

ITEM A

#913 for 12.16.02

MEMORANDUM

To: Jeff Dembo
University Senate Council Chair

From: Christopher W. Frost
Associate Dean for Academic Affairs

Re: College of Law Honor Code

Date: October 2, 2002

Enclosed is a revised Honor Code for the College of Law for consideration of approval by the University Senate. As you know, our present Honor Code was approved by the Senate in the spring of 2000 for a two year period. That approval was extended last spring through January 2003.

Last spring Dean Vestal appointed a committee to study the Honor Code and to solicit student and faculty input into suggested changes to the code. This committee, chaired by Professor Eugene Gaetke, was composed of four students and four faculty members. The committee's report, which is enclosed, explains the changes to the existing College of Law Honor Code and has been unanimously endorsed by the Committee, the Student Honor Council, the Student Bar Association (the body that represents and is elected by all of the students) and the faculty of the College of Law.

The Honor Code Study Committee met at least 4 times and prepared revisions for presentation to the students and faculty. When completed, the report was circulated to the Student Bar Association and the Student Honor Council for their comments. In addition the Honor Code Study Committee held a student forum during the Wednesday Noon Forum Hour (an hour during which no classes are held). That forum was attended by approximately 30 students who were provided with copies of the committee's report. Both the Student Honor Council and the Student Bar Association provided their input to the Honor Code Study Committee. Finally a faculty meeting was held on September 19, 2002 at which the faculty approved the committee's report. Student members of the Honor Code Study Committee attended the faculty meeting and expressed their support for the report and the revisions contained therein.

I understand from discussions with former Associate Dean Graham and others and from my review of the minutes of University Senate meetings that a few members of the Senate expressed concern over the amount of student input into our current Honor Code and over the lack of an election process for student members. Because of these historical concerns, I would like to address these issues directly.

1. We have taken action to insure that students have been consulted throughout the Honor Code study process. By soliciting input of individual students through membership on the committee and through the student forum, of elected student representatives through the Student Bar Association, and of current members of the Student Honor Council, we sought to create a transparent process that provided students with several avenues to voice their concerns. Only one provision of the original report created concern among students. That provision required publication of reports on Honor Code proceedings. Although the provision required that steps be taken to assure student confidentiality, some students voiced concern that because of our small community, confidentiality would be difficult to maintain. That provision was removed from the report and no revision was recommended or adopted.
2. The Honor Code Study Committee addressed directly the question of election of members of the Student Honor Council. The student members of the committee, the Honor Council, the Student Bar Association and students attending the forum were unanimous in their opposition to elections to the Honor Council. No student at the college has expressed a contrary view. The committee recognized, however, the need for student input into the selection process. The mechanism chosen was to require the Dean to consult with the President of the Student Bar Association and with the Chair of the Student Honor Council in making appointments to the Honor Council and in appointing the Honor Council Chair. Among the benefits of this process is that it is thought to assure greater diversity of representation of all students than would an election mechanism.

I hope that the foregoing information is helpful to the Senate in its deliberations. The members of the Honor Code Study Committee and interested students would be happy to meet with you, the Senate Council, or any other appropriate group to further discuss our process and our revisions.

**University of Kentucky
College of Law**

Honor Code (9/19/02)

Preamble

The faculty and the students of the University of Kentucky College of Law establish this Honor Code in order to foster integrity and honor within the legal profession, to encourage an atmosphere of mutual trust and confidence within the College of Law, and to promote respect for the College of Law among those who work and study there and among the public generally.

Article I - The Honor Code

A law student shall not lie, cheat, steal, interfere with another student's academic pursuits, falsify or misuse academic records, or fail to report another student's breach of these rules.

Article II - Violations

The conduct specified in the following six paragraphs is a violation of the Honor Code only if (1) the conduct is intentional, and (2) it relates to any work intended to result in or lead to completion of work for academic credit from the College of Law, while using the placement resources and facilities, or on or in connection with an application for admission to the College.

(A) Lying. Lying is deliberate misrepresentation of a fact, or deliberate omission of facts making an otherwise true statement a misrepresentation.

(B) Cheating. Cheating is giving or receiving unpermitted aid in any course or assignment. Law students should assume that no aid is permitted, from other persons or materials of any kind, unless specifically authorized by the professor. Cheating specifically includes plagiarism as defined in the University Senate Rules.

(C) Stealing. Stealing is taking without permission any property belonging to another in order to obtain an academic advantage.

(D) Interference with academic pursuits. Interference with academic pursuits is any conduct which makes it difficult or impossible for other law students to perform academic work. It must be done with the intention of hindering other students' academic success.

(E) Falsification or misuse of academic records. An "academic record" is any paper or electronic version, official or unofficial, of the student's academic record, transcripts, application documents, admission credentials, and academic record transaction documents. "Falsification or misuse" is unauthorized access, use, disclosure, or alteration.

(F) Failure to report a breach of the Honor Code. Failure to report a breach of the Honor Code is (1) failure to report, pursuant to Article IV(A), actual knowledge that another student has committed a violation of the Honor Code or (2) failure to appear and testify truthfully as a witness in any Informal Hearing conducted under Article IV(C).

(G) Exception for good faith reporting of alleged offenses. The good faith reporting of an Honor Code violation, whether or not the alleged violator is later charged or convicted with any offense under the Honor Code, may not itself be punished as a violation of the Honor Code.

Article III - Administration

The students and faculty of the College of Law shall be jointly responsible for implementing the Honor Code. An Honor Council shall be responsible for administering the Honor Code in accordance with its purpose, scope and procedures.

A. Honor Council Composition

1. Student Members - Twice each year, the Student Bar Association of the College of Law shall invite interested students to submit their names as candidates for Honor Council positions. During March, the invitation shall be extended to first and second year students and during October, the invitation shall be extended to first year students only. Each year during the month of March, the Dean, in consultation with the President of the Student Bar Association and the Chair of the Honor Council, shall choose four students from among the first year candidates and four students from among the second year candidates who shall serve as Honor Council members from April 1 until March 31 of the following year. Each year during the month of October, the Dean, in consultation with the President of the Student Bar Association and the Chair of the Honor Council, shall choose from among the first year candidates four students who shall serve as Honor Council members from November 1 to March 31 of the following year. If for any reason there is an insufficient number of candidates, the Dean, in consultation with the President of the Student Bar Association and the Chair of the Honor Council, shall select sufficient members from among those in the student body willing to serve on the Honor Council. Student members are eligible for re-appointment. If a student Honor Council member is unable to complete his or her term, the Dean, in consultation with the President of the Student Bar Association and the Chair of the Honor Council, shall appoint a replacement to serve until the end of the term. If for any reason a student Honor Council member is not available for a session, the Honor Council Chair shall select a temporary alternate from the available student body.

2. Faculty Members - The Dean shall appoint four faculty members to the Honor Council. Faculty members shall serve a two-year term on the Honor Council on a staggered basis, and are eligible for re-appointment. If a faculty Honor Council member is unable to complete his or her two-year term, the Dean shall appoint a replacement to serve until the end of the term. If for any reason a faculty Honor Council member is not available for a session, the Dean shall select a temporary alternate from the faculty.

B. Honor Council Chair

Each year following the Honor Council appointments in March, the Dean, in consultation with the President of the Student Bar Association and the out-going Chair of the Honor Council, shall appoint one of the second year (rising third year) student members of the Honor Council to serve as Chair. It shall be the duty of the Chair to preside at all meetings of the Council, to receive all complaints and allegations of violations of the Honor Code, to address the first-year class concerning the existence and importance of the Honor Code and its procedures, and to perform all duties required by the office.

C. Student Agreement

Upon entering the College of Law, each law student shall be required to sign the following statement:

I, [Student's Name], have read the College of Law Honor Code, understand it, and agree to abide by its provisions.

Signature

Date

Article IV - Procedures

A. Report of Suspected Violations

A law student or faculty member having actual knowledge that a law student has committed a violation of the Honor Code shall report such knowledge by a signed written complaint filed with the Chair of the Honor Council. In addition, any student or other person who believes there has been a violation of the Code may bring the alleged violation to the attention of the Chair by filing a signed written complaint. The complaint should include a brief account of the facts describing the incident and shall be submitted no later than 30 days after the complainant becomes aware of the incident.

B. Preliminary Determination

Upon receipt of a complaint, the Chair of the Honor Council shall consult with the Associate Dean for Academic Affairs and then shall determine whether the complaint alleges a violation within Article II of the Honor Code. In the event the Dean is the Complainant, the Chair of the Honor Council shall consult with the Chair of the Academic Status and Regulations Committee of the College of Law instead of the Associate Dean for Academic Affairs. The Chair shall inform the complainant in writing of this decision and the rationale for it and shall provide the Dean with a copy of the complaint and of the written response to the complainant. If the Chair believes the reported act falls within Article II of the Honor Code, he or she shall inform the accused person (the "Respondent") of the complaint and furnish him or her with a copy of the Honor Code. If the Chair does not believe that the reported act falls within Article II of the Honor Code, no further action shall be taken and all copies of the complaint in the possession of the Chair or the Associate Dean shall be destroyed. A determination by the Chair that the complaint fails to state a violation within Article II of the Honor Code does not preclude a contrary conclusion upon a subsequent complaint based on new evidence.

C. Informal Hearing

Within a reasonable time after the Chair's notice to the Dean that the complaint alleges a violation within Article II of the Honor Code, the Dean shall convene an Informal Hearing on the matter before the Dean and a Hearing Committee. In the event the Dean is the Complainant, the Associate Dean for Academic Affairs shall exercise the responsibilities of the Dean hereunder.

1. Hearing Committee - The Hearing Committee shall consist of two student members and two faculty members of the Honor Council. The student members shall be selected by the Honor Council Chair.

2. Notice to Respondent - The Dean shall inform the Respondent of the time and place of the Informal Hearing.

3. Objectives - The purpose of the Informal Hearing is to inform and advise the Dean in reaching a conclusion on the issue of guilt and on the appropriate penalty for the offense, if any. The Informal Hearing shall be conducted to permit the Dean and the Hearing Committee to hear the facts underlying the complaint, the Respondent's defense to the allegations, and any aggravating or mitigating factors that may affect the penalty.

4. Procedures - The proceeding shall be conducted informally. In addition to the Dean and the Hearing Committee, only the Honor Council Chair, the Respondent and his or her legal representative, if any, and, while they are testifying, any necessary witnesses may be present at the hearing. All matters discussed at the hearing are to be held confidential by those present. The Informal Hearing shall be recorded on audio or video tape by the Dean, and only the Dean and the Respondent and his or her legal representative, if any, shall have access to the tape recording without appropriate legal process. The Dean shall be responsible for the security of all records of the hearing, including taped records and any transcripts thereof, and shall make

a proper disposition of them when they are no longer needed. The Dean will preside over the proceeding to elicit a complete record of the incident and may adjourn the proceeding to obtain further evidence relevant to the matter if necessary. The Dean and the Hearing Committee may question the complainant, the Respondent, and any other witnesses present. The Respondent shall have the opportunity to present evidence and to question witnesses. The formal rules of evidence shall not apply.

5. Decision - At the conclusion of the Informal Hearing, the Hearing Committee shall deliberate on the issue of guilt and, if guilt is found, the appropriate penalty. In deciding the question of guilt, the preponderance of the evidence standard shall be applied by the Hearing Committee. A decision by a vote of at least three Hearing Committee members on the issue of guilt and/or on the appropriate penalty shall be considered a recommendation to the Dean and shall be overridden by the Dean only if he or she considers the recommendation to be clearly erroneous based on the evidence adduced at the Informal Hearing. If the Hearing Committee splits evenly on the issue of guilt or the appropriate penalty, the Dean shall decide the question(s) based on his or her own view of the preponderance of the evidence adduced at the Informal Hearing.

6. Penalties - In determining the penalty to be recommended and applied, the Dean and the Hearing Committee shall include in their consideration the seriousness of the violation, the degree of willfulness and premeditation, and the truthfulness of the Respondent throughout the Informal Hearing. If the penalty is suspension, a student may be suspended for a reasonable amount of time, which may include the time required for treatment or rehabilitation. Possible penalties for each of the categories of Honor Code violations are as follows:

a. Lying - Penalties may include a failing grade in the course and also may include a written reprimand from the Dean, the loss of privileges to participate in placement office programs, and suspension or expulsion from the College of Law.

b. Cheating - Penalties shall include a failing grade in the course, and may also include a written reprimand from the Dean, loss of privileges to participate in placement office programs, and suspension or expulsion from the College of Law.

c. Stealing - Penalties may include a written reprimand from the Dean, a failing grade in the course, loss of privileges to participate in placement office programs, and suspension or expulsion from the College of Law.

d. Interference with Academic Pursuits - Penalties may include a written reprimand from the Dean, a failing grade in the course, loss of privileges to participate in placement office programs, and suspension or expulsion from the College of Law.

e. Falsification or Misuse of An Academic Record - Penalties may include a written reprimand from the Dean, loss of privileges to participate in placement office programs, and suspension or expulsion from the College of Law.

f. Failure to Report a Breach of the Honor Code - Penalties may include a written reprimand from the Dean, a failing grade in the course, loss of privileges to participate in placement office programs, and suspension or expulsion from the College of Law.

D. Final Action

At the conclusion of the Informal Hearing, the Dean shall reach his or her determination on the issue of guilt and, if guilt is found, on the appropriate penalty. Within a reasonable time, the Dean shall inform the Respondent, the complainant, the Academic Ombud, and, if the penalty involves a failing grade, the University Registrar of this determination. If the penalty imposed includes suspension or expulsion from the College of Law, the matter shall be forwarded to the Provost for further action. Upon final determination of the issue of guilt and the appropriate penalty a record shall be filed in the confidential student file maintained by the College of Law Registrar and cross referenced in the Respondent's permanent record maintained by the College of Law Registrar. Such record shall include the name and social security number of the Respondent, the violation charged, the finding of the Dean (including any finding that the Respondent is not guilty of the charge), and the penalty imposed. In addition, the Dean may include such additional information as the Dean determines is necessary.

E. Appeals

A Respondent found guilty of a violation of the Honor Code may appeal the finding of guilt and/or the penalty imposed by filing a written notice of appeal with the Academic Ombud within 10 working days of receiving notice of the Dean's determination in the matter. Appeals will proceed before the Academic Ombud and University Appeals Board under University Senate Rules 6.4.7 and 6.4.8. The student will have the right of class participation and attendance during the consideration of any appeal. The pendency and outcome of any appeal shall be included in the record referred to in Section IV.D. above.

F. Confidentiality

In all matters arising under this Honor Code, faculty members and students are expected to show due consideration for legitimate concerns regarding confidentiality. Faculty members and students are generally expected to refrain from disclosing the identities of students who have alleged, reported, or been charged with violations of the Honor Code. Disclosure of the identity of such a student should only be made with the student's consent, in response to legal process, in seeking advice from legal counsel, or when necessary to further the policies underlying this Honor Code.

**University of Kentucky
College of Law
Honor Code Study Committee**

**Report and Recommendation
(September 11, 2002)**

The University Senate's temporary approval of the College of Law's Honor Code, last revised in 1999, expires at the end of the fall semester of this year. In preparation for seeking permanent Senate approval of the Honor Code, Dean Vestal appointed a committee to consider recommendations for revision of the present College of Law Honor Code. This committee consisted of faculty (Associate Dean Frost and Professors Gaetke, Graham, and Moore) and students (Nanci House, Stephen Marshall, Kungu Njuguna, and Anna Warnock). Dean Vestal asked Professor Gaetke to chair the committee and directed the committee to complete its work with a report to the faculty by September 15, 2002, to permit the faculty and University Senate to take action on the approval of the Honor Code during the fall semester.

The committee met four times and exchanged proposed draft revisions and comments via email. In addition, the committee held an open forum for interested students to hear and comment upon the proposals for revisions it was considering. The proposed final revisions of the Honor Code were also provided to the Student Bar Association for review and comment by the elected representatives of the student body and were submitted to the Honor Council for its review and comments.

This Report provides the final recommendations of the committee, all of which were approved unanimously by the committee.

I. Background

A. University Senate approval

The University Senate Rules provide procedures for cases involving cheating and other academic offenses through the Ombud and the University Appeals Board. University Senate Rule 6.6.0 also empowers schools and colleges to establish their own honor codes, which, when approved by the University Senate, will displace the regular procedures provided by the rules. University Senate Rule 6.6.0 is attached to this Report as Attachment 1.

B. Senate concerns about the College of Law's Revised Honor Code

During its April 10, 2000, consideration of the College of Law's Honor Code as revised in 1999, University Senate members expressed two main concerns. First, some senators opined that Senate Rule 6.6.0's reference to honor codes "governed by the students" means that student participants in an approved system must be elected by the student body. Under this

interpretation, the College of Law's Honor Code is flawed because student members of the Honor Council are appointed by the Dean. Second, some senators expressed concern that the law faculty had failed to seek sufficient student input and support for the revisions of the Honor Code.

C. Other concerns about the College of Law's Revised Honor Code

Experience under the College of Law's Revised Honor Code has revealed some gaps in the present system. These gaps pertain to the appointment of first year students to the Honor Council, the selection of the Chair of the Honor Council, the lack of detail in the treatment of records of proceedings under the Honor Code, and the possibility of the Dean needing to recuse himself or herself.

II. Explanation of Proposed Revisions

After considering the concerns about the College of Law's Honor Code raised before the University Senate and arising from experience under its operation, the committee unanimously agreed upon a number of proposed revisions. The revisions are shown on the document entitled "Proposed Revisions to the College of Law's Honor Code, September 12, 2002", which is attached to this Report as Attachment 2.

A. Selection of student members to the Honor Council

The committee thoroughly discussed the possibility of having student members of the Honor Council elected by the student body. It is fair to characterize the reaction of the student members of the committee as vehemently opposed to the concept of electing students to the Honor Council. Their opposition was based on the unseemliness of the electoral process in making Honor Council selections and the likelihood that the most qualified individuals would not choose to run nor tend to be elected. The same opinions were expressed by attendees at the student forum on the proposed revisions. No student, at the committee meetings or open forum, expressed support for the election of student members to the Honor Council.

Students, however, did support the concept of the Dean consulting with the President of the Student Bar Association and with the Chair of the Honor Council in making the appointment of student members to the Honor Council. It was felt that this practice would ensure that the Dean would not make appointments that would be clearly taken as inappropriate by the student body.

The committee thus proposes that the Dean continue to appoint student members of the Honor Council but only after consulting with the President of the Student Bar Association and the Chair of the Honor Council regarding those appointments. The proposed revision is found in Article III, Part A.1, found on page 1 of Attachment 2.

B. Appointment of first year students to the Honor Council

The present College of Law Honor Code provides for the selection of the 12 student members of the Honor Council in March of each year. The timing of this selection dictates that appointees will come from the next year's second and third year classes. It has been Dean Vestal's practice, however, to appoint only eight students from those two classes to the Honor Council in March and to appoint four new first year students to the Honor Council in the fall.

The committee discussed the present practice and decided to make it part of the Honor Code, with the selection of first year students occurring in October. The proposed revision is found in Article III, Part A.1, found on page 1 of Attachment 2.

C. Appointment of the Chair of the Honor Council

Under the present Honor Code, the Dean selects a student member to serve as the Chair of the Honor Council. To be consistent with the proposed revision regarding the selection of Honor Council members discussed above, the committee believed that the Dean should obtain student input in appointing the Chair of the Honor Council. Furthermore, because of the proposed revision calling for appointment of first year students to the Honor Council in the fall, it was believed that the provision on the selection of the Chair of the Honor Council required more specificity.

The committee thus recommends that the selection of the Chair of the Honor Council be done in March of each year from among the second year students (those who will be rising to be third year students the following fall) selected for Honor Council positions. This proposal offers some advantages. The new Chair may well have already served on the Honor Council and will benefit from that experience. As a rising third year student, the Chair will never be asked to advise the Dean on student appointments from those among his or her own class or on the Chair's own continued appointment to the Honor Council or to the position of Chair.

The committee also recommends that the Dean consult with the President of the Student Bar Association and with the outgoing Chair of the Honor Council in appointing a student to serve as the next Chair of the Honor Council.

The proposed revisions are found in Article III, Part B, found on page 1 of Attachment 2.

D. Record-keeping requirements

The present College of Law Honor Code provides little specificity as to maintaining records of Honor Code proceedings. The committee considered a number of improvements in this regard.

First, the committee believed it would be helpful to permit the videotaping of hearings under the Honor Code rather than rely solely on audio taping. Videotaping will provide a more

useful record of these proceedings. This proposed revision is found in Article IV, Part C.4, found on page 2 of Attachment 2.

Second, the committee considered what should be done with any records involving complaints made under the Honor Code that are determined to be groundless. The Honor Code calls for the Chair of the Honor Council, in consultation with the Associate Dean for Academic Affairs, to make a “preliminary determination” whether the complaint alleges a violation within the Honor Code. If the Chair determines that the conduct alleged does not fall within the Honor Code, no further action is taken. All of this may occur without the knowledge of the student being accused of a violation. Because the accused student may never know of the complaint and, therefore, may not report the incident during the bar admission process, it was believed that the student record should contain no mention of the incident. The committee thus recommends that, after a determination that the complaint does not allege a violation within the Honor Code, the complaint be destroyed, with no record being kept of the matter in the accused student’s files. This proposed revision is found in Article IV, Part B, found on page 2 of Attachment 2.

Third, the committee considered how the results of Honor Code proceedings should be dealt with in the respondent student’s permanent law school records. It was believed that the final outcome of such proceedings, including the pendency and outcome of any appeal, should be placed in the confidential student file with that filing being cross referenced in the student’s permanent student record. Both of these records are maintained by the College of Law Registrar. This approach would assure accurate record-keeping while protecting the respondent student’s interests in confidentiality to the extent feasible. This proposed revision is found in Article IV, Parts D and E, found on page 3 of Attachment 2.

E. The recusal of the Dean

When a complaint alleges a violation under the present Honor Code, the Dean convenes an informal hearing before the Dean and a hearing committee of two students and two faculty members. This procedure leaves open the possibility that the Dean could be expected to participate in the decision in a case in which he or she is the complaining witness. This could happen, for example, if the Dean had complained that cheating had occurred in his or her own class.

The committee believed that when the Dean is the complainant someone else should serve in the Dean’s role in the Honor Code proceedings. The committee recommends that the Associate Dean for Academic Affairs do so. This proposed revision is found in Article IV, Part C, found on page 2 of Attachment 2.

This situation would leave the Associate Dean for Academic Affairs unable to consult with the Chair of the Honor Council in making the preliminary determination regarding the complaint. The committee thus recommends that those duties be fulfilled by the Chair of the Academic Status and Regulations Committee. This proposed revision is found in Article IV, Part B, found on page 2 of Attachment 2.

III. Committee Recommendation

The Honor Code Study Committee unanimously recommends that the faculty approve the proposed revisions to the College of Law Honor Code discussed above and shown on Attachment 2 to this report.

Christopher W. Frost, Associate Dean
M. Louise Graham, Professor
Nanci House, Student
Stephen Marshall, Student
Kathryn L. Moore, Professor
Kungu Njuguna, Student
Anna Warnock, Student
Eugene R. Gaetke, Professor, Chair

Attachments

University Senate Rule regarding Honor Codes

6.6.0 HONOR CODE

Any school or college may establish, with the approval of the Senate, an Honor Code or comparable system governed by the students with approval by and/or appeal to the faculty of such a college. When such an Honor Code or comparable system has been established, the procedures for disposition of cases of academic offenses described above shall not apply to the extent that the offenses are subject to the Honor Code and committed by a student subject to the Code.

A student found guilty of committing an offense subject to an Honor Code may appeal that finding through the Academic Ombud to the Appeals Board. The Appeals Board, however, shall not normally sit as a de novo fact finding body, but shall limit its review to ensuring that the college's academic honors board or committee adequately followed its own written procedures in determining guilt or innocence and that the finding of guilt is supported by the preponderance of evidence. (US: 2/13/95)

However, if the Board, by the majority of those present, believes the student's rights under the University Senate Rules and the applicable rules of the academic unit governing academic relationships have been substantially violated, the Board may conduct a de novo hearing on the issue of guilt. (US: 2/13/95)

If the Board, by majority of those present, believes the findings or determination of the Honors Council are not supported by the preponderance of the evidence, the Board may reverse the finding of guilt and there shall be no further proceedings in the case. (US: 2/13/95)

College academic honor councils or committees shall maintain a verbatim record of their proceedings to ensure that the Appeals Board is able to perform this function. (US: 2/13/95)

The punishment meted out to a student governed by such a system shall be as designated thereby except that actual suspension, dismissal or expulsion shall be imposed only with the recommendation of the dean of the college and upon approval by the President of the University. (US: 2/13/95)

* The Dentistry, Law, Medicine, and Pharmacy colleges have adopted honor codes.
Copies are available in the deans' offices of these colleges.

**Proposed Honor Code Revisions
September 11, 2002**

Article III - Administration

The students and faculty of the College of Law shall be jointly responsible for implementing the Honor Code. An Honor Council shall be responsible for administering the Honor Code in accordance with its purpose, scope and procedures.

A. Honor Council Composition

1. Student Members - ~~The~~ Twice each year, the Student Bar Association of the College of Law shall invite ~~all~~ interested students to submit their names as candidates for Honor Council positions. During March, the invitation shall be extended to first and second year students and during October, the invitation shall be extended to first year students only. Each year during the month of March the Dean, in consultation with the President of the Student Bar Association and the Chair of the Honor Council, shall choose four students from among the first year candidates and four students from among the second year candidates who shall serve as Honor Council members from April 1 until March 31 of the following year. Each year during the month of October, the Dean, in consultation with the President of the Student Bar Association and the Chair of the Honor Council, shall choose from among the ~~these~~ first year candidates ~~4~~ four students who shall serve as Honor Council members. ~~The Honor Council shall include at least four members of the prospective third-year class and four members of the prospective second-year class~~ from November 1 to March 31 of the following year. If for any reason there is an insufficient number of candidates, the Dean, in consultation with the President of the Student Bar Association and the Chair of the Honor Council, shall select sufficient members from among those in the student body willing to serve on the Honor Council. Student members ~~shall serve one-year terms from April 1 through March 31, and~~ are eligible for re-appointment. If a student Honor Council member is unable to complete his or her ~~one-year~~ term, the Dean, in consultation with the President of the Student Bar Association and the Chair of the Honor Council, shall appoint a replacement to serve until the end of the term. If for any reason a student Honor Council member is not available for a session, the Honor Council Chair shall select a temporary alternate from the available student body.

B. Honor Council Chair

~~¶~~ Each year following the Honor Council appointments in March, the Dean, in consultation with the President of the Student Bar Association and the out-going Chair of the Honor Council, shall appoint one of the second year (rising third year) student members of the Honor Council to serve as Chair. It shall be the duty of the Chair to preside at all meetings of the Council, to receive all complaints and allegations of violations of the Honor Code, to address the first-year class concerning the existence and importance of the Honor Code and its procedures, and to perform all duties required by the office.

Article IV - Procedures

B. Preliminary Determination

Upon receipt of a complaint, the Chair of the Honor Council shall consult with the Associate Dean for Academic Affairs and then shall determine whether the complaint alleges a violation within Article II of the Honor Code. In the event the Dean is the Complainant, the Chair of the Honor Council shall consult with the Chair of the Academic Status and Regulations Committee of the College of Law instead of the Associate Dean for Academic Affairs. The Chair shall inform the complainant in writing of this decision and the rationale for it and shall provide the Dean with a copy of the complaint and of the written response to the complainant. If the Chair believes the reported act falls within Article II of the Honor Code, he or she shall inform the accused person (the "Respondent") of the complaint and furnish him or her with a copy of the Honor Code. If the Chair does not believe that the reported act falls within Article II of the Honor Code, no further action shall be taken and all copies of the complaint in the possession of the Chair or the Associate Dean shall be destroyed. A determination by the Chair that the complaint fails to state a violation within Article II of the Honor Code does not preclude a contrary conclusion upon a subsequent complaint based on new evidence.

C. Informal Hearing

Within a reasonable time after the Chair's notice to the Dean that the complaint alleges a violation within Article II of the Honor Code, the Dean shall convene an Informal Hearing on the matter before the Dean and a Hearing Committee. In the event the Dean is the Complainant, the Associate Dean for Academic Affairs shall exercise the responsibilities of the Dean hereunder.

4. Procedures - The proceeding shall be conducted informally. In addition to the Dean and the Hearing Committee, only the Honor Council Chair, the Respondent and his or her legal representative, if any, and, while they are testifying, any necessary witnesses may be present at the hearing. All matters discussed at the hearing are to be held confidential by those present. The Informal Hearing shall be recorded on audio or video tape by the Dean, and only the Dean and the Respondent and his or her legal representative, if any, shall have access to the tape recording without appropriate legal process. The Dean shall be responsible for the security of all records of the hearing, including taped records and any transcripts thereof, and shall make a proper disposition of them when they are no longer needed. The Dean will preside over the proceeding to elicit a complete record of the incident and may adjourn the proceeding to obtain further evidence relevant to the matter if necessary. The Dean and the Hearing Committee may question the complainant, the Respondent, and any other witnesses present. The Respondent shall have the opportunity to present evidence and to question witnesses. The formal rules of evidence shall not apply.

D. Final Action

At the conclusion of the Informal Hearing, the Dean shall reach his or her determination on the issue of guilt and, if guilt is found, on the appropriate penalty. Within a reasonable time, the Dean shall inform the Respondent, the complainant, the Academic Ombud, and, if the penalty involves a failing grade, the University Registrar of this determination. If the penalty imposed includes suspension or expulsion from the College of Law, the matter shall be forwarded to the ~~Chancellor~~ Provost for further action. Upon final determination of the issue of guilt and the appropriate penalty a record shall be filed in the confidential student file maintained by the College of Law Registrar and cross referenced in the Respondent's permanent record maintained by the College of Law Registrar. Such record shall include the name and social security number of the Respondent, the violation charged, the finding of the Dean (including any finding that the Respondent is not guilty of the charge), and the penalty imposed. In addition, the Dean may include such additional information as the Dean determines is necessary.

E. Appeals

A Respondent found guilty of a violation of the Honor Code may appeal the finding of guilt and/or the penalty imposed by filing a written notice of appeal with the Academic Ombud within 10 working days of receiving notice of the Dean's determination in the matter. Appeals will proceed before the Academic Ombud and University Appeals Board under University Senate Rules 6.4.7 and 6.4.8. The student will have the right of class participation and attendance during the consideration of any appeal. The pendency and outcome of any appeal shall be included in the record referred to in Section IV.D. above.

Implementation: Upon approval

Note: The Senate Council approved the proposed Honor Code, subject to the change proposed in the University Senate Rule below, and recommends approval by the University Senate.

See addition in bold below

6.6.0 HONOR CODE

Any school or college may establish, with the approval of the Senate, an Honor Code or comparable system governed by the students with approval by and/or appeal to the faculty of such a college. When such an Honor Code or comparable system has been established, the procedures for disposition of cases of academic offenses described above shall not apply to the extent that the offenses are subject to the Honor Code and committed by a student subject to the Code. **If the Honor Code is not student governed, the affected students preserve their right to appeal their cases to the University Appeals Board and be heard *de novo*.**

Implementation: Upon passage