

APPENDIX A

THE NOTRE DAME LAW SCHOOL HONOR CODE

1 STATEMENT OF PURPOSE

This Honor Code is based upon the assumptions that students at the Notre Dame Law School do not lie, cheat, or steal; that they aspire to enter an honored profession; and that their character and conduct while attending this Law School at all times will reflect favorably upon their future profession, this school, and themselves.

2 AFFIRMATIVE DUTIES AND PROHIBITED CONDUCT

2.1 All law students and law faculty have the duty to report promptly either to the Dean, to the member of the faculty whom the Dean has designated to oversee matters regarding the Honor Code and to preside at any hearings involving alleged violations (the “Dean’s Delegate”), to the Student Bar Association (“S.B.A.”) President, or to the student who has been elected by the Honor Council to lead its activities (the “Chair”) all circumstances that they believe to constitute a clear violation of the Honor Code. Knowing breach of this duty shall be a violation of the Honor Code.

2.2 It is the duty of every law student and law faculty member to give testimony or other evidence relevant to any alleged violation of the Honor Code if requested by a student facing a disciplinary charge, the person appointed by the S.B.A. President to present evidence in support of the charge (the “Student Prosecutor”), or the members of the Honor Council who have been chosen to hear the case (the “Hearing Panel”). A person may refuse to testify to avoid incrimination in a violation of the Honor Code or of a public penal law. The Dean’s Delegate or the Hearing Panel may excuse anyone from testifying for just cause.

2.3 It shall be a violation of the Honor Code to engage in any of the following:

2.3.1 To use materials or to consult with any other person:

2.3.1.1 in an exam, except as expressly authorized by the instructor; or

2.3.1.2 in research, class preparation, or other assignment, in any manner expressly forbidden by an instructor.

Whenever notice is an issue under the provisions in section 2.3.1, constructive notice applies after the end of the add-drop period to any prohibition that (a) in the case of an exam, appears in exam instructions that the instructor has distributed via e-mail to the entire class no less than

24 hours before the administration of the exam, or (b) appears in a syllabus which the instructor has posted on a web site for the course or otherwise uniformly distributed to the class before the end of the add-drop period.

2.3.2 To submit as one's own work the work of another.

2.3.3 To submit written work in satisfaction of a course requirement or for publication in a journal, if that work reflects, in whole or substantial part, work previously prepared for some other purpose, unless the instructor or, in the case of a journal, the editor has approved the use of the previously prepared work.

2.3.4 To knowingly make any material misrepresentation in connection with any Law School class, program, or activity, including, but not limited to, a clinical course, an externship, journals, moot courts, job searches, scholarship applications, and student competitions.

2.3.5 To knowingly misappropriate the notes, papers, books, computer, or other academic materials of another law student, a faculty member, the Law School, or the University.

2.4 The Dean retains jurisdiction over all matters not explicitly covered by this Honor Code. An instructor retains jurisdiction over grading, which stands separate from the Honor Code process.

3 ADMINISTRATION OF THE HONOR CODE

3.1 There shall be an Honor Council composed of three members elected from each class. During their term of service on the Honor Council, members must be attending the Law School at the campus in Notre Dame, Indiana except if Law School classes are not in session on that campus (e.g., during the summer); any member who does not satisfy this requirement is deemed to have resigned from the Honor Council. The members shall be chosen as follows:

3.1.1 Election shall be in accord with procedures established from time-to-time by the S.B.A.

3.1.2 Each ballot shall contain the following statement only: If officially charged with a violation of the Notre Dame Law School Honor Code, I would choose the following members of my class to (1) hear the evidence for and against me; (2) render a fair and impartial decision concerning my guilt or innocence; and (3) determine sanction.

3.1.3 Each ballot shall contain space for students to vote for three candidates.

3.1.4 The three law students in each class receiving the highest number of votes shall be Honor Council representatives.

3.2 London Academic-Year Programme

3.2.1 Students enrolled in the London Programme shall elect three students from among the students enrolled in the year-round program to perform the functions of the Honor Council for any matter that arises during the London academic year and shall elect a chair (the “London Chair”) from among its members.

3.2.2 Students enrolled in the London Programme also shall elect an investigator (the “Student Investigator”). For any matter that arises during the London academic year, this student shall perform the functions assigned by this Honor Code to the Student Prosecutor.

3.2.3 For any matter arising during the London academic year, the Director of the London Programme shall perform the functions assigned by this Honor Code to the Dean’s Delegate.

3.3 The Honor Council shall elect its Chair from among its members.

3.4 Term

The term of the Honor Council begins the day after graduation in the spring; the term ends on graduation day the following spring. The outgoing Honor Council shall have continuing jurisdiction over any matter that occurred before the end of its term.

3.5 Prehearing Procedures

3.5.1 Any allegation of a violation reported to the Dean, Dean’s Delegate, or S.B.A. President shall be referred to the Chair, who will pass on the details of the allegation to the Student Prosecutor. If a student reporting an alleged violation wishes to remain anonymous, the Student Prosecutor will honor that request during the initial investigation by not revealing the reporting student’s identity to the accused student during that investigation. However, the reporting student’s identity must be revealed to the Student Prosecutor. If the investigation leads to a hearing, the hearing procedures described in section 3.6 may require the Student Prosecutor or others involved in the hearing process to reveal the identity of the reporting student to the accused student.

3.5.2 Subsequent to the S.B.A. elections, the new S.B.A. President shall appoint the Student Prosecutor from the student body to investigate and prosecute any allegations of Honor Code violations made until a successor has been

appointed. This student shall not currently hold an elected position on the S.B.A. board. The Student Prosecutor shall investigate each allegation in any manner he or she sees fit, but must notify, in writing, the accused student. If an alleged violation could affect a course grade, the Student Prosecutor also shall notify the instructor of the nature of the allegation so that the instructor can provide information about any relevant course policies or exam instructions. To the extent possible, the Student Prosecutor shall not reveal the identity of the accused to the instructor.

- 3.5.3 If, at any time, the Student Prosecutor concludes that he or she has a conflict of interest that will compromise his or her objectivity in investigating or prosecuting an allegation of an Honor Code violation, the Student Prosecutor shall recuse himself or herself immediately, and so notify the S.B.A. President, the Chair and the Dean's Delegate in writing. Within forty-eight hours of receiving the Student Prosecutor's written notice, the S.B.A. President shall appoint a Special Student Prosecutor from the student body. The Special Student Prosecutor shall not currently hold an elected position on the S.B.A. board. The Special Student Prosecutor shall perform all the duties and responsibilities of the Student Prosecutor as required by the Honor Code, but only with respect to the allegation that gave rise to the conflict of interest. Upon the resolution of the allegation, the appointment of the Special Student Prosecutor relating to that allegation will terminate.
- 3.5.4 If the Student Prosecutor determines that an allegation is without merit, the matter is closed. In writing, the Student Prosecutor shall so notify the accused student, the individual who made the allegation, the Chair, and any instructor previously notified. If the alleged conduct implicates a course policy, the written notice shall set forth any relevant admission or facts.
- 3.5.5 If the Student Prosecutor determines that an allegation has merit, he or she shall deliver to the accused, the Dean's Delegate, and the Chair a written notice of each specific section of the Honor Code allegedly violated and a written statement of each specific act constituting any alleged violation.
- 3.5.6 If, upon notification pursuant to rule 3.5.4, the accused student informs the Student Prosecutor that he or she wishes to forgo a hearing and to make an admission of guilt, the Student Prosecutor will promptly convene a conference to facilitate an expedited resolution of any charge (an "Admissions Conference"). The Admissions Conference must be attended by the accused student, the Dean's Delegate, the Chair, and, if an alleged violation involves a course, the course instructor. The Admissions Conference can resolve a charge only if all participants of the conference agree to a resolution. If there is not unanimous agreement on a resolution

of any charge, that charge will proceed to a hearing. Individual students may only utilize an Admissions Conference once.

3.5.7 After receiving notice from the Student Prosecutor, and after either (1) the accused student has chosen to forgo an Admissions Conference, or (2) an Admissions Conference has not produced a unanimous agreement, the Chair shall:

3.5.7.1 Appoint three students from the Honor Council and ask the Dean's Delegate to appoint three faculty members. These six people comprise the Honor Council Board (the "Board") for the particular hearing. Members of the Board shall disqualify themselves from a hearing if, in their opinion, they are unable to make an impartial decision;

3.5.7.2 Meet with the accused, the student (if any) whom the accused has selected to gather and present evidence in support of the accused (the "Student Defender"), and the Student Prosecutor to compile a list of the names of all persons having information pertinent to any charge; and

3.5.7.3 Set a date, time and place for the hearing. The hearing must occur within two weeks of the date the Chair receives notice of a charge from the Student Prosecutor. At least 72 hours before the time set, the Chair shall give written notice of the schedule for the hearing to the accused, the Student Defender, the Student Prosecutor, and members of the Board. The Chair shall also inform the members of the Board about the nature of any charge.

3.6 Hearing Procedures

3.6.1 At least 48 hours before the time set for the hearing, the accused student shall select two students and two faculty members from the Board to sit in deliberation of any charge. If the accused student does not timely notify the Chair, the Chair shall randomly select two students and two faculty members to so sit. These four people shall constitute the Hearing Panel.

3.6.2 During the course of the proceedings, the accused shall have the following rights:

3.6.2.1 To select the Student Defender;

3.6.2.2 To attend and participate in any hearing, provided, however, if the accused refuses to appear or fails to appear without just cause, the Hearing Panel may proceed to hear and determine the matter;

- 3.6.2.3 To testify or to decline to testify, but if the accused declines to testify, that fact shall not be considered as evidence in support of any charge;
 - 3.6.2.4 To confront and cross-examine witnesses; and
 - 3.6.2.5 To present evidence and witnesses.
- 3.6.3 At least 48 hours before the hearing, the Chair shall issue a written summons to all persons identified under section 3.5.6.2 as potential witnesses. After receiving a summons, failure to appear as a witness without just cause (as determined by the Dean's Delegate) shall be a violation of this Honor Code, as defined in section 2.2. For good cause, a witness may appear electronically as long as the Hearing Panel can observe the witness's demeanor.
- 3.6.4 All Hearing Panel members must be present at the hearing. The Chair shall have the power to appoint an alternate if a Panel member cannot attend for just cause. The Chair shall arrange and monitor an audio record of the hearing. The recording shall remain the property of the Law School. The accused student may request a copy of the audio record.
- 3.6.5 The Dean's Delegate shall preside at the hearing, which should avoid unnecessary formality, but facilitate an orderly and respectful atmosphere. Hearing Panel members may question any witness. Subject to time limits that the Dean's Delegate may establish, the hearing may include opening statements. The hearing should continue in the following order:
- 3.6.5.1 Evidence in support of any charge;
 - 3.6.5.2 Evidence in rebuttal;
 - 3.6.5.3 Arguments;
 - 3.6.5.4 Factual findings and decision on whether the accused student has committed any violation charged. If the alleged conduct implicates a course policy or exam instructions, the Hearing Panel shall set forth in writing its factual findings, which can incorporate any relevant admission by the accused student. Even if the accused student confesses that a violation of the Honor Code occurred, only the Hearing Panel can reach a final determination of guilt;
 - 3.6.5.5 If the accused student is found not guilty, the matter is closed, and in writing the Chair shall notify the accused student, the individual who made the allegation, and any instructor, including any factual

findings by the Hearing Panel related to course policies or exam instructions;

3.6.5.6 If the accused student is found guilty, the Hearing Panel shall set forth its findings of fact and conclusions relevant to course policies or exam instructions and hear evidence in mitigation and aggravation;

3.6.5.7 Arguments on sanction;

3.6.5.8 Decision on sanction, which cannot reduce a grade, but may include one or more of the following non-exclusive options, all of which should be administered in a way designed to preserve confidentiality to the utmost extent possible:

3.6.5.8.1 Oral admonition – an oral statement from the Hearing Panel that the student has violated the Honor Code;

3.6.5.8.2 Written warning – a written statement from the Hearing Panel that the student has violated the Honor Code;

3.6.5.8.3 Academic Reprimand – a written statement from the Hearing Panel that the student has violated the Honor Code, with the statement becoming part of the student's permanent record at the Law School;

3.6.5.8.4 Probation – exclusion from participating in the activities of the Law School or University;

3.6.5.8.5 Restitution – a requirement that the student reimburse for injury or injuries caused;

3.6.5.8.6 Fine – a monetary fine, which shall become an obligation to the Law School that must be satisfied in order to receive a degree;

3.6.5.8.7 Work sanctions – service to the Law School community, which must be completed within the time set by the Hearing Panel;

3.6.5.8.8 Suspension – exclusion from classes for a semester or more; or

3.6.5.8.9 Expulsion – permanent exclusion from the Law School, though the sanction may include provision for readmission under specified circumstances.

3.6.5.9 The Chair shall provide written notice to the accused and to the Dean of the outcome. If a violation involves a course, the written notice shall contain the Hearing Panel's findings of fact and conclusions relevant to any course policies or grading.

3.6.6 All decisions of the Hearing Panel shall be made in private deliberations. Any attribution of guilt requires a unanimous vote based upon a standard of reasonable doubt. Decisions on whether the accused student has committed any violation charged shall be based only upon evidence received at the hearing. Sanctioning decisions must be unanimous and may consider sanctions in previous cases.

3.6.7 The Dean shall review the decision of the Hearing Panel. Absent unusual circumstances, the Dean will act within 14 days to approve or modify the decision.

3.6.8 The Dean shall give written notice of the final result to the accused student, the Student Prosecutor, the Hearing Panel, the Chair, and any instructor of any involved course. The notice shall include any findings of fact and conclusions relevant to course policies or exam instructions. If the individual who reported the incident did not receive a copy of the Dean's notice, the Chair shall inform that individual, in writing, of the final result.

4 PUBLIC NOTICE OF PROCEEDINGS AND REPORTING

4.1 Except as otherwise required by this Honor Code, court order, law, or Law School administration, all proceedings under the Honor Code shall be confidential.

4.2 Once an accusation is resolved finally, and without disclosing any names, the Chair shall distribute via e-mail to students and faculty and post in appropriate public places in the law building a notice containing only the following information:

4.2.1 the specific section of the Honor Code alleged to have been violated;

4.2.2 the decision of the Student Prosecutor, Admissions Conference, or Hearing Panel;

4.2.3 a brief summary of the underlying facts regarding the alleged violation; and

4.2.4 the final disposition.

- 4.3 Without disclosing any names and preferably within thirty days after the end of each semester, the Chair shall prepare a report for the students and the faculty that states: (a) the number of alleged violations reported during the semester; (b) the number of violations that were resolved in an Admissions Conference during the semester; (c) the number of alleged violations that proceeded to hearing during the semester; and (d) the number of violations that resulted in sanctions that the Dean affirmed. For each matter where a violation was resolved through an Admissions Conference or where the Dean affirmed a Hearing Panel determination that a violation occurred, the Chair shall describe the provision involved and summarize the underlying facts.

5 RATIFICATION AND AMENDMENT

- 5.1 This Honor Code shall be in force after approval by the students and faculty of the Law School. Approval by the students shall be in accord with then-current voting procedures of the S.B.A. Approval by the faculty shall be in accord with then-current voting procedures of the faculty.
- 5.2 Amendments to this Honor Code may be proposed by the Honor Council. Amendments shall be approved in the manner prescribed in section 5.1.
- 5.3 Any amendment to this Honor Code shall not become effective until the academic year following approval of the amendment.