduct, faculty advisers and the dean’s designate play important roles in consideration of violations of the Rules of Professional Conduct and, because of those responsibilities, are prohibited from entering into a confidential communication concerning matters involving these Rules. Such responsibilities are in conflict with holding information about possible violations of the Rules confidential.
3. Each person making an assignment or giving an examination in a law school course or cocurricular activity (hereinafter an “assigning person”) has a responsibility to provide an unambiguous definition of “unauthorized assistance” to all participants in a timely fashion. Unless the resulting work violates IV.B., “Cheating,” and in the absence of express instructions to the contrary, students are permitted to meet in groups to discuss reading assignments, to study for examinations, and to prepare for simulations, oral presentations, or other clinical work. Unless prohibited by the teacher’s definition of unauthorized assistance, students are permitted to use the words or ideas of another without attribution in writing in-class examinations.
4. Each student has a responsibility to seek clarification of any perceived ambiguity in any assigning person’s definition of unauthorized assistance.
5. Each student has a responsibility to study generally accepted rules on proper attribution of source material, on the use of quotation

marks when using the words of another, and to check all written submissions for any improper use of the words or ideas of another.

B. Rights of Students Charged with Violations of the Rules

Any student charged with a violation of these Rules of Professional Conduct has the following rights with respect to any matter referred to the Council:

1. to have written notice of the nature and factual basis of the allegations against him or her, to be sent by the dean's designate when the referral is made;
2. to have a fair and expeditious adjudication;
3. to call witnesses and present evidence;
4. to cross-examine witnesses;
5. to be assisted and represented by another student of his choosing, other than a member of the Council, or, upon request, to be appointed by the Honor Board.

An attorney or any other person who is not a student may assist the respondent during any or all stages of an Honor Board matter. Nonstudents may accompany the respondent to the hearing and give advice to the respondent or the respondent's representative during a hearing. Attorneys and other nonstudent representatives may not make statements, examine witnesses, make objections, or otherwise seek to conduct hearings.

III. COMPOSITION OF THE COUNCIL ON PROFESSIONAL CONDUCT; ROLES OF THE HONOR BOARD, EDUCATION MEMBERS, DEANS, AND FACULTY

A. Composition of the Council on Professional Conduct

The Council on Professional Conduct will consist of six student members who will investigate and adjudicate cases presented to the Council and will hereinafter be called the Honor Board, three student education members, one student honor representative from each first-year day and first-year evening section, and two nonvoting faculty advisers. A student may not serve concurrently as a member of the Honor Board, the adjudicative body of the Council, and as an elected member of the Board of the Student Bar Association.

B. Functions of the Council on Professional Conduct

The Council on Professional Conduct will meet periodically to coordinate the functions of the Honor Board, education members and honor representatives toward increasing the awareness of norms of professional conduct while in law school and the expectations regarding ethical conduct for CUA students after entering the legal profession.

C. Functions of the Honor Board

The Honor Board will investigate complaints of violation of these Rules of Professional Conduct, hold hearings on such allegations, and determine whether the Rules have been violated in each case. (See V., "Procedures.") In cases in which a violation is found, the Honor Board will recommend to the dean what, if any, sanction should be imposed. Through their participation in the Council, members of the Honor Board also will play an important role in

the law school's efforts to communicate with and educate the law school community on honor/ethical matters.

D. Functions of the Education Members

Education Members shall: 1) facilitate communication between the Council and the students, staff, and faculty of the law school; 2) provide honor orientation sessions to entering students; 3) plan and supervise the honor/professional ethics education plan; 4) serve as an interpretive resource for the law school community (in consultation with members of the Honor Board, as necessary); and 5) supervise the first-year honor representatives. Also see Section VIII (Honor/Professional Ethics Education). The Council may cosponsor honor/ethics events with other offices, organizations, students, staff, faculty, etc.

Education members may perform other duties (e.g., working with the admissions office to change information about the honor system in the admissions brochure, or providing an introduction to the honor code and system to members of the staff and faculty) as necessary or as directed by the Honor Board chair.

Education members shall not participate in Honor Board investigations, hearings, or similar Honor Board proceedings. Like other students, however, education members may attend open Honor Board hearings (see Section V.R., "Confidentiality").

E. Functions of the Honor Representatives

First-year honor representatives shall attend Council meetings and serve as liaisons between their sections and the Council.

Honor representatives may perform other duties as necessary or as directed by the education members.

Honor representatives shall not participate in Honor Board investigations, hearings, or similar Honor Board proceedings. Like other students, however, honor representatives may attend open Honor Board hearings (see Section V.R., "Confidentiality").

F. Election of Student Members

The Council on Professional Conduct will administer an election of new student members (six at-large Honor Board members and three at-large education members) each year at the same time as the election of the Executive Board of the Student Bar Association. The Council should coordinate with the SBA the publicity and timing of the election and may delegate to the SBA the administration of the Council election. The members of each incoming Council will elect one at-large Honor Board member to be the chair of the Council. The chair of the Council will also act as the Honor Board chair. The members of each incoming Council will also elect one at-large education member to be the council's vice chair for education.

Each year, during the first week in October, the Council will administer elections of Honor Representatives (one for each first year day and first year evening section).

G. Faculty Advisers

The dean of the school of law will appoint two faculty advisers to the Council. These appointments ordinarily will be for two-year periods, which may be renewed. One faculty adviser will be appointed during each spring semester to replace an adviser whose term is expiring. These faculty advisers also will serve as advisers to the

honor board.

One of the two faculty advisers shall counsel the Honor Board throughout the proceedings and an adviser must attend and participate in each Honor Board proceeding. The faculty adviser's role is to closely advise the Honor Board on procedural matters and to assist in the fact-finding process and the assessment of what sanction should be recommended. The faculty adviser may question witnesses but shall not vote.

If a matter is appealed to the faculty after a determination by the Honor Board, the faculty adviser who participated in the Honor Board hearing may participate in the discussion of and decision on the appeal. This may include an oral report on the case.

H. The Dean's Designate

The dean of the law school will designate an individual, defined as a member of the professional staff or an assistant or associate dean, who will assist with the administration of the Rules.

I. Terms of Student Members

The official terms of Council members will begin on the last day of classes of the spring semester. From the date of their election, incoming members of the Honor Board shall attend all Honor Board proceedings and may examine documents and discuss cases with the current members of the Honor Board.

During the spring semester, the chair of the Council shall organize an orientation session for new members of the Council. This orientation would offer training to the Honor Board in fact investigation and in the conduct of hearings. It would also offer training in implementing honor/professional ethics events to the education members. The dean's office will assist the Council in identifying instructors who can provide the necessary information and training.

J. Student Vacancies

Student vacancies on the Council will be filled by the remaining members of the Council, who will appoint temporary or permanent replacements, as the occasion demands, from the prior Council or from the student body.

K. Related Action by the Dean and the Faculty

The Rules of Professional Conduct shall not be construed to restrict the authority of the law school to act with respect to any conduct by a student that does not constitute an offense under these Rules or to limit the law school's authority to take steps to protect the safety of members of the university community. Nothing in these Rules shall be construed to prevent an instructor from adjusting a grade downward or entering a failing grade for a student who has committed an act of academic dishonesty in a course taught by that instructor.

IV. VIOLATIONS OF THE RULES

The following conduct violates these Rules of Professional Conduct if it is dishonest, reflects a lack of trustworthiness, or otherwise raises a question about a student's fitness to become a lawyer:

A. Lying or Failing to Disclose

Lying is any act (or omission) in which a student intentionally, or with reckless disregard for the truth, deceives another by stating an untruth, by misrepresenting material facts, or by failing to disclose. Examples of this offense include, but are not limited to, the following:

1. Representing the words or substance of another's work as one's own in any writing submitted for academic credit or written for a cocurricular activity with intent to deceive; or
2. Representing the words or substance of another's work as one's own in any writing submitted for academic credit or written for a cocurricular activity with reckless disregard of commonly accepted definitions of plagiarism; or
3. Failing to disclose past disciplinary matters under these Rules resulting in the finding of a violation to a member of the faculty or any instructor whom the student asks to act as a reference for that student; or
4. Omitting material information about one's own academic record, work experience, or law school activities; or
5. Furnishing any person with false or misleading material information about the academic record, work experience, or law school activities of another member of the law school community; or
6. Furnishing false or misleading material information to any instructor, any other administrative office of the university, or to a student or nonstudent administrator of a cocurricular or extracurricular activity. "Any other administrative office" of the university includes the admissions office, the financial aid office, and the career and professional development office; or
7. Omitting material information with the intent to deceive or mislead any instructor, any other administrative office of the university, or a student or nonstudent administrator of a cocurricular or extracurricular activity. "Any other administrative office" as defined in the previous paragraph; or
8. Failing to report a criminal charge or conviction to the dean's office. See Notification of Law School about Criminal Charges and Convictions that immediately follow these Rules in the Law School Announcements.

B. Cheating

Cheating is any intentional act (or omission) of fraud or deception by which the student attempts to gain or give an unfair advantage. Examples of this offense include, but are not limited to, the following:

1. Receiving, using, or providing unauthorized assistance in connection with an examination, a course assignment, or a cocurricular activity; or
2. Attempting to satisfy the requirements of a course by submission of work that was done, in whole or in part, for another course in the law school or at some other educational institution, or for an employer or an externship, unless the instructor has been notified of the overlap and has authorized it.

C. Stealing or Damaging Property

Stealing or damaging property is any act (or omission) in which a student intentionally takes, hides, tampers with, or damages any property of the university, the law school, or any member of the university community. Examples of this offense include, but are not

limited to, the following:

1. Removing, without authorization, any property belonging to the law school, to the university, or to any member of the university community; or
2. Intentionally using the facilities of the law school, including computing and telecommunication systems, in a prohibited manner and/or without paying any appropriate fees; or
3. Misusing or abusing computer resources of the university or law school, including hacking, as outlined in the Statement of Ethics Using Computers as published online in the university's Student Handbook; or
4. Intentionally using the property of another student, a staff member, or a faculty member without receiving permission and/or paying any appropriate fees; or
5. Vandalizing or hiding library books; or
6. Tampering with the settings on the computers in the computer labs; or
7. Taking notes or books of other students without authorization.

D. Tolerating a Violation of the Rules of Professional Conduct

Tolerating is any act in which a student intentionally fails to report a violation of these Rules that the student has reason to believe occurred to the dean's designate or Council chair within a reasonable length of time. A "reasonable length of time" is usually considered not to exceed five business days (not including the day of the suspected violation). Before reporting the suspected violation, a student is encouraged, but not required, to tactfully approach the student who is suspected of the violation to clarify whether the incident was a misunderstanding or actually a possible violation of these Rules. After the clarification process, if the student is completely satisfied that the incident was simply a misunderstanding, then that student no longer has a duty to report. For a clarification of the reporting standards, see Section II.A.2. of these Rules.

E. Harassing

Harassing is any act in which a student intentionally and falsely uses these Rules against another, intentionally retaliates against another who is acting under these Rules, or intentionally acts in an unsafe manner (as defined below). Examples of this offense include, but are not limited to, the following:

1. Falsely charging another student with violation of these Rules; or
2. Retaliating against a person who reports an alleged violation of these Rules; or
3. Retaliating against a person who provides information to the Honor Board.

F. Contempt

Contempt is any act (or omission) in which a student intentionally interferes with the proper administration of these Rules. Examples of this offense include, but are not limited to, the following:

1. Lying in any action or proceeding under these Rules; or
2. Violating an obligation of confidentiality imposed by these Rules. No one may disclose information about the identity of any respondent or witness other than oneself in any Honor Board proceeding. Disclosure of such information is permitted where necessary to investigate a matter or to impose a sanction. Disclosure of such

information is also permitted where serving an education function to the extent that the identities of the parties involved are kept confidential; or

3. Failure, without just cause, of any student other than the respondent to provide evidence or testimony relating to an alleged violation, when requested to do so by the dean's designate, the investigator, the respondent, or the Honor Board. "Just cause" may include the existence of a privileged relationship or a confidential communication as defined in Section II.A.2. of these Rules; or
4. Obstructing compliance with or enforcement of these Rules by any means.

G. Discretionary Referral

If conduct is alleged that would fall within this paragraph, the dean may refer the matter to the Council or deal with it in some other manner.

1. Discretionary referral can be made in cases of any conduct that occurs in connection with the academic program, administration, or extracurricular or cocurricular programs of the law school. To be actionable, this conduct must be dishonest, reflect a lack of trustworthiness, or otherwise raise a question about a student's fitness to become a lawyer. Fitness to become a lawyer is meant to be interpreted by the standards normally applied by the bar in admission of lawyers to practice; or
2. Any conduct, when it occurs on the university campus or when it occurs during an officially sponsored university event, that would constitute an intentional tort as defined by the law of the United States or the District of Columbia and that threatens or harms another member of the university community. An "intentional tort" includes assault, battery, intentional infliction of emotional distress, and false imprisonment. "An officially sponsored university event" includes any event that is officially sponsored by the university, the law school, or one of their subordinate agencies/organizations (e.g., moot court).
3. Any conduct, regardless of where it occurs, that would constitute a crime as defined by the law of the United States or the District of Columbia and that threatens or harms another member of the university community. Also see Notification of Law School about Criminal Charges and Convictions.

V. PROCEDURES

A. Actions Before Reporting a Suspected Violation

Each member of the law school community is encouraged, but not required, to approach a student suspected of violating these Rules to discuss the possible violation before reporting the suspected violation to the dean's designate or Honor Board chair.

B. Reporting a Suspected Violation

Each member of the law school community must report to the dean's designate or the Honor Board chair any conduct he or she has reason to believe violates these Rules. Also see Section II.2. of these Rules. This report must be made within a reasonable amount of time. A "reasonable amount of time" is usually considered not to exceed five business days (not including the day of the suspected violation).

In most circumstances, the initial report of a violation may take place in a meeting with the dean's designate or Honor Board chair where the individual reporting the violation describes what occurred and why it could be a violation of the Rules of Professional Conduct. Should the dean's designate or Honor Board chair, after hearing the information, believe that what has been described could be a violation, a full report shall be made.

This report shall be in writing and shall include as much of the following information as is possible: 1) the name of the student suspected to have violated these Rules; 2) the suspected student's class year and division; 3) the date, time, and place of the suspected violation; 4) the nature of the suspected violation(s) (e.g., lying, cheating, etc.); 5) the names of any known witnesses; 6) a summary of the suspected conduct and circumstances; and 7) the name and signature of the person submitting the report. This report may be amended as necessary.

The person who reported the violation may become a witness in the proceeding. If the reporting person's testimony is not a part of the evidence presented to the board, the identity of the reporting person will be revealed only if the dean's designate or Honor Board chair deems it necessary in order to provide a fair hearing to the respondent.

C. Preliminary Action

When a possible violation of the Rules for Professional Conduct is reported to the dean's designate or the chair of the Honor Board, the dean's designate and the chair will determine whether there is credible evidence that a violation of the Rules has occurred. If the dean's designate and Honor Board chair determine that the report on its face does not constitute a violation, the matter shall go no further. If the matter would be a violation if there were credible evidence, the dean's designate will notify the respondent by certified mail or hand delivery that allegations concerning a possible Rules violation have been raised and give him or her the opportunity to respond within 10 business days. That response may involve the respondent meeting with the dean's designate and Honor Board chair to discuss the allegations. After hearing the respondent and doing whatever preliminary investigation is deemed necessary, the dean's designate and Honor Board chair may find there is no credible evidence of any violation of the Rules. In that event, the matter will proceed no further.

The dean's designate and the chair of the Honor Board may also find that a violation has occurred, but that the violation does not raise a substantial question as to the honesty, trustworthiness or fitness of the student to become a lawyer. When the dean's designate and the Honor Board chair find the nature of the offense is not sufficient to raise a substantial question as described above, the dean's designate may recommend that one or more students participate in counseling or mediation or may impose any of the sanctions numbered 7 through 12 in section VI. If the respondent does not accept the dean's designate's resolution, the matter will proceed to the Honor Board for consideration.

Even if the dean's designate and the chair of the Honor Board conclude that there is no credible evidence of a violation, or if they have recommended an informal resolution of the matter, any member of the law school community may file a formal complaint on the matter with the Honor Board.

The chair of the Honor Board will provide the other members of

the Honor Board with oral or written summaries of the matters that have been resolved informally, including the allegations made, how each was resolved, and what if any sanction was imposed in each matter. These summaries will not include the names of the persons who reported the incidents or the names of the respondents.

D. Referral to the Honor Board and Notice to the Respondent

If the dean's designate or the chair of the Honor Board find credible evidence of a violation that raises a substantial question as to a student's honesty, trustworthiness, or fitness to become a lawyer, the dean's designate shall file a written complaint with the Honor Board for further investigation. The dean's designate will send a copy of the complaint to the chair of the Honor Board and a copy to the respondent by certified mail.

If the conduct that is the basis of the complaint is the subject of a criminal investigation or proceeding, the Honor Board may investigate the matter but may postpone any hearing until the criminal investigation or proceeding has been resolved. This does not limit the authority of the law school to suspend the respondent or to take other action necessary to protect the health, safety, or welfare of the respondent or others.

E. Commencement of Proceedings

An Honor Board proceeding shall commence when the chair of the Honor Board receives a written complaint from the dean's designate. The complaint must describe the alleged violation, name the person alleged to have violated the Rules, and must name any known witnesses. A member of the law school community, other than the dean's designate, may file a written complaint only after consideration of the matter by the dean's designate and the chair of the Honor Board pursuant to section V.C.

F. Investigation

The chair of the Honor Board will appoint one student member of the Honor Board to be the investigator for each case. The investigator should investigate the charge and assemble the evidence as quickly as possible. The investigator(s) may conduct interviews and request documents from law school officials, students, or others who may possess relevant information.

In contacting the respondent, the investigator shall explain his or her role on the Honor Board and shall ask whether the respondent is represented. If the respondent is represented, he or she has a right to have the representative present during any meeting with the investigator.

The investigator may seek or the dean's designate may appoint faculty co-counsel or outside counsel for the investigator. Such counsel may advise the Honor Board at the hearing but may not take any of the roles prohibited to nonstudent representatives in section II.B.

If a respondent or witness asserts that there is just cause not to produce evidence requested by the investigator, the respondent or witness shall attempt to resolve the disagreement in consultation with the dean's designate. The Honor Board shall determine whether there is just cause not to produce the evidence.

The student designated as investigator will not participate in deliberation or vote on the disposition of any case for which he or

she is acting as investigator.

G. Disclosure to Respondent

The investigator shall provide to the respondent before the hearing:

1. a list of witnesses who may appear at the hearing, except where a witness convinces the dean's designate that he or she has a credible fear of retaliation should the respondent learn the witness' identity before the hearing;
2. copies of any documents that may be presented at the hearing; and
3. any and all evidence that may tend to exculpate the respondent.

This information shall be provided to the respondent as soon as possible after it is identified and within a reasonable amount of time before the hearing to enable the respondent to prepare.

H. Settlement

The respondent may admit some or all of the allegations and may propose an appropriate sanction to the Honor Board. The respondent should discuss this proposal with the investigator before presenting it to the Honor Board. The Honor Board may accept part or all of this proposal or may hold a hearing to determine whether the proposal should be accepted.

Any admissions made by the respondent during the course of settlement discussions will not be admissible in any hearing on the matter by the Honor Board.

I. Supplemental or Amended Charges

If the investigation results in a supplemental or amended charge being filed against the respondent, such charge must be reviewed by the dean's designate and the chair of the Honor Board pursuant to V.C. and D. If the dean's designate and the Honor Board chair refer the new charge to the Honor Board under V.D., the respondent must be given written notice, in the same manner as described in Section V. C., above, of the supplemental or amended charge. If the charge is referred to the Honor Board under V.C., additional time to prepare for the hearing will be granted by the Honor Board chair if it is necessary to enable the respondent to prepare to respond to the additional or amended charges.

J. Summary Dismissal

If, after assembling the evidence about a matter, the investigator concludes that there is no credible evidence of a violation that raises a question as to the honesty, trustworthiness, or fitness of the respondent to become a lawyer, he or she may recommend to the dean's designate and Honor Board chair that the matter be dismissed. When a case is dismissed in this manner, the dean's designate shall prepare a written report of its factual findings and the reasons for dismissal. A copy of the report shall be sent to the respondent, to the dean's office, and to the person who reported the incident.

If, after the presentation of the investigator's report at a hearing described in Sec. V.I., below, a majority of the voting members of the Honor Board on their own, or upon a motion by the respondent, conclude that there is no credible evidence of a violation that raises a question as to the honesty, trustworthiness, or fitness of the respondent to become a lawyer, the Honor Board may summarily

dismiss the matter. When a case is dismissed in this manner, the Honor Board shall prepare a written report of its factual findings and the reasons for dismissal. A copy of the report shall be sent to the respondent, to the dean's office, and to the person who reported the incident.

K. Preparation for Hearing

If the Honor Board decides to hold a hearing on the matter, in planning the hearing, the members should consider:

The facts needed to enable the Honor Board to decide whether a violation has occurred and what if any sanction should be imposed; and

Witness or witnesses who might have information relevant to each factual question, and what questions would elicit the desired information.

L. Hearing

The Honor Board shall conduct an evidentiary hearing on the complaint as soon as possible after the written complaint is received by the Honor Board. At least three student members eligible to vote (excluding the investigator and chair, V. F. and N.) must be present for the Honor Board to reach a decision.

The investigator will present evidence and witnesses. The respondent or respondent's representative may ask questions of these witnesses and may present other evidence and witnesses. All members of the Honor Board including the investigator may question witnesses.

A witness will not be present at the hearing except at the time of testimony. During the hearing, witnesses outside the hearing room shall not discuss their testimony. Confidentiality after the hearing is addressed in V.R. The respondent may request of the chair that a witness remain in the hearing room after testifying, but in this event, the witness may not be recalled.

Rules of evidence do not apply in Honor Board proceedings. The chair, after consulting with the faculty adviser, may exclude evidence considered to be cumulative or unnecessarily time-consuming, irrelevant, or patently unreliable, or which creates a risk of unfair prejudice that substantially outweighs its legitimate probative value.

After all the evidence has been heard, the Honor Board will convene as soon as possible to decide the matter.

If the Honor Board is unable to act within a reasonable time, the dean's designate will take steps to resolve the matter pursuant to V. P.

M. Testimony and Participation by the Respondent

The respondent may elect to make or not to make a statement to the Honor Board. The Honor Board may draw inferences from the silence of the respondent. If the respondent declines or refuses to participate or cooperate in one or more of the Honor Board proceedings, the Honor Board (or dean, as appropriate) may proceed without the respondent's appearance at that proceeding.

N. Determination by the Honor Board

If a majority of the Honor Board members eligible to vote concludes, based on clear and convincing evidence, that a violation of these Rules of Professional Conduct has occurred, the board shall determine what sanction should be recommended. If the vote of

the members of the Honor Board is evenly divided, this will result in a finding that no violation of the Rules has occurred. The chair, in light of his/her involvement in the referral phase (V.D.), shall not have a vote, in any circumstances, in this phase of the proceedings.

Clear and convincing evidence is that which persuades a majority of the Honor Board members eligible to vote that it is “highly probable” that a violation of the Rules has occurred or leads them to have a “firm belief or conviction” that a violation of the Rules has occurred.

In determining the sanction to be recommended, the Honor Board should be informed of any sanction already imposed on the respondent for the conduct at issue, such as a grade change by an instructor. If there is no majority of the Honor Board members eligible to vote as to what sanction should be recommended, the matter will be referred to the faculty or to a faculty committee designated by the dean for a decision as to the sanction.

O. Written Report to the Dean

The board shall prepare a written report of its factual findings, its conclusion as to what if any violations of the Rules of Professional Conduct occurred, and the sanction to be imposed. Where appropriate, the report may recommend how the sanction will be administered or supervised. This report shall be completed as soon as possible after the hearing is held. A copy of the report shall be sent to the dean.

P. Time Limits for Adjudication

The dean's designate and the Honor Board shall complete all necessary actions (up to and including the written report to the dean) within 60 calendar days of the report of a suspected violation. The day the suspected violation is reported to the dean's designate or Honor Board chair is considered to be day 0. The dean's designate may grant, in writing, one 14-day extension for each Honor Board case. After that, only the dean of the law school may grant extensions. These time limits may be suspended in accordance with paragraph D of this Section or if the 60 calendar days include non-class days such as those associated with the Christmas break, spring break, or the summer break and the dean's designate determines that the presence of these nonclass days will impede or hinder the investigation or cause undue hardship for the accused in preparing a defense.

Failure to meet these time limits will result in the case being referred to the dean of the law school for completion.

Q. Action by the Dean

The dean's office will review the findings and recommendations of the Honor Board for form and completeness. After it has completed its review, the dean's office will transmit to the respondent by certified mail the Honor Board decision and, subject to the appeal process, impose the recommended sanction. The dean's office also will send a copy of the letter and report to the person who reported the incident and ensure that the Honor Board is apprised of the final disposition of the case.

R. Confidentiality

Each Honor Board hearing will be closed unless the respondent requests an open hearing. If an open hearing is requested by the respondent, that request shall be followed unless compelling cir-

cumstances require that the hearing be closed. Compelling circumstances could include disruption of the hearing by the behavior of observers or protection of the privacy of a witness or witnesses.

If a hearing is closed, the entire matter shall be treated as confidential until after the matter has been concluded (including an appeal if any), except for disclosures that are necessary to investigate a matter or to impose a sanction.

After the matter has been concluded, members of the law school community may discuss the substance of the matter but may not reveal information that would enable another to identify the respondent or to identify any witness (except oneself).

If discussion of the substance of the matter could lead to the identification of the respondent or of a witness in the proceeding, the affected person may request that the Honor Board order that no one discuss even the substance of the matter and that publication of a summary of the matter be deferred until after the student has graduated from the law school.

S. Communication Between the Honor Board and the Respondent

While a matter is pending before the Honor Board, communication between the respondent and members of the Honor Board about the matter should be in writing. This restriction does not apply to communication between the respondent and the investigator.

T. Recording of Hearings

In every case, the board will attempt to make an audio or video recording of the hearing. Ordinarily, the recording will be erased if the board concludes that there has been no violation of the Honor Code and if the dismissal is not appealed. If a violation is found, the recording will be retained in the dean's office for five years after the date of the respondent's departure from the school of law unless the dean determines that it should be kept for a longer period.

U. Records of Proceedings

A record of each Honor Board proceeding should be retained until the conclusion of the proceeding. Once the Honor Board has reached a decision and written a report, the records should be submitted to the dean's office for retention. For each proceeding in which there is a final determination that the respondent violated the Rules, the decision of the Honor Board and the dean's letter of transmittal shall be placed in the respondent's academic file for future reference. If a second violation of the Rules is reported to have been committed by the same student, the dean's designate should review the file on the previous matter to determine whether it should be made available to the Honor Board.

VI. SANCTIONS

A. Possible Sanctions

Upon finding that a student has violated these Rules of Professional Conduct, the Honor Board may recommend that the law school impose one or more of the following sanctions:

1. Expulsion.
2. Suspension from course registration and attendance.
3. Disciplinary probation for one or more semesters.

4. Public or private letter of reprimand, which would be placed in the student's academic file.
5. Denying credit in a course in which the violation occurred.
6. Suspension from participation in extracurricular or cocurricular law school activities.
7. Informal letter of admonition, which would not be reported to the bar to which a student applies for admission unless required by that bar.
8. Requirement that the respondent take a course or write a paper that would assist the respondent in avoiding subsequent misconduct.
9. Service to the law school or the community to compensate for the harm caused by the violation or to remind the respondent of the significance of the violation.
10. Requirement of restitution or reimbursement for damage to or theft of property.
11. Public or private apology to any person harmed by the violation.
12. The Honor Board and the faculty adviser may propose another reasonable sanction not included in this list designed for remedial or rehabilitative purposes. Before the remedial or rehabilitative sanction is imposed, it must be approved by the dean's designate for consideration of such issues as feasibility of administration.

B. Reporting Sanctions to the Bars

If one or more of the sanctions numbered one through five are imposed, the law school will report the imposition of the sanction to any bar to which the respondent applies for admission. If one or more of the sanctions numbered six through 12 are imposed, the law school will report the imposition of the sanctions to the relevant bar, if reporting is required by the particular bar, if reporting is recommended by the Honor Board, or if reporting is deemed appropriate by the dean's office.

VII. APPEALS

A. Right to Appeal

The respondent may appeal the decision of the board, the sanction imposed, or both to the faculty. The dean's designate also may request faculty review of Honor Board decisions. The appellant shall specify the grounds for appeal. The dean may designate a faculty committee to consider the appeal and make a recommendation to the faculty.

B. Time for Appeal

Appeals must be submitted in writing to the dean's designate within 30 days after the respondent receives the Honor Board's decision. If an appeal is not filed within 30 days, the sanction imposed by the dean's office based on the Honor Board recommendation becomes final.

C. Ex parte Communication with Faculty

A respondent, a faculty adviser to the Honor Board, or a student who has acted as an adviser or advocate to a respondent or as an investigator at an Honor Board hearing may communicate orally or in writing with any faculty member about that matter at any time. Representatives who are neither students nor faculty may communicate only in writing with faculty about an Honor Board decision

while an appeal is pending. Such representatives must send copies of such communications to the dean and the Honor Board at the same time as the writing is sent to the faculty.

D. Review of Record

The faculty will decide the appeal on the basis of a review of the written appeal and the written report of the hearing prepared by the Honor Board. In exceptional circumstances the dean may allow the respondent or the respondent's representative to make a presentation to the faculty before an appeal is decided. If the dean grants such a request, the dean will notify the chair of the Honor Board, who also may make a presentation to the faculty about the matter. A faculty member who has acted as an adviser to a student regarding an Honor Board proceeding is limited to the role of any other attorney. Therefore, such a person may not participate in deliberation about or vote on an appeal of that decision.

E. Faculty Decision

In the event of an appeal, the faculty may:

1. affirm the findings of fact and sanction recommended by the board,
2. affirm the findings of fact of the board but impose a different sanction (which may be more or less severe than that recommended by the Honor Board),
3. remand the case to the board for a new full or partial hearing, or
4. overturn the findings of fact and the sanction recommended by the board.

The faculty will affirm the findings of fact made by the Honor Board unless the faculty is convinced that those findings of fact constitute a clear abuse of discretion. The faculty will review the recommended sanction de novo, while giving appropriate deference to the Honor Board's opportunity to observe the demeanor of witnesses, etc.

The respondent shall be notified by certified mail of the faculty decision. The Honor Board and the person who reported the incident also shall be notified.

VIII. HONOR/PROFESSIONAL ETHICS EDUCATION

A. Notice to Students and Honor Orientation

A copy of these Rules of Professional Conduct will be given to each entering student and shall be enforceable as part of the The Catholic University of America Columbus School of Law Announcements. Members of the Council shall conduct orientation sessions at the beginning of the academic year for the entering students. Orientation topics shall include, but are not limited to, what is and is not a violation of these Rules, the duty to report, and how to report a suspected violation. By the end of orientation week, all entering students must sign a statement saying that they have read the Rules. Failure to sign this statement is not a defense to an alleged violation of these Rules. An "entering student" is a 1D, 1E, LL.M., transfer, or visiting student.

B. First-Year Student Honor/Professional Ethics Education

During the academic year, members of the Council shall sponsor honor/professional ethics education events for 1D and 1E students. Topics during the first semester should focus on issues that come up in the context of research assignments, writing assignments,

and exams. Topics during the second semester should focus on issues that come up in the context of law review/journal writing competitions and summer legal employment. 1D and 1E students must attend at least two honor/professional ethics education events on topics specifically selected for them by the Council. In addition, they must attend one elective honor/professional education event, i.e. sessions that are provided for the entire law school community as described in VIII.C. 1D and 1E students who do not complete these first year requirements may petition the Council for an extension and, if so granted, those hours not finished during the first year can be made up in subsequent years.

C. Upperclass Student Honor/Professional Ethics Education

During each semester, in consultation with the associate dean for external and student affairs, members of the Council shall design, implement, and supervise at least two honor/professional ethics education events per semester. All members of the law school community are invited and encouraged to attend and participate in these events. The events may include, but are not limited to lectures, panels, skits, “mock” Honor Board hearings, “town hall” meetings, small group discussions, and movies followed by discussions. Outside guests may attend these events, and members of the Council may invite outside guests to participate in these events (e.g., guest lecturers).

Upperclass students must attend a total of three honor/professional ethics education events during their final two or three years. Members of the Council shall keep track of each upperclass student’s honor/professional ethics education events. Certified attendance at nonlaw school ethics training events that qualify for Continuing Legal Education credit may be submitted for Council approval.

D. Heightening Awareness of Ethical Implications when Submitting Written Work

All students must certify, pledge, and sign that they have received no unauthorized assistance, as previously defined, on their exams, research papers for course credit, or written submissions for cocurricular activities (e.g., law review, journals, and moot court). Professors/instructors may, at their discretion, require this certification for other written submissions. Written assignments that are graded anonymously (e.g., exams or law review/journal writing competitions) must be certified and submitted in such a manner that the grader cannot associate the name on the certification/pledge with the actual written assignment.

E. Communicating with the Law School Community

The council may communicate with the law school community. This communication may include, but is not limited to, publishing articles in HeadNotes, using a bulletin board dedicated to Professional Conduct issues, posting messages on the video monitor, placing memos/flyers in student mail folders or staff and faculty mail boxes.

F. End of Academic Year Summary

Each spring semester the outgoing chair of the Honor Board shall write a summary of Honor Board proceedings that have been adjudicated during the previous year for publication to the law school community. The summary must be approved by the faculty advisers

before publication. This summary will not include any information that could identify the respondents or any witnesses but will explain what conduct was found to violate the Rules and what sanction was imposed. If information contained in the summary could lead to identification of the respondent, the Honor Board shall defer publication of a summary of a proceeding until after a respondent has graduated.

The summaries of Honor Board proceedings shall be maintained for reference by future Councils and by the law school community. One copy of the record will be kept on reserve in the law library and supplemented each year.

IX. AMENDMENT OF THE RULES OF PROFESSIONAL CONDUCT FOR LAW STUDENTS

Proposals to amend the Rules of Professional Conduct shall be submitted in writing to the Student Affairs Committee, which should consider these proposals with the assistance of current members of the Council, the dean’s designate, and the faculty advisers to the Council. Before any changes are proposed to the faculty, students will be given notice of possible changes and the opportunity to comment.

Amendments to the Rules of Professional Conduct adopted by the Student Affairs Committee must be approved by the faculty.

NOTIFICATION OF LAW SCHOOL ABOUT CRIMINAL CHARGES AND CONVICTIONS

The law school application requires applicants to list any pending criminal charges or convictions on matters other than minor traffic violations. This requirement to notify the law school of all pending criminal charges and convictions other than minor traffic violations continues from the time of application through graduation. Most state bars ask each law school to provide information about whether graduates of the school who have applied for bar membership have been involved in any criminal matters or law school disciplinary matters. (The same inquiry is made of the applicant.)

When a student notifies the dean’s office of a criminal charge or conviction, the dean’s office will assess whether the conduct violates the Rules of Professional Conduct for Law Students, whether the matter suggests a serious threat of possible harm to another member of the law school community, or whether it raises a question about the student’s honesty, trustworthiness or fitness to become a lawyer. If these questions are answered negatively, the dean’s office will remind the student that the student may be required to report the matter on the bar application and alert the student of the possible consequences of nondisclosure during that process. If one of the questions above is answered affirmatively, the law school may initiate action that could affect the student’s enrollment status.