

**UNIVERSITY OF SAN FRANCISCO
SCHOOL OF LAW**

STUDENT HONOR CODE

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1. PURPOSE

At the University of San Francisco School of Law, the study and teaching of law is recognized as an integral part of the legal profession. Accordingly, students are expected to respect the rights of others and to conduct themselves in personal and professional matters in accordance with high ethical standards. This Code establishes standards and procedures to implement those expectations and to ensure fundamental fairness in the enforcement of its standards.

The effectiveness of this Code depends on the cooperation of all members of the law school community. Any member of the community who has knowledge of a violation of this code is strongly encouraged to report such violation.

2. SCOPE

Jurisdiction under the Code is limited to the following:

- (a) Prohibited conduct as defined in Section 4 of this Code.
- (b) Actions which occur on the property of the University of San Francisco, the campus of a summer abroad program of the University of San Francisco School of Law, or actions by a student enrolled in the University of San Francisco School of Law but attending another academic institution and which result in the violation of local, State, or Federal law.
- (c) Actions which result in a conviction under local, State, or Federal law and which bear upon the student's honesty, integrity, or fitness to practice law, even though such actions do not occur on property of the University of San Francisco.

A person becomes subject to the jurisdiction of the Code upon submitting an application for admission to the law school.

3. DEFINITIONS

"Academic Activity" includes classroom instruction, clinical instruction, and other officially recognized academic programs such as participation in Law Review and in Moot Court competitions.

"Associate Dean" means the Associate Dean for Academic Affairs, his/her delegate or representative.

"Charged student" means a student against whom charges under this Code have been brought.

"Code" means this University of San Francisco School of Law Student Honor Code.

"Committee" means the Honor Committee charged with the adjudication of charges under this Code.

"Dean" means the Dean of the School of Law, his/her delegate or representative.

"Instructor" means a person who engages in either classroom or clinical instruction of students of the Law School on a full- or part-time basis, including persons who are employed to assist in such programs as the Legal Research and Writing program or the Academic Support Program.

"Law School" means the University of San Francisco School of Law

"Library" means any library of the University of San Francisco.

"Permanent record" means the file maintained by the Registrar's Office in which is retained a record of law school academic work, forms completed by the student during his/her academic career, copies of correspondence relating to the student, all admissions materials retained after the admission process is complete, and other pertinent records relating to the student.

"Registrar" means the Registrar of the Law School, his/her delegate or representative

"Regular session" means the period from the first to the last day of instruction of the fall semester and of the spring semester.

"SBA" means the Student Bar Association of the University of San Francisco School of Law.

"Staff" means any non-instructional employee of the Law School or of the University.

"Student" means a person enrolled at the Law School, a person who has been accepted for admission or readmission to the Law School, a person who has applied for admission to the Law School, a person who is seeking readmission to the Law School by re-examination (such persons are considered "students" only for the purpose of the Honor Code), a student from another law school who is visiting at the Law School, a person who is enrolled in a summer abroad program run by the Law School.

"University" means the University of San Francisco.

4. PROHIBITED CONDUCT

Any student who assists another student to commit any conduct prohibited under this Code also violates the Code. Each may be held equally culpable. Attempting to commit any conduct prohibited under this Code also violates the Code. Inadvertent violation of the Code is a defense, with the student bearing the burden of proof by a preponderance of the evidence. Extenuating circumstances (such as, for example, pressure from outside work or family obligations) are no defense to a violation of the Code, but may be relevant to sanction.

Students shall not engage in fraudulent, deceitful, dishonest or unfair conduct in applying to or while students at the Law School. The following are non-exclusive examples of conduct which violates the Code.

4.1 ACADEMIC DISHONESTY

Engaging in any dishonest conduct in connection with any examination, written work, or other academic activity. The following are examples of academic dishonesty:

(a) Examinations

- (1) Giving, seeking or receiving aid in any form before, during, or after an examination when such aid might create an unfair advantage for any student. If a student inadvertently obtains information which might create an unfair advantage, the student shall immediately bring the matter to the attention of the Associate Dean.
- (2) Using during an examination any materials not explicitly authorized by the instructor.
- (3) Violating any instruction provided by an instructor or any representative of the Registrar's office relating to an examination. This includes beginning or continuing to write contrary to a proctor's instructions.
- (4) Taking an examination for another student, or permitting another person to take an examination for him or her.
- (5) In any examination which is to be graded anonymously, intentionally providing information which suggests the identity of the student taking the exam.

(b) Written Work

- (1) Submitting as his or her own work, papers that have been prepared in whole or in part by another person. This provision shall not prohibit joint authorship of a paper when such authorship is identified and expressly authorized by the instructor.
- (2) Giving, seeking, or receiving help, cooperation, or collaboration of any sort (other than typing by a person who is not a student in the class) from any person. An instructor may make exceptions to this rule with respect to collaborative work in the instructor's class. Each student who does not positively know of the existence and nature of any exceptions shall assume that none exist.
- (3) Plagiarizing another's work. Using any material which has been written or published by another without clearly identifying such material by quotation marks, citations, or other appropriate methods constitutes plagiarism. Paraphrasing is the close restatement of another's idea or form, using approximately the language of the original. Paraphrasing without acknowledgment of authorship is a form of plagiarism.

- (4) Submitting a paper, or any portion thereof, for credit in more than one course unless the student makes full disclosure to, and obtains the prior written consent of the instructors to whom the paper has been and is to be submitted.
- (5) Failing to comply with any rules established by an instructor with respect to written work prepared for that instructor.

4.2 MISREPRESENTATION

Making a misrepresentation. The following are examples of misrepresentations:

- (a) Forging or altering any Law School or University document, record, or instrument of identification.
- (b) Furnishing information which is known by the student to be false to any instructor, member of the staff, or other employee or agent of the Law School or the University.
- (c) Furnishing to any person information which is known to the student to be false and which relates to the student's academic record or otherwise concerns his/her activities in the Law School or University.
- (d) Furnishing false information or failing to provide information required in connection with the student's application for admission to the Law School.
- (e) Failing to disclose after applying or admission to the Law School information concerning any allegation of unprofessional conduct or allegation, arrest, and/or conviction of a criminal offense.

4.3 INTERFERENCE WITH PROPERTY AND MISUSE OF SERVICES

Taking, destroying or damaging property, or misusing services of the Law School, the University, instructors, staff, or other students. The following are examples of interference with property and misuse of services:

- (a) Stealing, damaging, or destroying notes, books, papers, or other academic materials of other students.
- (b) Stealing, damaging, destroying, or hiding library property or materials or misusing library services (including LEXIS and Westlaw).
- (c) Stealing, damaging, destroying, or otherwise misusing other Law School or University property or services.

4.4 UNAUTHORIZED OBTAINING OR DISSEMINATION OF CONFIDENTIAL INFORMATION

Obtaining without proper authorization any information maintained in confidential files or records of the Law School or University or any employees thereof or dissemination of any information, however obtained, known by the student to have come from such confidential sources.

4.5 UNPROFESSIONAL CONDUCT

Engaging in any act or omission in connection with representation of any client in a clinic or other context which violates the rules of professional conduct of the state in which such representation is provided.

4.6 FALSE ACCUSATIONS

Accusing another student of violating the Code, knowing that accusation to be false or showing a reckless disregard as to its truth.

4.7 FAILURE TO COOPERATE

Failing to cooperate with the proceedings under this Code. The following constitute failure to cooperate:

- (a) Failing to cooperate with the investigation of a complaint under this code, including failure to provide information known to the person being questioned or documents within his/her control.
- (b) Failing to appear and testify, without reasonable excuse, as a witness or a charged student when properly summoned by the Honor Committee.
- (c) Knowingly misrepresenting any fact before the Honor Committee.
- (d) Violating an obligation of confidentiality imposed by this Code.

5. GENERAL GUIDELINES--HONOR CODE PROCEDURES

5.1 TIME LIMITS

Prompt resolution of investigations and hearings is critical to the fairness and effectiveness of this Code. Nonetheless, time limits set forth below are subject to extension on a showing of good cause. In addition, such time limits are inapplicable when the Law School is not in regular session. When the Law School is not in regular session, the Associate Dean shall establish a schedule for investigation and hearing of the complaint and shall advise all concerned parties of that schedule.

5.2 CONFIDENTIALITY

All matters relating to a charge of violating this Code are confidential and may not be revealed other than to the Dean and the Associate Dean except with the explicit permission of the Honor Committee. The Honor Committee shall have the right to publicize matters coming before it in accordance with Section 8.4(1).

5.3 RIGHTS AND OBLIGATIONS OF WITNESSES

All students, instructors, and staff of the Law School and of the University shall cooperate with the investigation and proof of any charge brought under this Code. Any refusal to be interviewed or to produce evidence may be a matter for disciplinary action. Any person has the right, however, to refuse to testify or produce evidence as to matters which would tend to inculcate that person in any violation of law.

6. PRELIMINARY PROCEEDINGS

6.1 REPORTING A VIOLATION

Any person may report a possible violation to the Associate Dean. Such report must be presented in person or by signed writing and should contain factual information sufficient to allow a preliminary determination as to whether there may have been a Code violation. The report should, whenever possible, identify the student(s) involved.

6.2 INFORMAL DISPOSITION

(a) By Associate Dean

Upon receipt the Associate Dean shall review the report. If he/she determines that a possible Code violation has occurred, he/she may attempt to resolve the matter informally. He/she shall notify the student of the alleged violation and give the student an opportunity to appear and respond. The Associate Dean may require any student or employee of the Law School to appear and state facts relevant to the allegations made. After consideration of all facts thus informally obtained, the Associate Dean shall determine whether the violation has been established and what sanctions, if any, shall be imposed. If the accused student is not satisfied with the informal disposition proposed by the Associate Dean, he/she may invoke the formal procedures of the Code.

(b) By Instructor

If an Instructor believes a student has committed a violation of the Honor Code in connection with any work submitted for a grade, or for any portion of a grade, in a course taught by the Instructor, he/she may attempt to resolve the matter informally. The Instructor shall notify the student of the alleged violation and give the student an opportunity to appear and respond. If, after this consultation, the Instructor continues to believe there was a violation, he/she may lower the grade or deny credit in the course, and in his/her discretion, may also place a note in the student's permanent record regarding the alleged violation. If the student is not satisfied with the informal disposition proposed by the Instructor, he/she may invoke the formal procedures of the Code.

(c) Sanctions

Any sanction set forth in Section 9 of this Code may be imposed as a result of an informal disposition under this subsection.

(d) Report of Informal Disposition

If an informal disposition is reached by either the Associate Dean or an instructor, he/she shall write a report setting forth the basic facts regarding the violation and the agreed upon disposition. A report by an instructor shall be submitted to the Associate Dean. The report of such informal disposition shall be maintained with the records of actions taken by the Honor Committee.

6.3 APPOINTMENT OF INVESTIGATORS

If the Associate Dean determines that a possible violation has occurred and an informal disposition under Section 6.2 is either not attempted, or if attempted, is unsuccessful, he/she shall appoint a Faculty Investigator and a Student Investigator. The Faculty Investigator shall be a member of the faculty who is not currently a member of the Honor Committee. The Student Investigator shall be selected by the Associate Dean from a list of five students submitted to the Associate Dean by the SBA President.

6.4 INVESTIGATION

The Investigators shall investigate a suspected violation of the Code in whatever way they consider appropriate. The investigation may include, but is not limited to, gathering relevant documentary evidence, and speaking to the person who reported the matter, the student whose conduct is under investigation, and any person who may have relevant information. Before referring a matter to the Honor Committee, the Investigators shall notify the student whose conduct is under investigation of the investigation and shall give that student an opportunity to discuss the matter. The student whose conduct is under investigation need not speak with the Investigators, and no inference as to the truth of the allegation shall be made at the investigatory stage from a student's refusal to speak. The Investigators shall make an appropriate record of the conversations with persons who provide information and of other information gathered.

6.5 REFERRAL TO HONOR COMMITTEE

After conducting the investigation, the Investigators shall decide whether to prepare a complaint for consideration by the Honor Committee. The Investigators may elect not to prepare a complaint if they believe the allegation is without merit, that the conduct involved does not constitute a substantial violation of the code, that insufficient evidence exists, or that sufficient evidence cannot be obtained to support a complaint. If the Investigators so decide, they shall prepare a report describing the allegation, the available evidence and the reason(s) for the decision. If the two Investigators disagree as to whether a complaint should be filed, each shall file a report setting forth his/her description of the allegation, the available evidence, and the basis for his/her decision. After reviewing the report(s), the Committee, upon a vote of three members, including at least one faculty member and one student member, may direct the Investigators to prepare a complaint. (If the Investigators each filed a report, the complaint shall be prepared by the Investigator who favored filing a complaint.) If no complaint is filed, the Investigators shall notify the student whose conduct was under investigation.

6.6 SCHEDULING HEARING

On filing a complaint with the Honor Committee, the Chair of the Honor Committee shall set the date for the hearing for not less than seven, nor more than thirty days, from the time the charges are filed.

6.7 NOTICE TO ACCUSED STUDENT

If a complaint is filed, the Investigators shall give notice promptly, by certified or registered letter or in person, to the charged student and provide the following:

- (a) A copy of the complaint and of this Code;
- (b) A summary of the factual allegations giving rise to the complaint;
- (c) A list of the expected witnesses and evidence;
- (d) The date, time, and place of the hearing and a list of the members of the Honor Committee;
- (e) Notice that the rights of a charged student and general hearing procedures are set forth in Section 8 of the Code;
- (f) Notice of the possibility of negotiated disposition as set forth in Section 6.8.

6.8 NEGOTIATED DISPOSITION

The Investigators may negotiate a proposed disposition with the student whose conduct is under investigation or who has been charged as to the merits of the allegation and/or as to the sanction. The investigators shall inform the charged student that any such disposition is not final and is subject to the approval of the Honor Committee. If both Investigators and the student agree upon a disposition, the Investigators shall prepare a report for the Honor Committee explaining the nature of the negotiations and

the reasons for the proffered disposition. The Honor Committee may accept or reject any or all aspects of the proffered disposition. If the Honor Committee rejects the disposition in any respect, the hearing shall proceed, unless the student accepts the disposition as amended. The Honor Committee shall not consider as evidence any offer to dispose of the matter or any statements in connection with such an offer.

7. THE HONOR COMMITTEE

7.1 DUTIES

The Honor Committee shall adjudicate all formal charges under this Code. The Committee may issue opinions, formal or informal, about whether hypothetical conduct constitutes a violation of this Code.

7.2 COMPOSITION

The Honor Committee shall be composed of six members--three students and three faculty members. The student members shall consist of one student from the third year day class, one from the second year day class, and one from either the third or fourth year evening class. Three alternates shall also be selected, representing the same classes.

7.3 SELECTION OF STUDENT MEMBERS

Student members and alternates shall be selected by the SBA President during the spring semester. The SBA President shall give notice to the student body of the selection process by placing an announcement in the Student Bar Association newsletter or the FYI newsletter (newsletter circulated by the Law School administration) at least two weeks prior to the date on which applications are due. Applications will be available in the SBA office and the Registrar's office. Student members and alternates shall serve a one year term, extending from the end of the examination period of the semester in which they are selected through the end of the final examination period of the following spring semester.

7.4 SELECTION OF FACULTY MEMBERS

The faculty members shall be appointed by the Dean. The Dean shall attempt to maintain some continuity in faculty participation by reappointing one or more members from year-to-year.

7.5 COMMITTEE OFFICERS

At the first meeting of the Honor Committee, the Committee shall elect a Chair from among the faculty members and a Vice-Chair from among the student members. The Chair shall have general responsibility for overseeing the adjudication process under this Code and shall have specific duties as set forth in Section 8.2. The Vice-Chair shall have such responsibilities as are delegated to the Vice-Chair by the Chair.

7.6 EXCUSAL OF COMMITTEE MEMBERS

A member of the Honor Committee shall be excused from hearing a charge if (a) that member is a complainant, a charged student, or a witness; (b) that member believes he/she is biased; or (c) the charged student files of Notice of Excusal with the Associate Dean and the Associate Dean finds such a request is founded on valid objections. A Notice of Excusal shall state the name of the member the charged student believes is biased and the reasons for this belief. The Notice of Excusal must be submitted no later than three working days before the scheduled hearing.

7.7 REPLACEMENT OF COMMITTEE MEMBERS

If a member is excused for any of the above reasons, unable to participate in a particular hearing, or unable to complete his or her term, the Chair of the Committee shall choose a replacement. If the member is a student, the replacement shall, if possible, be the appropriate student alternate.

8. THE HEARING

8.1 RIGHTS OF CHARGED STUDENT

A student charged under this Code has a right to the following:

- (a) The information set forth in Section 6.7.
- (b) Reasonable time to prepare any defense he/she may have.
- (c) Assistance at the hearing or appeal of retained counsel or of an advisor.
- (d) To be present at the hearing. If the student decides not to appear, he/she shall notify the Honor Committee of that decision, and the hearing may be held in his/her absence. If the student fails to appear at the time and place set for the hearing and fails to notify the Committee that he/she will not be present, the hearing may nonetheless be held in his/her absence.
- (e) To present any relevant evidence and to question any witness.
- (f) To make a sworn statement before the Honor Committee.
- (g) To forego a hearing by admitting the merit of the charge.
- (h) To waive any right or process otherwise provided by this Code.
- (i) To a presumption of his/her innocence until guilt is established by clear and convincing evidence.
- (j) To record the testimony given at the hearing, either by stenographic or tape recording.

8.2 DUTIES OF CHAIR

The Chair shall preside over the hearing, including ruling on all procedural matters raised prior to or during the hearing, assigning the duty of preparing the report of the Committee, and notifying the

proper persons, including the Dean and the Associate Dean, of the decisions and sanctions imposed by the Committee and insuring the execution thereof when final. This latter duty includes, but is not limited to, directing the entry into the student's official file where such action is required by the decision of the Committee. (See Section 8.4(k).)

8.3 COMPELLING ATTENDANCE OF WITNESSES

The Honor Committee shall have the power to compel witnesses to appear before the Committee and give evidence. If the charged student wishes to compel witnesses to appear and give testimony, he/she shall file a request for such an order not later than 7 days prior to the hearing date. When properly requested, the Chair shall issue an order compelling attendance and testimony. Service of such order may be made by personal delivery to the witness or registered mail directed to the witness' last known address.

8.4 GENERAL PROCEDURES

- (a) No hearing shall be held unless four members, including at least two students and two faculty, are present.
- (b) The hearing shall be closed.
- (c) Witnesses, other than the charged student, shall not be present during the testimony of other witnesses unless the Committee decides otherwise.
- (d) The charged student is presumed innocent until proven to have committed the charged violation by clear and convincing evidence.
- (e) All evidence shall be admitted without regard to the legal rules of evidence, except that the Committee shall exclude irrelevant evidence and unduly repetitious evidence, and shall give effect to the rules of privilege recognized by law except as otherwise provided.
- (f) The Faculty Investigator, with the assistance of the Student Investigator, shall present the evidence, including that which supports and negates the charge and that which is relevant to sanction. The charged student may also offer evidence relevant to the merits or to sanction. The Committee and the charged student may question any witness.
- (g) The Faculty Investigator may ask the Committee to amend the complaint to conform with the evidence presented. If the Investigator so moves, the charged student shall be notified of that motion and given an opportunity to object before the Committee rules on the motion. If the complaint is amended, the charged student shall have the opportunity to present any relevant evidence to the complaint as amended.
- (h) The Committee shall decide by a majority vote the merit of the charge and any sanction.
- (i) The Committee shall prepare a written report, detailing the evidence considered, the reasons for its decision as to the merits and, when appropriate, as to the sanction. A concurring or dissenting member may prepare a report explaining his/her position. A copy of the report shall be given to the student, to the Dean, and to the Associate Dean.

- (j) The Committee's report shall be placed in the student's permanent record and shall be included with the Certificate of the Dean submitted to the Committee of Bar Examiners of the State of California or any other state bar to which the student applies, unless the Committee finds that the conduct does not raise a serious question about the student's honesty, character, or fitness for the practice of law.
- (k) Regardless of the decision by the Committee on the merits, the Committee shall keep a permanent record of the evidence presented at the hearing, the Committee's report(s) and any other information it decides should be retained. That record may be referred to later by the Committee for whatever purpose it considers relevant. At any time after five years from the conclusion of an appeal, the Committee may decide to destroy any record of the matter other than its written report(s). If no complaint is filed because the allegation is without merit, the conduct does not constitute a substantial violation of the code or the evidence is insufficient, the Committee shall keep a record of the allegation, the reason(s) for nonaction and the name of the student whose conduct was under investigation and the witness(es). Neither the content nor existence of any record may be disclosed except (1) when required by law, (2) when required by the Dean, Registrar, or the Committee, or (3) when the student whose conduct was involved has signed a written waiver of confidentiality.
- (l) Upon the conclusion of any appeal, the Committee shall record all or part of its decision, including a summary thereof as it considers appropriate, including, at a minimum, placing such information in a file open to the law school community. In publicizing its decision, the Committee shall not publish the name of any participant other than the charged student, and that student's name only when the Committee finds exceptional circumstances.
- (m) The student whose conduct was investigated may place in his or her permanent record and in the record maintained pursuant to Section 8.4(m) a statement commenting on the action of the Committee. If any of the Committee's record is disclosed as provided in this Section, the student's statement, together with the Committee's action, shall also be disclosed.

9. SANCTIONS

- 9.1 One or more of the following sanctions may be imposed by the Honor Committee:
- (a) Informal private reprimand. The student may be given a private letter from the Committee stating that he/she has violated the Code, and that, if he/she has a subsequent violation, a more severe penalty may be imposed for this violation. This reprimand does not become part of the student's permanent record. (Note that this sanction requires a finding by the Committee under Section 8.4(k) that there is a substantial reason why the conduct does not raise a serious question about the student's honesty, character, or fitness for the practice of law.)
 - (b) Formal reprimand. A formal reprimand is identical to a private reprimand except that a copy of the formal reprimand will be placed in the student's permanent record.

- (c) Disciplinary probation. Disciplinary probation is a formal reprimand which imposes disabilities on the student for a specified period of time. The terms of the probation may impose any reasonable condition, including but not limited to, limiting participation by the student in extra-curricular activities such as Moot Court, Law Review, or SBA office, or disqualifying the student from honors, such as membership in the McAuliffe Honor Society. A copy of the reprimand, containing the terms of the probation, shall be included in the student's permanent record, and at the discretion of the Committee, may be entered on the student's transcript.
- (d) Suspension. The student may be suspended for up to two semesters, commencing immediately or in the following semester. The effect of immediate suspension is to prevent the student from receiving any course or residence credit for that semester. Suspension excludes the student from all classes, exams, the use of the library, and all other law school activities. The suspension will be entered on the student's transcript.
- (e) Expulsion. The student may be expelled permanently. The expulsion will be entered on the student's transcript.
- (f) Removal of degree awarded. If the charged student has already received his/her degree, the degree may be withdrawn. This sanction will be entered on the student's transcript.
- (g) Grade change or withholding of credit. Where the misconduct is committed in connection with a specific course:
 - (1) the Committee may recommend to the Instructor that the grade for the course be reduced. The Committee shall not have the power to lower a grade.
 - (2) The Committee may order that no credit be given for the course. In such a case the Committee may, in its discretion, order that the fact that credit was denied for violation of this Code be noted on the student's transcript.

If the Committee finds insufficient proof of a violation, the grade assigned in the course must reflect that finding. The Committee shall have authority to ensure fair procedures for determining the grade.
- (h) Restitution. Upon a finding of a violation of the code involving property, the student may be ordered to repair or replace the property or reimburse the University or the party whose property was damaged.

10. APPELLATE REVIEW

A student may appeal to the Dean the decision of the Committee finding a violation of the Code or the sanction imposed. Such appeal shall not be granted unless the Dean finds that the decision of the Committee was clearly erroneous.

11. MISCELLANEOUS

11.1 PUBLICATION OF THE HONOR CODE

- (a) Each student shall receive a copy of the Honor Code upon enrollment at the Law School.
- (b) Entering students shall be made aware of the Honor Code at the orientation program held each year during the first week of school.
- (c) A copy of this Code and the names of the members of the Honor Committee shall be posted. A copy of the Code will be on file in the Library and extra copies will be available in the Registrar's Office.

11.2 RATIFICATION AND AMENDMENT

Following a reasonable period of circulation and opportunity for comment by students (not less than two weeks), this Code is to become effective upon a majority vote of the law faculty and students. Amendment shall be by the same procedure. If one section of this Honor Code is later found to be invalid for any reason, it will invalidate only that section and not the entire Honor Code.