

THE HONOR CODE

ARTICLE I - PURPOSE AND DEFINITIONS

SECTION 1 - Purpose

The students of Northwestern University School of Law recognize an overriding obligation to ethical conduct. Each student shall act with honor throughout all phases of law school academic life.

Section 2 - Violations

A violation occurs when a student knowingly:

- (a) steals, destroys or defaces any library materials or, in contravention of library rules, removes from general circulation and accessibility any library materials with the purpose of depriving others the use of that material;
- (b) steals, reproduces, circulates or gains access to an examination or other graded assignment before it has been administered;
- (c) uses materials not permitted by the professor in an examination or other graded assignment;
- (d) cheats, or collaborates in a manner not permitted by the instructor for that course, on an examination or other graded assignment;
- (e) plagiarizes; which includes, but is not limited to, failing to attribute language or ideas to their original source or failing to indicate by quotation marks a passage from another source of more than five (5) consecutive words;
- (f) refuses to testify, or testifies falsely, at a proceeding under the Honor Code with respect to facts within her knowledge. No defendant, however, shall be compelled to be a witness against herself;
- (g) engages in any conduct with the purpose of avoiding or circumventing other Law School rules governing academic life;
- (h) undertakes an activity or course of conduct with the purpose of creating an unfair competitive advantage over other students;
- (i) obtains in contravention of Law School rules, or divulges, official school information including, but not limited to, grades or exam numbers, that a reasonable student knows or should know is properly kept confidential;
- (j) attempts to commit any of the above offenses.

ARTICLE II - GENERAL DUTIES OF THE PROSECUTOR, THE EXECUTIVE COMMITTEE, AND THE JUDICIAL COUNCIL.

Section 1 - The Prosecutor's duties prior to the presentation of a charge

- (a) To facilitate the making of a charge, the Prosecutor (see Northwestern University Student Bar Association Constitution Article XIV) shall publicize his identity, phone number, and law school mail box number on the "Class Notes" bulletin boards next to the Registrar's Office and in the Student Directory's "Important Phone Numbers" section.
- (b) The Prosecutor shall appear at an orientation meeting for first year students and offer a presentation on the Honor Code, including a synopsis of violations and a brief outline of the proper procedure for reporting an alleged violation.
- (c) the Prosecutor shall be available to advise interested persons about the Honor Code. If a person is contemplating bringing a charge, the Prosecutor shall be available to counsel that person.

Section 2 - The duties of the Executive Committee and the Judicial Council prior to the presentation of a charge

- (a) The Executive Committee, (see Article IV section 3(a) infra), shall maintain a collection of Honor Code decisions, Judicial Council rulings, Honor Code Amendment Committee comments, and related materials. Such collection shall be placed on file in the Reserve Library after all necessary steps are taken to ensure the anonymity of all person taking part in the proceeding (with the exception of the Prosecutor & Judicial Council members) and shall be made available to all interested persons.
- (b) Promptly after being elected to the Judicial Council, (see Northwestern University Student Bar Association Constitution Article II) its members shall convene and select by majority vote a Chairperson from among their number. If a charge is brought before the Judicial Council has selected a Chairperson, the SBA President shall convene the Judicial Council members and direct them to select a Chairperson.

ARTICLE III - FACULTY ADVISORS

Section 1 - Appointing Faculty Advisors

The SBA President and the Dean of Students jointly shall appoint a Faculty Advisor for each of the following parties: the Prosecutor, the Accused and the Judicial Council. Such appointments shall be based on the faculty member's interest in the position, sensitivity to the students' needs, understanding of the Honor Code's procedures and rules, and willingness and ability to commit the requisite time and effort to the position of Faculty Advisor.

Section 2 - Duties of the Faculty Advisor

The Faculty Advisors shall be available, within reason, to advise and consult with their respective parties; they have no duty to seek out the parties when a charge is brought. All parties shall seek out their respective advisors and arrange mutually convenient meetings.

ARTICLE IV - PRE-TRIAL PROCEDURE

Section 1 - Duties arising when an alleged Honor Code violation occurs

- (a) Law students, former law students, and all others whom the Dean of the Law School may direct shall be bound by procedures prescribed herein.
- (b) A charge may be brought only by a law student, former law student, member of the faculty or an employee of Northwestern University.
- (c) A person having reason to believe that an Honor Code violation has occurred shall pursue either of two options:
 - (i) Approach the suspected violator and suggest that the suspected violator voluntarily report the violation to the Prosecutor. If the suspected violator fails to report voluntarily, then the person shall report the charge to the Prosecutor, in accordance with subsection (c)(ii) below or
 - (ii) Report the alleged violation to the Prosecutor. Such report shall constitute a charge, and shall be in the form of a written statement containing a brief statement of the alleged violation, the date when the alleged violation occurred and/or first was discovered, the accuser's signature, and the date of notification.
- (d) Subject to subsection (c) above, a person shall not publish or disclose suspicion that a violation has occurred. If persons other than the Prosecutor, the accuser, and the Accused learn of the alleged violation, they too shall refrain from publishing or disclosing information relating to the alleged violation. These third parties may discuss the alleged violation only if solicited by either the Prosecutor or the Accused.

Section 2 - The Prosecutor's duty to investigate the charge.

- (a) The Prosecutor shall determine whether the accuser has presented the charge within three months of discovering the alleged violation. If the accuser has failed to do so, then the Prosecutor shall drop the charge against the Accused.
- (b) Next, the Prosecutor shall record receipt of the charge, and the date thereof, by opening a confidential file in the Registrar's Office. The

Prosecutor shall have the Registrar notarize the charge, and shall notify the Accused and the Accused's the Faculty Advisor that the charge was brought on that date.

- (c) The Prosecutor shall investigate the facts and allegations fully, interview potential witnesses, and consult with the Prosecutor's Faculty Advisor on an ongoing basis. The Prosecutor shall conduct the investigation in such a manner as to ensure that information relating to the alleged violation is kept as confidential as practicable. The Prosecutor shall advise all persons interviewed in connection with an investigation regarding the provisions in the Honor Code relating to confidentiality.
- (d) Within two weeks of receiving the charge, the Prosecutor shall present the results of the investigation in writing to the Executive Committee, including all evidentiary materials and the substance of any interviews.
- (e) Subject to section (2)(a), above, the Prosecutor lacks the discretion to dismiss the charge. The Executive Committee shall decide whether probable cause exists to prosecute the charge.

Section 3 - The presentation to, and decision of, the Executive Committee

- (a) The Executive Committee consists of the President, Vice-President, Secretary, and Treasurer of the Student Bar Association. If any of these elected representatives are unable to fulfill their responsibilities with respect to the Honor Code, the SBA President shall have the sole power to appoint students to serve in their absence. Furthermore, any member of the Executive Committee who becomes aware of the Accused's identity, either before or during the proceedings, shall not participate in the proceedings. The Prosecutor shall take every precaution to prevent the Executive Committee from discovering the Accused's identity.
- (b) After having read and compared the materials, and having listened to the Prosecutor's presentation, the Executive Committee first shall determine whether the Prosecutor has investigated the matter adequately. If less than three members of the Executive Committee determine that the Prosecutor has fully investigated the charge, then the Executive Committee, in a written letter to be included in the Accused's confidential file, shall:
 - (i) point out the deficiencies and order a full investigation, and/or
 - (ii) direct the SBA President to remove the Prosecutor and to appoint a replacement to continue the investigation.

Should the Executive Committee determine that further investigation is needed due to either Prosecutorial inadequacy or deficiencies in the prosecution's investigation, this letter shall establish a date by which the Prosecutor or the replacement Prosecutor shall complete the investigation. This date shall be set for the earliest practicable time given the status of

the investigation but shall not be later than two weeks after the Executive Committee determination pursuant to this subsection.

- (c) If three or more members of the Executive Committee determine that the Prosecutor has fully investigated the charge, then the Executive Committee shall decide whether there is probable cause to believe that the Accused violated the Honor Code. When the charge concerns a violation alleged to have been committed in connection with an exam or other graded assignment, the Executive Committee may, without disclosing the identity of the accused, transmit to the instructor of the course a statement setting forth the charge and the nature of the violation. The Executive Committee may then consider, in its determination of probable cause, a written statement from the instructor that, in the instructor's opinion, the alleged violation is de minimis and that the charges should be dropped.
- (d) If two or more members of the Executive Committee believe that probable cause exists, then the Committee shall direct the Prosecutor to proceed as required by subsection (4)(b), below. Subject to Article IV section 3(a), ~~all~~ members of the Executive Committee shall vote; no member may abstain from voting. If less than two members of the Executive Committee believe that probable cause exists, then the Committee shall notify the Prosecutor that the charge has been dropped.

Section 4 - The Prosecutor's duties following the Executive Committee's decision

- (a) If the Executive Committee does not find probable cause to prosecute the charge, then the Prosecutor shall notify the accuser and all witnesses interviewed in conjunction with the investigation that the charge has been dropped. The Prosecutor shall collect all evidence relating to the charge and the investigation and shall return all personal property to its owners. All other evidence or material relating to the investigation shall be destroyed.
- (b) If the Executive Committee finds probable cause to prosecute the charge, then the Prosecutor, within a week of the Executive Committee's decision, shall draft a formal written complaint and present a copy of the complaint to both the Accused and the Judicial Council Chairperson. The complaint shall include the date and nature of the alleged violation, the accuser's name, notice that trial before the Judicial Council is pending, and the name of the Accused's appointed Faculty Advisor.
- (c) After presenting the complaint to the Accused and the Judicial Council Chairperson, the Prosecutor shall finish the investigation, prepare the prosecution's case for trial and arrange for the witnesses to be present at trial. If the Prosecutor determines that, because of time, workload or ethical considerations, full and adequate preparation of the Prosecutor's case is not possible, then the Prosecutor shall so inform the S.B.A President. The President then shall appoint one or more special Prosecutors either to assist or replace the Prosecutor.

- (d) The Prosecutor shall attach to a copy of the complaint to be served on the Accused all information relating to the Accused's innocence or guilt. Such information shall include but is not limited to i) the names of all witnesses ii) the substance of their testimony or their substantially verbatim statements, and iii) any documents or tangible evidence relating to the charge.

Section 5 - Graduating and Former Law Students

The Prosecutor shall investigate pursuant to these rules, and, upon a finding of probable cause by the Executive Committee pursuant to ARTICLE IV, Section 3(c), shall relinquish all materials to the Dean for consideration and adjudication if:

- (a) The alleged violation is reported within the two months prior to the graduation of the Accused or,
- (b) The Accused has graduated from the law school at the time the alleged violation is reported.

Section 6 - Pre-Trial Duties of the Judicial Council and its Chairperson

- (a) Within a week of receiving the complaint from the Prosecutor, the Judicial Council Chairperson shall convene both the Prosecutor and the Accused to determine mutually convenient times for the pre-trial hearing and the trial.
 - (i) If the parties agree to mutually convenient times to meet, then the Chairperson shall enter a written order establishing the dates and times for the various meetings.
 - (ii) If the parties fail to agree to any or all times to meet, then the Chairperson shall convene the entire Judicial Council to set the dates and times for the disputed meetings. The Council shall resolve disputes by a majority vote, with the Chairperson voting only to break a tie.
- (b) The parties and their faculty advisors shall not engage in ex parte communications regarding the proceeding with members (including the Chairperson) of the Judicial Council, Executive Committee, witnesses and others involved in the proceeding, except that the parties may communicate to the Chairperson information relating to the dates and times of the pre-trial hearing and the trial.
- (c) For good cause, any member of the Judicial Council shall recuse himself from a case. If the Chairperson disqualifies herself, then the Judicial Council shall elect a Chairperson pro tem from among their number.

- (d) The Judicial Council shall take no action without at least a quorum. A quorum shall consist of six members of the Council. If, for any reason, the Judicial Council cannot convene a quorum of its members, then the S.B.A. President shall appoint as many students as necessary to serve as temporary members of the Council. Such temporary members shall serve on the judicial council until the termination of the proceeding for which they were appointed to hear.

Section 7 - The Accused's pre-trial rights and duties

- (a) The Accused shall seek out the faculty advisor appointed pursuant Article III, section 1, or shall select another faculty member to be the Advisor. The Faculty Advisor shall advise the Accused in matters relating to the rights of the various parties, the extent of the discovery, trial tactics, the extent of investigation, and procedural fairness.
- (b) The Accused may appear pro se, or may select another person to be the Accused's representative during the proceedings. Other than the Prosecutor or a current member of the Judicial Council or Executive Committee, any person may represent the Accused before the Judicial Council. Communication between the Accused and his representative shall not be subject to the provisions of this Code.
- (c) The Accused has a right to receive on an ongoing basis all information relating to the alleged violation. Such information shall include, but is not limited to, the materials listed in Section 4(d), above.
- (d) The Accused has a duty to provide to the Prosecutor (i) the names of all witnesses appearing on behalf of the Accused, (ii) the substance of their testimony or their verbatim statements, if known, and (iii) any documents or tangible evidence that will be introduced at trial.

Section 8 - Pre-Trial Hearing

- (a) The Judicial Council Chairperson shall preside at the pre-trial hearing and, with the exception of motions made pursuant to Article IV section 8(c), will sit alone unless either party requests that the entire Judicial Council be present.
- (b) The Chairperson shall have the authority to hear and rule upon the following motions of either party:
 - (i) motion to change the date and time of any future hearing or the trial;
 - (ii) motion to postpone the trial date until after the expiration of the 21-day period (see Article V, section 1);
 - (iii) motion to compel the production of relevant evidence;

- (iv) motion to exclude evidence.
- (v) motion to admit unexchanged and/or excluded evidence.
- (c) The entire Judicial Council shall hear and rule upon the following motions:
 - (i) motion to dismiss the complaint for failure to state a violation of the Honor Code;
 - (ii) motion to remove member(s) of the Judicial Council for cause;

The Judicial Council shall hear and rule on these pre-trial motions only if the movant provides opposing party with adequate and timely notice of the subject and substance of the motion. Rulings on such motions shall be made by a majority vote. In the event of a motion made pursuant to section 8(c)(ii), the judicial council member subject to such removal motion may not vote regarding such motion.

- (d) The pre-trial hearing shall serve as the final opportunity for both parties to exchange information relating to the Accused's innocence or guilt. The Chairperson may admit previously unexchanged evidence upon a showing that:
 - (i) there was good cause for the failure to exchange the information earlier, or
 - (ii) timely and proper steps were taken to notify the opposition of the new development, or
 - (iii) excluding the evidence would put one party at a disadvantage.

Upon failure of the Prosecutor to provide material evidence to the Accused, the Accused may move for a continuation of the trial date to avoid prejudicial surprise or for a dismissal where the Prosecutor's failure has substantially prejudiced the Accused.

- (e) The Chairperson shall make a formal record of the evidence to be presented at trial, including, but not limited to: the names of all witnesses, the substance of their testimony or their substantially verbatim statements, and tangible or documentary evidence.
- (f) a court reporter shall be present to record the pretrial hearing.

ARTICLE V - TRIAL PROCEDURE

Section 1 - Speedy Trial

- (a) The trial before the Judicial Council shall commence within 21 days of the Executive Committee's decision that probable cause exists, except that, where the trial date would fall within an examination period or the two

weeks immediately preceding it, the trial shall commence within 21 days of the last scheduled examination.

- (b) The Chairperson may postpone the trial date beyond the 21-day period, but only for a specific limited amount of time and only if:
 - (i) both parties stipulate in writing that they accept a specific, limited postponement; or
 - (ii) Upon motion, the Prosecutor shows a compelling reason for granting a postponement. Such compelling reason may be, but is not limited to unforeseeable and unavoidable conflict, or the unavailability of the Prosecutor or an essential party; or
 - (iii) Upon motion, the Accused shows good cause for granting a postponement and the Prosecutor fails to show a compelling reason for proceeding with the trial within the original time period.

It shall be within the Chairperson's discretion to determine whether a compelling reason or good cause exists; either party, however, may seek to reverse the Chairperson's determination by appealing to the entire Judicial Council. The Judicial Council shall determine such appeals by a majority vote, with the Chairperson voting only to break a tie.

Section 2 - The trial

- (a) The Judicial Council Chairperson shall preside at the trial and state:
 - (i) the scope of the trial, the charge, and the identity of the accuser;
 - (ii) the procedure to be followed;
 - (iii) the possible penalties to be imposed if a violation of the Honor Code is proven; and
 - (iv) the post-trial rights of the Accused.
- (b) The Prosecutor shall present the facts and evidence against the Accused in a fair and just manner.
- (c) Unless the Accused otherwise requests in writing, all matters relating to the trial shall be kept secret.
- (d) The Accused shall first be given the right to plead either "guilty" or "not guilty" to the formal charge.
- (e) The Prosecutor shall make the opening statement followed by the Accused, or her representative, who shall have the right to reserve her opening statement until the close of the Prosecutor's case.

- (f) Only evidence in the (amended) formal record compiled at the pre-trial hearing shall be admitted into evidence. Should the Prosecutor fail to reveal at trial material information in the Prosecutor's possession which tends to bear on the Accused's innocence, the Accused may move for dismissal of the charge or reversal of a guilty verdict. A dismissal of charges or reversal of a guilty verdict shall be by majority vote of the Judicial Council.
- (g) Evidentiary rulings shall be made in accordance with the Federal Rules of Evidence. The Chairperson shall make all procedural and evidentiary rulings at trial. Either party may appeal such ruling immediately to the entire Judicial Council. Rulings on appeal shall be determined by a majority vote, with the Chairperson voting only to break a tie.
- (h) Both the Prosecutor and the Accused or her representative may make closing statements.
- (i) The Chairperson shall appoint a member of the Judicial Council to keep a complete file of all material admitted into evidence during the trial. A court reporter shall be present to record the trial proceedings.
- (j) The Judicial Council shall convict the Accused if two-third of the members present find the Accused guilty beyond a reasonable doubt. After the Judicial Council has reached a verdict, the Chairperson shall immediately inform the Accused of the verdict in writing.

Section 3 - Interpretation of the Honor Code

- (a) The Honor Code shall be interpreted by the Judicial Council which shall have the authority to promulgate regulations and issue rulings to that end.
- (b) Adjudications under the Honor Code shall be consistent with previous Judicial Council opinions unless overruled.

ARTICLE VI - POST-TRIAL PROCEDURE

Section 1 - Recommending an appropriate penalty

- (a) If the Judicial Council finds the Accused guilty of an Honor Code violation, then it shall recommend by majority vote, the appropriate penalty. Such penalties shall include, but are not limited to: no penalty, restoration of conditions as they existed prior to the damage caused by the violation, suspension, expulsion and/or notation of the Honor Code violation on the student's transcript.
- (b) Before recommending a penalty, the Council shall, within two weeks after the conviction:
 - (i) hold a hearing where the Prosecutor and the Accused shall present evidence and arguments on the issue of the penalty; and
 - (ii) review past convictions and consider the penalties imposed in those cases.

Section 2 - Notifying the Accused

When the Council, by a majority vote, recommends a penalty, the Chairperson shall notify the Accused in writing of the recommended penalty and of the Accused's rights and obligations regarding faculty review pursuant to Article VIII of the Rules and Regulations of Northwestern University School of Law.

Section 3 - Writing the opinion of the Council

- (a) The Chairperson shall designate a member of the Council to write the majority opinion, which shall include:
 - (i) findings of fact;
 - (ii) conclusions of law;
 - (iii) the Council's decision;
 - (iv) the recommended penalty, if the Accused is convicted;
 - (v) the reasoning and evidence supporting the recommended penalty; and
 - (vi) the names of the Council members concurring in, and dissenting from, the opinion.
- (b) Dissenting and concurring opinions, if any, shall be attached to the majority opinion.
- (c) The names of the Accused, the witnesses and others involved in the proceedings (with the exception of the Council members and the Prosecutor) shall be omitted from the opinion.

Section 4 - Preserving the trial records and the opinion of the Council

- (a) The Chairperson shall seal and date all trial records at the conclusion of the proceedings. Such records shall be preserved in a locked place for three years, and shall not be opened except upon a motion to the Judicial Council showing a compelling reason for inspection. The Chairperson shall ensure that the trial records are destroyed after three years.
- (b) The opinion shall be placed on reserve in the library following exhaustion of all review procedures, and shall be made available to all interested persons.
- (c) Subject to Article VI section 6, the Judicial Council may, at its discretion, publicly notify the student body of an Honor Code proceeding and the penalty recommended.

Section 5 - Faculty review

After a conviction, the Chairperson shall forward the complaint, the record and the opinion to the Faculty for their review, in accordance with the Faculty's published review procedures.

Section 6 - Confidentiality

All matters relating to actions under the Honor Code shall be confidential until all review procedures have been exhausted.

ARTICLE VII - PROVISIONS REGARDING UNAVAILABLE PERSONS

- (a) If for any reason, some members of the Judicial Council and/or the Executive Committee are unavailable to fulfill their respective duties at the end of the school year, the SBA President shall have the sole power to appoint students to serve in their absence.
- (b) If for any reason, witnesses have left the Chicago Metropolitan area and are unable to testify at a trial, either party may obtain affidavits from those witnesses regarding their knowledge of the alleged violation and may also direct written interrogatories to the witnesses. These affidavits and interrogatories shall be admissible at trial notwithstanding the Federal Rules of Evidence.

ARTICLE VIII - AMENDMENTS

Section 1 - Effectiveness

Amendments to the Honor Code shall be ratified by:

- (a) the concurrence by vote of two-thirds of the entire Judicial Council and an absolute majority vote of the entire student body, or
- (b) a two-thirds vote of the entire student body.

Section 2 - Election procedure

- (a) The SBA Elections Committee shall conduct the election to amend the Honor Code in accordance with normal Law School election procedures.
- (b) All registered students shall have an affirmative duty to vote with regard to a proposed Honor Code amendment, although any student may abstain by so marking the ballot.

ARTICLE IX - EFFECTIVE DATE

Once ratified this amended Honor Code shall take effect the first day of Law School classes for the 1986-87 academic year.