

UNIVERSITY OF NORTH DAKOTA SCHOOL OF LAW HONOR CODE

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1. General Provisions

1.1 Preamble

Lives, freedoms, and fortunes are entrusted to lawyers. Where dishonor exists in the legal profession, our system of justice suffers. Thus, for the individual embarking upon the professional path of law, integrity is fundamental.

Dishonesty within the University of North Dakota School of Law injures not only the welfare of classmates and the institution, but also the foundations of liberty and fairness for our society. Untrustworthiness in a law student cannot be tolerated. The life-long obligation to honorable dealing must commence at the moment of law school matriculation.

The purpose of this Honor Code is to define and enforce the rules by which the students of the School of Law are governed with respect to academic matters. This Code recognizes the need for clear consequences for behavior that violates its terms, together with fair procedures for judging alleged cases of misconduct. The success or failure of an honor code is dependent on the willingness of those governed by it to enforce it. If the Code is to be effective, each student must make a personal commitment to comply individually with its provisions and must accept the responsibility of assuring compliance by other students.

1.2 Definitions

“**Accusation**” shall have the meaning ascribed to it in Section 4.1 of this Code.

“**Accused Student**” shall mean the student accused of the apparent violation of this Code who is the subject of an investigation or hearing contemplated by this Code.

“**Chair**” shall have the meaning ascribed to such term in Section 5.1 of this Code.

“**Code**” shall mean this Honor Code of the University of North Dakota School of Law adopted by the Faculty on April 30, 2010, as amended from time to time.

“**Dean**” shall mean the then-presiding Dean, whether acting, interim, or permanent, of the University of North Dakota School of Law.

“**Enrolled**” shall mean registered in at least one class at the University of North Dakota School of Law.

“**Faculty**” shall mean the tenured and tenure-eligible members of the faculty of the University of North Dakota School of Law.

“Honor Board” shall mean the body vested with the authority and responsibility to conduct formal hearings and to perform other related duties, as set forth in this Code, in connection with apparent violations of this Code.

“Instructor” shall mean any member of the Faculty and any person with teaching responsibility for a School of Law course.

“Investigators” shall have the meaning ascribed to such term in Section 4.1 of this Code.

“Knowingly” shall mean that an Accused Student acts with knowledge, consciously, intentionally, or willfully.

“Recklessly” shall mean that an Accused Student disregards a substantial and unjustifiable risk that the material elements of a Code violation exist or will result from his or her conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the Accused Student’s conduct, its disregard involves a gross deviation from the standard of conduct outlined in the Code.

“School Day” shall mean any day on which regular classes (excluding summer session classes) are held at the School of Law.

“School of Law” shall mean the University of North Dakota School of Law.

“University” shall mean the University of North Dakota.

1.3 Authority of School, Dean, Instructor, and Honor Board; Effect

This Code is binding on all students Enrolled at the School of Law. Actions committed by students prior to enrollment shall be beyond the scope of this policy and may be governed by separate policies of the School of Law. The University of North Dakota Academic Dishonesty and Misconduct Policy, and the Academic or Scholastic Dishonesty Sanctions Policy, both adopted February 15, 1991 and updated September 5, 2002, are superseded by this Code. Authority for determining the grade for a student in a course in which a Code violation has been alleged shall always lie with that course’s instructor; without limitation, an instructor may impose a grade sanction for student misconduct related to the instructor’s course, including for misconduct described in this Code, and other prohibited conduct as set forth in the course syllabus or other course materials, such as exam instructions. An instructor may impose grade sanctions regardless of whether a student’s conduct is subject to any proceeding under this Code. The student shall always have the right to appeal any grade assignments pursuant to the applicable School of Law and University policies.

The Dean is responsible for enforcing this Code. The authority to enforce this Code is delegated in part to an Honor Board of Faculty, students, and administrators empanelled by the procedures prescribed in this Code.

It is acknowledged that in undertaking the responsibilities imposed by this Code, various parties (including without limitation, the University, the School of Law, and the Honor Board), may be bound in the first instance to follow the Family Educational Rights and Privacy Act (known as “FERPA”), state open-records laws, and other laws, as applicable. In addition, parties may be required to respond to lawful court orders or subpoenas. In heeding all such legal obligations, such parties are to endeavor to give effect to the letter and spirit of the Honor Code, whenever possible.

1.4 Settlement

At any time prior to or during the formal hearing process, the Dean may settle the matter on terms agreed upon by the Dean and the Accused Student. In deciding whether to settle the matter, the Dean may weigh an Accused Student’s acceptance of responsibility for the conduct, including whether the Accused Student self-reported the Accusation.

1.5 Effect of Time Limitations

The failure of the Dean or any other person to comply with time limitations contained in this Code shall not constitute a defense to charges of a violation of this Code or be grounds for dismissing charges of a violation of this Code, unless the failure to comply with any such time limitation was without any reasonable excuse and such failure might reasonably be expected to result in an action or decision unfairly prejudicial to the rights of the Accused Student.

2. Substantive Conduct Prohibited

It shall be a violation of this Code for any student to engage in or attempt to engage in any of the following conduct, which, unless otherwise stated, must be done Knowingly or Recklessly:

- (i) submitting the work (whether quoted words, paraphrased words, or ideas) of another, in a draft or final product for academic purposes, without attribution;
- (ii) cheating, including, but not limited to, using any unauthorized aid for academic purposes; giving unauthorized aid to another student for academic purposes; otherwise breaching exam or assignment instructions; interfering with the administration of exams or assignments; or interfering with grading;
- (iii) submitting the same, or substantially similar, material for academic purposes in more than one course, whether or not each course is offered at the School of Law, without permission of the instructor of the later course; or, in the event of overlapping or simultaneous courses, both Instructors;
- (iv) reading, taking possession of, making use of, or otherwise accessing any other student’s or Instructor’s confidential academic materials, without such person’s prior express or clearly implied permission;

- (v) knowingly obstructing another's access to academic or library materials, such as by destroying, hiding, or stealing any such materials;
- (vi) engaging in any act that materially disrupts a class, meeting, or other function of the School of Law, or that unreasonably interferes with the rights of other students in the pursuit of their education;
- (vii) making a false accusation of academic misconduct, as defined in the foregoing provisions;
- (viii) engaging in dishonesty in an Honor Board proceeding; or
- (ix) lying to obtain academic advantage for oneself or others for an academic purpose.

3. Organization of Honor Board

3.1 Composition

The Honor Board shall consist of six members. Three members of the Honor Board shall be students Enrolled on a full-time basis in the School of Law. Two members of the Honor Board shall be members of the Faculty. One member of the Honor Board shall be the Dean or the Dean's designee. When conducting their duties, the members of the Honor Board shall be deemed to be acting in an official University capacity. Subject to the provisions of this Code governing conflicts of interest, one student member shall be Enrolled as a member of the first-year class, one as a member of the second-year class, and one as a member of the third-year class.

3.2 Selection; Terms; Vacancies

Each fall of each academic year, each class of students shall select by majority vote two (2) members of its class, one to serve as the student member of the Honor Board and one to serve as the alternate student member, in each case, for such class for such academic year. Each student member of the Honor Board shall be appointed for a term expiring on the earlier to occur of (i) the student's ceasing to be Enrolled on a full-time basis in the School of Law, (ii) resignation by the student from the Honor Board, (iii) removal of the student from the Honor Board pursuant to the procedures established in this Code for removal of members of the Honor Board, and (iv) election by the student's class of another student member of the Honor Board to represent such class. If a student member of the Honor Board ceases to be a member of the Honor Board due to any one or more of the events described in clauses (i), (ii) and (iii), then the alternate member for such class shall become the student member of the Honor Board representing such class for the balance of the term of the student member being replaced. If the alternate member is unable or unwilling to serve as a student member of the Honor Board, then the class represented by the student member being replaced shall select by majority vote a

replacement student member of the Honor Board from among the students who are then part of such class. Each Faculty member of the Honor Board shall be selected by the Faculty. Each member of the Faculty so selected shall be appointed for a one-year term or for such other period of time as is designated by the Faculty. The term of service of the faculty member so selected may be renewed by the Faculty. The Dean may serve on the Honor Board or may designate a representative to serve in place of the Dean. Vacancies on the Honor Board shall be filled within one month after the vacancy occurs or as soon as feasible.

3.3 Conflicts; Inability to Serve

Any member of the Honor Board with a conflict of interest in the matter under consideration shall not participate in that matter. If the conflicted member is a student member, then the alternate member for the class such student member represents shall serve as the student member representing that class for such matter, provided that such alternate member does not also have a conflict of interest that prevents the alternate member's participation in the matter. If the conflicted member is a member of the Faculty, then the Faculty shall select a replacement. If the conflicted member is the Dean or the Dean's designee, then the Dean shall designate a replacement. If the alternate member cannot serve, then the Dean shall appoint a replacement. In each case, the replacement shall serve only for the hearing with respect to which the member being replaced had a conflict of interest. Conflicts of interest include but are not necessarily limited to the following situations: if a member of the Honor Board (i) is the person who made the underlying accusation against the Accused Student, or (ii) is the instructor of the specific course that is at issue in the accusation against the Accused Student when the accusation involves a specific course, or (iii) has been or will be called as a material witness in the matter, or (iv) has a relationship with the Accused Student that is likely to prevent such member from being objective. If the Accused Student claims that a member of the Honor Board has a conflict of interest and should not serve as a member of the Honor Board with respect to the matter, and if such member fails or refuses to remove himself or herself, then the other members of the Honor Board shall decide by majority vote whether there is a conflict of interest that prevents such member's participation in the matter. Absence caused by the inability of the Honor Board member to serve shall be filled in accordance with the above provisions regarding Conflicts.

3.4 Removal of Members

A student member of the Honor Board shall be removed for (i) any actual violation of this Code, or (ii) dereliction of Honor Board duties, upon majority vote of the other members of the Honor Board. A faculty member of the Honor Board may be replaced by the Faculty at any time. The Dean may replace the Dean's designee at any time.

3.5 Basic Responsibilities

When matters relating to violations of this Code by specific persons are submitted to the Honor Board in accordance with this Code, the Honor Board shall conduct formal

hearings, make determinations, submit findings and conclusions, and, when appropriate, make recommendations for sanctions, all as provided in this Code.

3.6 Quorum

At any hearing (and deliberations relating to such formal hearing), called to determine alleged violations of this Code by one or more specific persons, five of the six members of the Honor Board shall constitute a quorum.

3.7 Adoption of Procedures

For the purpose of conducting proceedings, the Honor Board shall proceed in a just and reasonable manner, provided that no procedure shall be inconsistent or in conflict with the provisions of this Code, the policies of the School of Law or of the University, or applicable law.

4. Pre-Hearing Procedure

4.1 Accusations; Investigation

Any person may report or refer to the office of the Dean any claimed violation of this Code (an "Accusation"). If the Dean deems the Accusation to have merit, he or she shall first consult with the instructor of the course, if the conduct relates to a School of Law course, to determine whether any academic sanctions imposed by the instructor are sufficient in light of the claimed violation. If the Dean determines that academic sanctions are not sufficient, or if the conduct does not relate to a School of Law course, then the Dean shall notify the Honor Board and the Accused Student of the Accusation. The notification to the Accused Student shall include a copy of this Code (or information that allows the Accused Student to access an electronic copy of this Code), and inform the Accused Student that the matter has been referred to the Honor Board for investigation under this Code.

When in receipt of a notification of an Accusation, and the Honor Board shall appoint by majority vote two of its members to investigate the Accusation, such members being the "Investigators." The Investigators shall endeavor to the extent reasonably practicable to conclude their investigation within twenty-five (25) calendar days after appointment.

If a decision is made not to initiate a formal hearing, the Accused Student shall be informed in writing of the decision within seven (7) calendar days after the decision has been reached. In any event, the Accused Student shall have the right under this Code to request a hearing and shall be apprised of such right. The Honor Board shall be under no obligation in such event to conduct a hearing.

After the Dean has notified the Honor Board of an Accusation, the Honor Board may request a meeting with the Dean, to be attended by the entire Honor Board or one or more members of it, to get the Dean's perspective on any concerns in moving forward with investigation or the hearing process.

4.2 Initiation of Hearing Process

If the Investigators decide that there are reasonable grounds to believe that a violation occurred, then the Investigators shall recommend to the Honor Board that a hearing be initiated. The Honor Board shall decide whether a hearing should be initiated by a majority vote and the Honor Board is not bound by the Investigators' recommendation to commence a hearing. The determinations of the Investigators and/or Honor Board notwithstanding, the Dean may, in the Dean's discretion, make the final determination as to whether or not to initiate a hearing. If the decision is made to initiate a hearing, the hearing process must be initiated within twenty (20) School Days from the date of the decision to initiate a hearing. The Accused Student shall be provided with notice of the nature of the apparent violation and the decision to proceed.

Notwithstanding the twenty-day period contemplated by this section, the Dean and the Honor Board shall endeavor to act as expeditiously as is reasonably possible under the circumstances, with due regard for, among other things, (i) approaching holidays and breaks, (ii) the likely availability of witnesses, and (iii) the understanding that the Accused Student is likely to desire a speedy resolution, so as to resolve unresolved matters as quickly and as equitably as is reasonably possible within the parameters established by this Code.

5. Hearings

5.1 Convening

A Faculty member of the Honor Board shall serve as the chair of the Honor Board ("Chair"). Upon the filing of a complaint initiating a formal hearing, the Chair shall, as soon as is reasonably possible, convene the Honor Board who shall conduct a formal hearing. The Chair shall preside at the formal hearing.

5.2 Representation of Parties

The Accused Student may represent himself/herself or be represented by a lawyer, in the discretion of the Accused Student. The Accused Student may also be accompanied by up to two individuals, in addition to counsel. Notwithstanding the foregoing, however, in the interest of avoiding conflicts of interest, an Accused Student may not be represented by any member of the Faculty or any adjunct or affiliated faculty member of the School of Law. Any person who accompanies the Accused Student, other than counsel, may be heard during the proceedings in the sole discretion of the Honor Board.

5.3 Nature of the Hearing; Burden of Proof

The formal hearing shall be inquisitorial in nature, with the primary goal being to establish whether the accusation is or is not well-founded. The hearing is not intended to be adversarial. The burden of establishing any violation of this Code in a formal hearing shall be by clear and convincing evidence. The Investigators have a good faith obligation to present any issue and evidence that is favorable to the Accused Student's case. Any finding of violation must be made by the affirmative vote of not less than four members

of the Honor Board. Any finding of no violation must be made by an affirmative vote of not less than four members.

5.4 Hearing Procedures

All procedural questions are subject to the final decision of the Honor Board, except that the Accused Student shall enjoy, in all cases, the right to call witnesses, the right to question all witnesses, present exhibits, and make an opening and closing statement. Any objections shall be ruled on by the Chair at the hearing. The formal rules of evidence shall not apply.

5.5 Closed Hearings

Subject to applicable law, all hearings shall be closed and only the Accused Student, up to two accompanying individuals selected by the Accused Student, counsel, witnesses, and persons making a record of the proceeding shall be admitted.

5.6 Record of Proceedings

A record shall be made of the hearing. Such record shall be treated as confidential and maintained in the custody of the Office of the Dean. The record shall ordinarily consist of an audio recording. In addition, at the request of the Accused Student, the record may also consist of stenographic and/or videographic documentation.

5.7 Deliberations; Findings; Inability to Make Findings

The Honor Board shall deliberate. Subject to applicable law, only the Honor Board shall be present during deliberations, at which time the Honor Board may review any evidence and any record made of the hearing pursuant to this Code.

Upon a finding of no violation, the charge shall be dismissed and no sanctions shall be imposed. The Accused Student shall be provided with written notice by the Dean that the charge has been dismissed within seven (7) calendar days of the Honor Board's finding of no violation.

If the Honor Board is unable to make a finding of violation or no violation, a replacement Honor Board may be convened at the discretion of the Dean, such replacement Honor Board consisting of entirely new members appointed in accordance with the procedures set forth in Section 3.2, to conduct a new formal hearing. If no replacement Honor Board is convened, then the matter is dismissed. Should the Dean decide not to convene a new Honor Board, then the Dean retains the right to settle the matter informally or close the matter.

Upon a finding of violation, the Honor Board has the discretion to recommend whatever sanction or sanctions it deems just and reasonable in light of all the circumstances, subject to Section 6 of this Code.

5.8 Decision of Honor Board

Upon making a finding of violation or no violation, the Honor Board members shall prepare a report of the decision setting forth a summary of the testimony, along with their findings and conclusions. If the finding is one of violation, the report shall also set forth the Honor Board's recommendation as to sanctions. Members of the Honor Board not agreeing with a majority view or position may submit as part of the report their minority view or position. The report (with the identities of all persons excised, even when the Accused Student shall have waived his/her right to a closed hearing) shall be transmitted to the Dean and to the Accused Student, and a copy shall be maintained in the files of the Honor Board for use in future cases as non-binding precedent. Copies of reports retained for this purpose shall be confidential within the membership of the Honor Board. The Honor Board files shall be maintained in the office of the Dean.

5.9 Reopening of Hearings

A formal hearing resulting in a finding of no violation shall not be reopened by the Honor Board. A formal hearing resulting in a finding of violation may be reopened upon production of new evidence which, in the opinion of not less than four members of the Honor Board, bears directly upon the innocence of the Accused Student and when the interests of justice clearly require it. A person seeking to reopen a formal hearing upon the ground of newly discovered evidence shall appear before the Honor Board and state the nature of the evidence relied upon, and the Honor Board shall determine whether the evidence warrants reopening the case. If a case is reopened, it shall be left to the discretion of the Honor Board appointed to conduct a formal hearing on the matter to determine whether the charges should be retried completely or whether the new evidence alone should be considered in connection with the old record.

6. Sanctions; Recordkeeping; Reporting

6.1 Types of Sanctions

Any, some, all or none of the following sanctions may be recommended in the event of a finding by the Honor Board of a violation of this Code:

- (i) **Reprimand.** The student may receive a written reprimand, including relevant information regarding the violation. It is acknowledged that the reprimand may be disclosed to outside parties. See §6.2.
- (ii) **Disciplinary suspension for a specified time.** The student may be suspended from any class, examination, or activity of the School of Law for a specified period. The suspension may commence immediately or in the semester following the imposition of the sanction. Immediate suspension prevents the student from receiving any credit for that semester.
- (iii) **Indefinite disciplinary suspension.** The student may be suspended from any class, examination, or activity of the School of Law for an indefinite period. The suspension may commence immediately or in the semester following the

imposition of the sanction. Immediate suspension prevents the student from receiving any course credit for that semester. Readmission is possible only upon approval of the School of Law after a hearing at which the sole issue is the fitness of the student for readmission.

- (iv) **Expulsion.** The student shall be permanently expelled from the School of Law.
- (v) **Restitution.** The student shall repair or replace any property misappropriated or defaced by the student.
- (vi) **Probation.** Imposition of sanctions may be suspended or withheld pending a probationary period or leave of absence.
- (vii) **Other Action.** The Honor Board may recommend other sanctions consistent with this Code as appropriate.

6.2 Recordkeeping and Reporting

In the case of a finding by the Honor Board of a violation of this Code, a written statement of findings will be prepared. This statement of findings, the written reprimand (if applicable), and a record of any additional sanctions recommended shall be provided by written copy to the Accused Student and kept in the student's permanent file with the office of the Dean. The Accused Student shall be given these written copies as soon as the documents are finalized by the Honor Board. It is presumed that the written reprimand, statement of findings and record of any additional sanctions shall be supplied to any state bar or other authority requesting information as part of a bar-admittance procedure or determination of fitness to practice law. In the case of no finding or a finding of no violation, that outcome shall be recorded in writing and kept in the student's permanent file with a copy provided to the student, and it is presumed that such finding will not be provided to outside authorities unless at the request of the Accused Student.

7. Review of Decisions; Dean's Appellate Authority

Within forty-five (45) calendar days after the recording of a finding of violation, statement of findings, and recommendation of sanctions, if any, the Accused Student may appeal to the Dean to review the Honor Board decision. It shall also be within the Dean's discretion to review the decision without receiving a request. The Dean shall have the ability to dismiss the action, provide different sanctions, and deal with the record as appropriate at any time. In the event that the Dean takes any action permitted by this section, the Dean shall prepare a written explanation for such action prior to its consummation and shall promptly present the written explanation to the Honor Board.

The decision of the Honor Board and/or Dean is a matter of academic concern and thus final. The decision may not be appealed under the procedures listed in the University of North Dakota's Code of Student Life or any other University process external to the School of Law. The School of Law is a professional post-baccalaureate program

approved by the American Bar Association and the Association of American Law Schools. The standards for approval of these accrediting bodies require that the decisions of professional academic matters remain with the law school faculty. No further appeal is permitted or appropriate.

Adopted by the Faculty April 30, 2010
Effective August 15, 2011

Amended September 11, 2015, with
amendments effective September 29, 2015.

Amended April 15, 2016, with amendments
effective May 2, 2016.

Notes Regarding Drafting:

The Honor Code borrows from and incorporates material, in some cases verbatim, from the following documents:

- Honor Code, dated November 14, 2003; University of Colorado Law School; available at <http://www.colorado.edu/Law/about/honorcode/>
- William S. Boyd School of Law Student Code of Professional Responsibility; William S. Boyd School of Law at University of Nevada, Las Vegas; available at http://www.law.unlv.edu/pdf/boydHonor_Code.pdf
- Honor Code; Pepperdine University School of Law; available at http://law.pepperdine.edu/academics/student_handbook/honorcode.html
- The Honor Code; University of Miami School of Law; available at http://www.law.miami.edu/publications/handbook2008_2009/
- Capital University Law School Academic Honor Code; Capital University Law School; available at https://culsnet.law.capital.edu/Manual/6_02.asp
- Honor Code; University of Baltimore School of Law; available at <http://law.ubalt.edu/template.cfm?page=477>
- Information Paper on “Honor” – A Bedrock of Military Leadership; United States Military Academy; available at <http://www.usma.edu/Committees/Honor/Info/main.htm>