

The University of Dayton School of Law

HONOR CODE

Revised March 23, 2015

INTRODUCTION

Honor is essential to achieving the purpose of our system of justice, the protection of freedom and individual human rights. Without honor, the concept of justice would be artificial, and our freedom and rights illusory. However, honor is not a tangible object to be worn as visible evidence of one's integrity. Nor can the presence of honor be established by words alone. Honor makes its presence known through the actions of honorable people. Those who practice law act as sentinels to protect our system of justice, and can only succeed if they are, first and foremost, honorable.

Success in law school does not flow from high class rank or GPA but from doing what is right. The attribute of honor is what distinguishes great attorneys from those who cannot rise above themselves and what elevates legal practice from being an interesting job into a noble profession.

Every privilege carries with it an attendant responsibility, and the privilege of practicing law on behalf of the public is no different. To enjoy the privilege of entering into a noble and honorable profession, we are obligated to take on the responsibility of maintaining its nobility and honor. The first step toward living up to that responsibility is to ensure that we practice personal honor and integrity by following the rules of the profession.

As stated in the Preface to the Code of Professional Responsibility, "the Ethical Considerations are aspirational in character and represent the objectives toward which every member of the profession should strive." Code of Professional Responsibility Preface (1970). The Honor Code of the University of Dayton School of Law is designed to achieve these objectives by serving as the outward sign of our inward value of justice and honor.

*University of Dayton School of Law
Honor Code*

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ARTICLE I
CODE OF CONDUCT

§ 1.01 Purposes and Objectives

- (a) Practice personal honor and integrity so as to instill and perpetuate the highest standards of ethics and professional conduct;
- (b) Ensure each student's privilege to study in an environment free from unfair and dishonest competition;
- (c) Guard the academic and professional integrity and the reputation of the University of Dayton School of Law ("UDSL");
- (d) Assure this community and members of the public elsewhere of the ethical principles practiced and qualifications demonstrated by the graduates of UDSL by serving as the outward sign of our inward values of justice and honor.
- (e) Ensure preservation and protection of due process principles of fairness on behalf of the accused at all times.

§ 1.02 Authority and Guidance

- (a) The Honor Council ("Honor Council"), comprised of students elected to represent the school, bears the primary responsibility of enforcing the Honor Code.
- (b) The Honor Council has jurisdiction over claims of dishonorable conduct affecting the academic environment of UDSL during a student's tenure *as* stated in §1.03. All claims of dishonorable conduct falling outside of this Code remain punishable by the Dean in accordance with UDSL policies.
- (c) Each student should be guided by the purposes and objectives of this Code, and by common sense. Where necessary, students should seek clarification from the Honor Council President or the Faculty Advisor to the Honor Council as to what constitutes dishonorable conduct.
- (d) This Code is binding on all students of UDSL.

§ 1.03 Dishonorable Conduct

- (a) Mental State.
 - 1. Law students are strictly liable for violations of this section.
- (b) The following conduct violates UDSL's Honor Code, subjecting the violator to sanctions imposed by the Dean pursuant to §5.07:
 - 1. Cheating (acts of academic dishonesty including, but not limited to: acquiring, obtaining, or giving any assistance or information on examinations or assignments, except as authorized by the professor);
 - 2. Plagiarizing (appropriating another's words or ideas and representing them as one's own and as defined and described in the written policy provided by the professor, or, in the absence of such policy, as defined and described in the current Legal Profession Program's Ethical Requirements);

3. Utilizing unauthorized materials or otherwise breaching, in any manner, the instructions of a professor or proctor regarding examinations or assignments;
4. Defacing, damaging, concealing, intentionally misshelving, using or removing any library materials without authorization;
5. Intentionally misrepresenting a student's academic or professional qualifications, conduct, class standing, grades, honors, activities or financial need on any written document or oral statement, including but not limited to financial aid applications, resumes, and interviews;
6. Falsifying class attendance records (your own or a classmate's);
7. Alleging in bad faith that a student has violated this Code;
8. Failing or refusing to cooperate in Honor Council proceedings, as an accused or as a witness, as required by this Code;
9. Conspiring, soliciting, attempting, or agreeing to commit, assist in or facilitate the commission of any violation of this Code;
10. Failing to bring information concerning a violation of this Code to the attention of the Honor Council, pursuant to §1.04;
11. Violating the ex parte communications provisions of §2.02 of this Code;
12. All conduct illustrated in the Student Standards of Behavior remains punishable by the University Hearing Board.

§ 1.04 Duty to Report Honor Code Violations

- (a) Any member of the UDSL community with firsthand knowledge of a violation of §1.03(b)(1)-(12) has an affirmative duty to report such violation in writing to the President of the Honor Council, pursuant to § 4.01.
- (b) The written accusation must allege specific acts that violate the Honor Code.
- (c) To protect the rights of the accused, such reports may not be made anonymously.
- (d) The identity of the individual making the accusation will remain confidential with the appointed investigators, and will only be revealed to the Honor Council Hearing Panel, as established by §5.04, if the investigators have made a determination of probable cause, pursuant to §4.02(d), that the accusation warrants further proceedings.

ARTICLE II **THE HONOR COUNCIL**

§ 2.01 Membership

The Honor Council shall consist of ten (10) second-year students and ten (10) third-year students who shall be known as the Honor Council. These students shall be elected by respective members of their class each year and shall serve a maximum of two (2) academic years.

§ 2.02 Election of Honor Council Members

- (a) Election of Honor Council members shall be held annually on or before April 15th. The term of office shall begin the fall semester immediately following the election and shall run for one full academic year.
- (b) All students in good standing at UDSL shall be eligible to become candidates.
- (c) Each candidate:
 - 1. must secure and submit, by a posted deadline, the signatures of twenty (20) students on a nominating form provided by the Council;
 - 2. may submit for publication a typed statement of up to fifty (50) words; and
 - 3. is prohibited from campaigning or having others do so on their behalf.
- (d) All students with valid school identification cards shall be eligible to nominate and vote for up to ten (10) candidates from their respective class. Each eligible law student has a total of ten (10) votes, which may be allocated at his or her discretion between any or all of the candidates from his or her respective class.
- (e) In the case of a tie for the tenth spot of each class, the successful candidate shall be selected by a runoff vote by members of his or her respective class. This runoff shall take place within two (2) school days of the preliminary election day.
- (f) If a permanent vacancy occurs on the Council for any reason, the vacancy shall be filled by the unsuccessful candidate who received the highest number of votes in the election in which the former member was elected to the Council. If the individual is unwilling to serve, then the unsuccessful candidate with the next highest number of votes shall be selected. To become a member of the Council, such candidate must receive the confirming vote of one-half (1/2) of the full body of the Council. If the candidate fails to receive one-half (1/2) of the votes, or if there are no unsuccessful candidates willing to serve, then the new member must be elected pursuant to a special election whereby resumes of prospective applicants are solicited. To become a member of the Council such candidate must receive the confirming vote of one-half (1/2) of the full body of the Council.

§2.03 Faculty Advisor

- (a) One non-voting Faculty Advisor shall be appointed to the Honor Council for a one-year term by the Dean from among the full-time faculty of the School of Law.
- (b) The Dean may renew the appointment of the Faculty Advisor for an unlimited number of successive terms.
- (c) When requested by the Honor Council, the Faculty Advisor shall give advice to the Honor Council regarding any matters before the Honor Council.
- (d) The Faculty Advisor shall be a silent observer of all Honor Council hearings.

§2.04 The Honor Council President

- (a) The membership of the outgoing Honor Council, including the President, shall elect a President for the following year from among those Honor Council members-elect who will be beginning their second term of office in their third

year of law school. The new President shall be elected by a majority of the full body of the Honor Council for a one-year term and shall assume office immediately following the last day of classes of the Spring semester.

- (b) In order to maintain complete impartiality in the administration of Honor Council proceedings, the President shall not vote on the question of whether to investigate an alleged violation, the existence of probable cause, or the question of whether the accused is guilty or innocent of the alleged Honor Code violation.
- (c) In the event that the President of the Honor Council is unable to preside or is disqualified, the Honor Council shall elect by popular vote one of its members to preside over the Honor Hearing in the place of the President.
- (d) The Honor Council President is a voting member of the Honor Council and has the authority to vote in Honor Council general business meetings except as outlined above.
- (e) The Honor Council President is a non-voting member of the Investigatory Team.

§2.05 The Honor Council Chief Justice

- (a) The membership of the outgoing Honor Council, including the President, shall elect a Chief Justice for the following year from among those Honor Council members-elect who will be beginning their second term of office in their third year of law school. The new Chief Justice shall be elected by a majority of the full body of the Honor Council for a one-year term and shall assume office immediately following the last day of classes of the Spring semester.
- (b) In order to maintain complete impartiality in the administration of Honor Council proceedings, the Chief Justice shall not vote on the question of whether to investigate an alleged violation, the existence of probable cause, or the question of whether the accused is guilty or innocent of the alleged Honor Code violation.
- (c) The Chief Justice of the Honor Council shall preside over the actual Honor Code Hearing, make rulings on evidentiary objections, and ensure that the hearing is conducted in a manner that is orderly, expeditious, fair, and consistent with these rules and the purpose of the Hearing.
- (d) In the event that the Chief Justice of the Honor Council is unable to preside or is disqualified, the Honor Council shall elect by popular vote one of its members to preside over the Honor Hearing in the place of the Chief Justice.
- (e) The Honor Council Chief Justice is a voting member of the Honor Council and has the authority to vote in Honor Council general business meetings except as outlined above.

§2.06 The Honor Council Prosecutor

- (a) The membership of the outgoing Honor Council, including the President, shall elect a Prosecutor for the following year from among those Honor Council members-elect who will be beginning their second term of office in their third year of law school. The new Prosecutor shall be elected by a majority of the full body of the Honor Council for a one-year term and shall assume office immediately following the last day of classes of the Spring semester.

- (b) In order to maintain complete impartiality in the administration of Honor Council proceedings, the Prosecutor shall not vote on the question of whether to investigate an alleged violation, the existence of probable cause, or the question of whether the accused is guilty or innocent of the alleged Honor Code violation.
- (c) In the event that the Prosecutor of the Honor Council is unable to preside or is disqualified, the Honor Council shall elect by popular vote one of its members to preside over the Honor Hearing in the place of the Prosecutor.
- (d) The Honor Council Prosecutor is a voting member of the Honor Council and has the authority to vote in Honor Council general business meetings except as outlined above.

§ 2.07 Duties and Powers of the Honor Council

The Honor Council shall have the following duties and powers to:

- (a) promote awareness of the Honor Code among students;
- (b) investigate all allegations properly submitted in compliance with §4.01, which facially indicate that a violation of the Code may have occurred;
- (c) hear evidence and arguments and determine the merits of any allegation in accordance with the procedures provided for herein;
- (d) decide all questions of law and fact relating to the guilt or innocence of the accused, and sanctions to be imposed other than evidentiary issues to be decided by the presiding officer;
- (e) maintain the confidentiality of Honor Council proceedings, unless confidentiality has been waived in writing by the accused;
- (f) carry out any other responsibilities specified in this Code.

§2.08 Recusal and Exclusion of Honor Council Members from Voting

- (a) Any member who is likely to become a party or a witness, or is related by blood or marriage to a party or witness, may not participate in any way in that case and has an affirmative duty to recuse himself or herself. Such recusal shall take place at the moment of discovery.
- (b) A recused member may not participate in any way in the deliberations of the Honor Council regarding the subject matter for which he or she was recused.
- (c) Following a determination of probable cause, an accused may move to exclude a member of the Honor Council from further participation at any time by submitting to the Honor Council President a written motion-including stated grounds for exclusion. If a majority of the Council members present approve the motion, the member may not participate further in the proceeding. No member shall vote on the motion for his or her own recusal.
- (d) Honor Council members may recuse themselves from voting only for good cause as stated to the Honor Council. The Honor Council by majority vote will determine if recusal is appropriate.

§ 2.09 Permanent Removal of Members from Honor Council

Members may be permanently removed from the Honor Council for good cause by a vote of the student body or by vote of the Honor Council.

- (a) Removal by student vote.
 1. A student vote for removal shall be held only after the Council receives a request for removal signed by fifty (50) students. The request shall state grounds for removal.
 2. The removal election shall be held at least ten (10) school days after the petition is received. The ballot shall contain the name of the person whose removal is sought and "Retain [] yes [] no". The President shall administer this election and shall not vote.
 3. All students are eligible to vote on the question of removal.
 4. The removal vote shall not be valid unless at least 25% of the student body participates.
 5. A member shall be removed upon a two-thirds (2/3) vote of all students voting on the question.
- (b) Removal by the Honor Council. A member may be removed by the Honor Council upon a two-thirds (2/3) vote of the full body of the Council, not including those recused or excluded from participation. The vote shall not be taken until at least ten (10) school days after a copy of a written request is given to the member whose removal is sought. The member whose removal has been proposed may not vote on the question.
- (c) Any member of the Honor Council accused of a violation of the Code is automatically suspended from the Council following a determination of probable cause and the suspension will last until the matter is resolved. An alternate shall be selected pursuant to the procedure in §2.02(f) if necessary to complete the hearing panel.

§2.10 Voting and Quorum Requirements

- (a) General Business Meetings. The President shall call meetings of the Honor Council as he or she deems necessary. No formal business of the Council shall be conducted unless a quorum is present. A quorum at General Business Meetings shall consist of 51% or more of the members of the full body of the Honor Council who are eligible to vote. Unless otherwise provided by this Code, resolutions or decisions of the Honor Council shall become effective upon the affirmative vote of a majority of those present.
- (b) Formal Hearings. Ten (10) of the twenty (20) Honor Council members shall constitute a quorum for all Honor Council violation matters. The quorum of ten (10) shall not include the President, the Investigator, or the Prosecutor.
- (c) Abstentions. No member of the Honor Council may abstain from voting on any matter on which he/she is eligible to vote.

§ 2.11 Member Training

- (a) All members shall attend a training session within the first twenty (20) school days of the fall semester.

- (b) Training shall include, but is not limited to, educating members about:
 - 1. This Code and the duties of Honor Council members;
 - 2. The hearing process; and
 - 3. The investigatory process, including how the Investigating Team is comprised, the duties of Investigating Team members, what witnesses to interview, and how to question them.

ARTICLE III
HONOR COUNCIL PROCEEDINGS

§ 3.01 Confidentiality of Proceedings

- (a) All Honor Council proceedings are confidential. No person may, without the explicit authorization from the Honor Council, disclose information concerning an Honor Council proceeding which identifies, or which could reasonably be expected to identify, the accused, the accuser, or any other witness, except to the extent allowed by this Code. This duty of confidentiality extends to any and all witnesses, accusers, and individuals questioned regarding a possible violation of this Code.
- (b) The Dean of the School of Law has limited discretion to release otherwise confidential information. However, prior to doing so, he or she must notify the Honor Council of his or her intent to do so.
- (c) The duty to maintain confidentiality is ongoing and does not end with the termination of the proceedings.
- (d) The duty to maintain confidentiality shall neither excuse nor prevent the disclosure to bar examiners of a student's guilty verdict in Honor Council proceedings.
- (e) Breach of confidentiality by any member of the Honor Council or any individual called before the Council shall be a violation of this Code.
- (f) Only the accused may waive confidentiality and must do so in writing.

§ 3.02 Ex Parte Communications

- (a) An accused may not engage in ex parte communications with investigators, school advocates, student advocates, witnesses, presiding officers, Honor Council members, Faculty advisor to the Honor Council, or the Dean regarding the *contents* of his or her case prior to or during Honor Council proceedings, except as provided by this Code. Such persons also have an affirmative duty *not* to engage in such ex parte communications with the accused, and shall report all such contacts to the President of the Honor Council or the Dean, as appropriate.
- (b) Communications regarding procedural aspects of the Honor Council Proceedings are acceptable, but must be directed to either the Faculty Advisor or the President of the Honor Council.

ARTICLE IV
CODE VIOLATIONS: PRELIMINARY INVESTIGATIVE PROCEDURE

§4.01 Violation Reporting Procedures

- (a) Any person with firsthand knowledge concerning a violation of this Honor Code shall report the matter to the President of the Honor Council within twenty (20) school days of receiving such knowledge and forming a reasonable belief that a violation has occurred.
- (b) A suspicion does not constitute firsthand knowledge.
- (c) Any student who denies witnessing the Honor Code violation and fails to report the same is not in violation of this Code. Any student that confirms witnessing the Honor Code violation and fails to report the same is in violation of this Code pursuant to §1.04(b).
- (d) The Honor Council Investigating Team, as defined in § 4.02(b) is authorized to investigate a potential violation only after the President has received a formal report. Reports must be in writing and must include the name (if known) of the violator, a specific description of the alleged misconduct, and the legible name and signature of the reporter. The President will then open a file using the style "*In Re*: [Student's Name]", which shall be retained in confidence by the President and the Investigators until such time as probable cause is or is not found in accordance with §4.02(d). (Report Number) 5 digits- YY-NNN
 1. Based merely on the existence of a reported violation, a student shall not be considered to be accused of an Honor Code violation. Only after the Honor Council undertakes the proceedings specified in §4.02 and concludes that probable cause exists shall a student be formally accused of a violation of this Code.
- (e) Once submitted, a report may not be withdrawn without good cause. A request for withdrawal shall be submitted in writing to the President and good cause shall be determined by a simple majority vote of the Honor Council. An example of good cause would be in a case of mistaken identity, where after filing a report, the reporter subsequently discovers that the report contained a material or substantial error. The existence of good cause shall be determined by the Council on a case-by-case basis. A report withdrawn by an affirmative vote of the Council shall not be considered an accusation of violating this code.
- (f) Once probable cause is found to exist (and therefore the report becomes an accusation), this section is no longer applicable and §4.02(e) controls.

§4.02 Investigation

- (a) Preliminary Determination. Upon receipt of the formal report of a violation, the President shall convene a meeting within ten (10) school days. The facts alleged in the report shall be made known to the Council, but the names of the reported student, the reporting student, and any other parties or principals shall not be disclosed to the Council members. After consideration of the facts alleged in the report, the Council shall determine by majority vote whether the matter should be dismissed or if an investigation should be commenced. The sole criterion for this

determination shall be whether the allegation(s), if true, would constitute a violation of any provision of the Honor Code.

(b) Investigation.

If the Council determines that an investigation is warranted, five (5) investigators shall be selected within 3 school days. These five (5) individuals make up the Investigating Team: The Honor Council President, The Honor Council Prosecutor, one (1) investigator shall be selected by the reported student, one (1) investigator shall be selected at random from the Investigator Pool, and one (1) investigator shall be selected at random from the members of the Honor Council. The Investigator Pool shall be made up of first-year law students who volunteer to be members. The Chief Justice shall not serve on the Investigatory Team. During the course of the investigation, the Investigating Team, and any witnesses that have been interviewed shall be the only persons who know the identity of the reported student and the reporting student.

(c) Duties of the Investigators.

1. The investigators shall, within ten (10) school days after the appointment of all investigators:
 - a. Contact and interview in person the reporting student;
 - b. Contact and interview in person the reported student;
 - c. Contact, or make a reasonable attempt to contact, all necessary witnesses or other persons believed to have information relevant to the report.
2. Prior to each interview, an investigator must inform the reported student and any witnesses interviewed of their duty of confidentiality and that a violation of the duty of confidentiality constitutes dishonorable conduct in violation of this Code.
3. The investigators and all witnesses shall not discuss or share with other members of the Council any information required to be held in confidence, or any other information acquired in the course of the investigation that may bear on the truthfulness of the report(s) being investigated.
4. In no case may an investigator participate as a panel member at any hearing in which he or she is an investigator.

(d) Determination of Probable Cause.

1. Upon completion of their investigation, and no later than ten (10) school days after all investigators are appointed, the investigators shall determine whether probable cause exists to proceed with an Honor Council Hearing.
2. Probable Cause exists if the investigation has revealed reasonable, credible, and corroborative information that the reported student has committed the alleged acts. Probable Cause shall only be found upon a majority vote of all three voting members of the Investigatory Team, excluding the non-voting President and the non-voting Prosecutor.
3. The investigators shall submit to the Honor Council Chief Justice a written report including:
 - a. A determination of whether probable cause exists;
 - b. A summary of evidence supporting the conclusion reached in a. above; and
 - c. Summaries of all interviews.
4. The reported student may admit guilt, pursuant to § 5.02; however, the investigation shall be completed and the investigators shall report their findings to the Honor Council.

5. If Probable Cause is not found, the names of the reported student and the reporting student shall not be disclosed and the proceedings shall be dismissed. Once a case has been dismissed, no new reports regarding the same nucleus of facts may be brought against the reported student. The President shall collect all written materials regarding the report and these materials shall be sealed for one year and then destroyed by the Faculty Advisor.

6. If Probable Cause is found to exist, the Honor Council shall determine whether the nature of the violation warrants suspension or expulsion for the purposes of determining whether outside counsel will be permitted. At this time, the names of the reporting student and supporting witnesses shall be disclosed to the reported student.

7. The matter shall then be set for a hearing within fifteen school days of the finding of Probable Cause.

- (e) Formal Accusation. once probable cause has been determined to exist under §4.02(d) the student shall be formally accused of violating the Honor Code.
- (f) Notice to the Parties.
 - 1. Notice of Investigation. Notice of the Honor Council's decision to investigate a potential violation shall be sent to only the reporting student and the reported student along with a copy of the current Honor Code.
 - 2. Notice of Dismissal. If after a complete investigation, as set forth in §4.02(c), the Honor Council determines that the results of the investigation do not indicate Probable Cause that the reported student has violated the Code; the President shall notify the reported student and the reporting student that the matter has been dismissed.
 - 3. Notice of finding of Probable Cause. If Probable Cause is found to exist, the President shall notify the persons specified in § 4.02(a) that they have been formally accused of an Honor Code violation.

ARTICLE V

CODE VIOLATIONS: HEARING PROCEDURE

§ 5.01 The Rights of the Accused

- (a) Representation.
 - 1. The accused may select up to two (2) student advocates as defined in §5.01(b), to appear as advocates for the accused. Advocates shall furnish the Chief Justice with a written Notice of Appearance indicating their current name, address and telephone number. After a notice of appearance is filed, the advocate shall be sent copies of all communications and documents sent to the accused, who shall be sent all original communications.
 - 2. Student advocates have a duty of zealous advocacy.
- (b) Student Advocates.

1. Any University of Dayton School of Law law student wishing to act as an advocate/defender to represent and assist a student during the Honor Council hearing shall submit a letter of intent with the Honor Council.
2. These letters of intent will be made available to the accused student facing an Honor Council hearing.

§ 5.02 Admissions of Guilt

- (a) The accused shall have the option of admitting guilt as charged without submitting to a hearing. The accused shall stipulate in writing that he or she committed the alleged acts, that the commission of the acts constitutes a violation of the Code, and that the accused is waiving the right to a formal hearing. An announcement shall be placed on the UDSL Student Bar Association window and in the Honor Council file in the Zimmerman Law Library to the effect that:
A Law student has decided to accept sanctions in the face of an Honor Council Hearing after having been charged with ... (here will follow a brief description of the charge.)
Such announcement shall neither reveal the identity of the student involved, nor the specific facts, but shall be a broad description of the violation.
- (b) Upon the concurrence of the investigators and the Chief Justice, the accused may admit to the commission of one or more violations of the Honor Code other than those specified in the original charges. If the evidence warrants, one or more original charges may be dismissed, and the accused will be sanctioned on the admitted offense.
- (c) No representation that a specific sanction will be recommended or imposed shall be made by any member of the Honor Council in exchange for an admission of guilt under (a) or (b) of this section.
- (d) The Honor Council is free to reject an admission of guilt if the investigation determines more offenses have been committed than those to which the accused has admitted guilt. In this case a hearing will take place.

§ 5.03 Discovery

No discovery shall be permitted in Honor Council proceedings except as follows:

- (a) At least five (5) school days prior to the hearing, the Prosecutor shall furnish the accused student with a list of witnesses who will testify against the accused with summaries of the substance of the testimony of each and copies of any documents that will be introduced into evidence by the prosecution.
- (b) At least three (3) school days prior to the hearing, the accused shall furnish the Prosecutor with a list of the witnesses who will testify for the accused, summaries of the substance of their testimony, and copies of any documents that will be introduced in evidence by the accused.
- (c) Only witnesses identified by the list of either the prosecutor or the accused shall be permitted to testify unless the Honor Council for good cause permits otherwise.

§ 5.04 The Hearing Panel

- (a) A seven (7) person panel of the Honor Council, shall be chosen at random by the President to sit at each hearing.
- (b) Except as provided in §5.03, no voir dire or discovery shall be allowed with respect to the hearing panel.

§ 5.05 Rules for the Honor Code Hearing

- (a) Formal rules of evidence and procedure do not apply. The hearing shall be conducted with as much informality as is consistent with the purpose of the inquiry. The Honor Council Chief Justice, however, shall have the right to exclude evidence that is not relevant pursuant to §5.06(c).
- (b) Unless the accused waives a closed hearing, the only persons permitted to attend will be the accused, his or her advocates, the Honor Council Panel, the alternates, the faculty advisor, the Prosecutor, the Honor Council Chief Justice, and witnesses.
- (c) In the event the accused does not attend the hearing, but remains enrolled, the hearing shall be held in his or her absence.
- (d) The hearing shall be recorded in its entirety by audio or video tape recording, as determined by the Honor Council Chief Justice.
- (e) Prior decisions of the Honor Council are not binding precedent, but may be cited as persuasive authority. The moving party shall have the burden of establishing the existence of such authority.
- (f) The accused shall have the right to remain silent and no adverse inferences shall be drawn therefrom. The accused shall be presumed not guilty until guilt is proven beyond a reasonable doubt.
- (g) The Honor Council Chief Justice shall regulate the order and nature of questioning. The Honor Council Chief Justice shall have the right to exclude testimony irrelevant to the charge(s) being prosecuted.
- (h) The Honor Council hearing shall be held within fifteen (15) school days of the determination of probable cause absent joint consent of the Prosecutor and the accused.

§ 5.06 Honor Council Hearing Procedure

- (a) If necessary, the Honor Council Chief Justice shall schedule a motions hearing prior to the Code violation hearing. The parties shall submit written motions at least three (3) school days prior to the motions hearing. The Chief Justice shall decide if additional oral argument is to be allowed. The same panel as appointed for the Honor Code violation hearing shall rule on motions submitted. A simple majority is required to decide motions.
- (b) Restatement of the Charge.
 - 1. At the commencement of the Honor Council hearing, the Honor Council Chief Justice shall inform the accused that the Honor Council has information of an alleged Honor Code violation and shall describe the

- nature of this alleged violation.
2. The Chief Justice shall also remind the accused of the right to question witnesses, the right to call and question all witnesses, the right to testify, and the right to give a closing statement at the end of the hearing.
- (c) Witness and Evidence Introduction.
1. Formal rules of evidence do not apply.
 2. Oral testimony must be taken only under oath, administered by the Honor Council Chief Justice.
 3. Each party shall have the right to give an opening statement, to present evidence relevant to the issues, to cross-examine opposing witnesses, to impeach any witness regardless of which party first called the witness; to rebut evidence presented by the other party, and to give closing statements.
 4. Any relevant evidence shall be admitted if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in the conduct of their affairs. Hearsay evidence may be used to supplement or explain other evidence, if relevant and probative. The rules of privilege shall be effective to the same extent they are now or hereafter may be recognized in civil actions in the state of Ohio.
 5. The Chief Justice may limit the amount of relevant but marginally probative evidence. Irrelevant, inflammatory or unduly repetitious evidence shall be excluded.
 6. Any evidence relating to polygraph examinations or their results is inadmissible, in any form, in any proceeding under this Honor Code.
- (d) Burden of Proof.
The Prosecutor has the burden of proving, beyond a reasonable doubt, each violation of the Honor Code charged. The accused shall be presumed not guilty until guilt is proven beyond a reasonable doubt.
- (e) Deliberations and Decision of the Hearing Panel.
1. Immediately after all evidence has been presented and all arguments have been made, the panel shall meet in private to determine whether the accused has committed the violation with which he or she is charged.
 - a. A determination of guilt by the Honor Council requires a concurrence of five (5) of the seven (7) members of the hearing panel. A decision that a violation has occurred must be based upon the evidence presented at the hearing.
 - b. If a determination of guilt is not made, all concerned parties shall be notified in writing and the proceedings shall terminate.
 2. If, during the course of its deliberations, the panel determines that the accused may have committed a violation different from or in addition to that charged, or that another student may have committed a violation, these possible violations shall be reported to the Council for further investigation, but should not be considered in the deliberation of the current charge.
- (f) Imposition of Sanctions.
1. After a determination of guilt, the hearing panel will recommend by majority vote the appropriate sanctions to the Dean.

2. Specific sanctions may include but are not limited to one or more of the following:
 - a. Expulsion from the School of Law;
 - b. Suspension from the School of Law with the opportunity to apply to the Appeals Committee for readmission after a specified period of time;
 - c. Suspension for a definite period of time, with or without a refund of tuition, in accordance with the University of Dayton's tuition-refund policies;
 - d. Suspension or loss of specific benefits provided by UDSL including privileges, memberships, honors, and/or scholarships;
 - e. Probation for a definite period of time under specified terms or conditions with consequences specified for noncompliance;
 - f. Removal from any student organization office or position from any other UDSL sponsored position of trust, responsibility or interest;
 - g. Denial of participation in any UDSL or University of Dayton sponsored extracurricular or organizational event for a definite period of time;
 - h. Private written warning or reprimand, including a letter for the student's permanent school file;
 - i. Verbal warning;
 - j. Prohibiting or restricting access to and/or use of UDSL or University of Dayton facilities or services;
 - k. Monetary or other restitution for damage to UDSL property; and
 - l. Public or University of Dayton service.
 3. No record or indication of a student's involvement as an accused in council proceedings shall be made a part of the student's permanent file unless and until the Dean of UDSL accepts the panel's decision.
- (g) **Emergency Suspension Pending Disposition of Honor Code Complaint.**
 In extreme and unusual situations, the Honor Council may request and the Dean of UDSL may approve the suspension of any student from UDSL pending the investigation and prosecution of an Honor Code accusation if probable cause has been found that the student engaged in and will continue to engage in intentional conduct that:
1. seriously disrupts and interferes with the operation of the University of Dayton;
 2. seriously endangers the physical safety of other students, faculty, or staff of the University; or
 3. inflicts serious emotional distress on other students, faculty or employees of the University.

§5.07 Post-Hearing Procedure

- (a) Notice of Hearing Panel Decision.
 1. The Honor Council Chief Justice shall submit its verdict, written opinion and recommended sanctions to the Dean of the Law School within five (5)

- school days after the verdict is rendered.
2. Following final approval by the Dean, the Chief Justice of the Honor Council shall notify the accused of the verdict orally and in writing within twenty-four (24) hours after the final approval. The notice shall include:
 - a. specific findings of fact;
 - b. dissenting statement(s), if any; and
 - c. suggested sanctions to be imposed by the Dean.
- (b) **Written Opinion of the Honor Council.**
1. The Chief Justice shall designate a member of the Honor Council to write the majority opinion, which shall include:
 - a. specific findings of fact;
 - b. the Honor Council's decision;
 - c. the sanctions imposed;
 - d. the reasoning and evidence supporting the recommended penalty; and
 - e. the names of the Council members concurring in, and dissenting from, the opinion.
 2. The opinion shall be placed in a file to be held by the President of the Honor Council and to be made available only for precedential value at future Honor Council proceedings. .
- (c) **Preserving the Hearing Records.**
- The President shall seal and date all hearing records at the conclusion of the proceeding. Such records shall be preserved in a locked place under the control of the Dean for three years, and shall not be opened except upon a motion to the Honor Council showing a compelling reason for inspection. The current President shall ensure that all Hearing records on file are destroyed within three years of the date the verdict is rendered.
- (d) An announcement shall be placed on the UDSL Student Bar Association window and in the Honor Council file in the Zimmerman Law Library to the effect that:
- The Honor Council has found a student to be guilty of the following offense (here will follow a brief description of the charge.)
- Such announcement shall neither reveal the identity of the student involved, nor the specific facts, but shall be a broad description of the violation.

§5.08 Appeals of Decision of the Honor Council

- (a) **The Appeals Board.**
1. Upon the final decision of the Honor Council resulting in a guilty finding, the student has ten (10) school days to appeal the ruling(s) of the Council in writing.
 2. The Dean shall select three faculty members at random to serve as the Appeals Board.
 3. The Appeals Board will examine the transcript and records of the proceedings below. No new evidence will be presented to the Appeals Board.

4. The Appeals Board will undertake a de novo review of the decision of the Honor Council.
 5. Action of the Appeals Board will be determined by a majority vote.
 - c The Appeals Board may uphold, reverse, or remand the case for further proceedings if it finds error.
- (b) Final Appeal to the Dean .
1. If the Appeals Board upholds the decision of the Honor Council, then the student may appeal to the Dean of UDSL.
 2. The Student has five (5) school days from the time he or she is informed of the decision in § 5.08(b)(1) to submit a written appeal to the Dean of UDSL.
 3. The Dean of UDSL will review the hearing panel’s findings and determine if they were made in conformity with the procedures established in the Honor Code and that the proceedings did not breach fundamental notions of fairness.
 4. The Dean of UDSL may uphold, reverse, or remand the case for further proceedings if he/she finds error.
- (c) Exhaustion of Appeals/Failure to Appeal.
1. If the student has failed to appeal, or has exhausted his right to do so, the final decision reached will stand and the Dean will impose the appropriate sanctions.
 2. The Dean will take into consideration the findings and recommendations of the Honor Council and any mitigating circumstances presented by the guilty student.
 3. The Dean will then impose the appropriate sanction pursuant to §5.06(f).
 4. An announcement shall be placed on the UDSL Student Bar Association window and in the Honor Council file in the Zimmerman Law Library to the effect that:

The Honor Council has found a student to be guilty of the following offense ... (here will follow a brief description of the charge.)

Such announcement shall neither reveal the identity of the student involved, nor the specific facts, but shall be a broad description of the violation.

ARTICLE VI

§6.01 Miscellaneous

- (a) The deadlines for reporting and the occurrence of the proceedings shall be suspended during examination periods and days in which the school is not in session and the full Summer session except for good cause shown. All Accusation Forms relating to alleged incidents from the previous Spring and Summer semesters must be filed with the Honor Council within in the first ten (10) school days of the Fall semester.
- (b) In the case of an alleged violation involving a third year student during the Spring

semester examination period, a special panel of two (2) Honor Council members and three (3) faculty members will be appointed by the Dean and the President of the Honor Council to investigate and submit its recommendation to the Dean. The Council will convene within reasonable time limits to facilitate the prompt adjudication of the case and submit a recommendation to the Dean prior to commencement.

- (c) All timelines in this Code are aspirational and should not be modified without good cause shown. However, missing a deadline shall not be determinative in assessing the guilt or innocence of the accused nor an automatic barrier to proceeding.

ARTICLE VII

§7.01 Process For Amending This Honor Code

- (a) In order to substantively amend the Honor Code:
 - 1. A student shall submit in writing amendment language to the Honor Code with fifty (50) current student signatures; or
 - 2. The Honor Council shall submit in writing amendment language to be posted in the Student Bar Association office for a notice and comment period of five (5) days.
- (b) After consideration by the Honor Council, the amendment shall be enacted by a two-thirds (2/3) vote of the Honor Council in an Honor Council general business meeting.
- (c) The Honor Council may make editorial and grammatical amendments that do not affect the substance of the Honor Code without notice to the student body.