

JUDICIAL BOARD  
POLICIES AND PROCEDURES  
CHARLESTON SCHOOL OF LAW  
Effective August 1, 2020  
Revised August 27, 2021

PLEDGE: On my honor, I pledge to abide by and support the Charleston School of Law Honor System as set forth in the Honor Code and Code of Conduct. As a law student, I shall not lie, cheat, steal, or tolerate those who do, and I submit to the jurisdiction of the Honor Court for adjudication of any matter within the scope of its authority.

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**I. Judicial Board**

**A. Responsibility and Jurisdiction**

- 1. The CSOL Judicial Board shall have the responsibility for prescribing and enforcing the CSOL Honor Code and Code of Conduct.
- 2. The CSOL Judicial Board shall have jurisdiction over all CSOL law students.
- 3. The CSOL Judicial Board shall have concurrent jurisdiction with the CSOL Administration over enforcement of Administrative Directives referred to the Judicial Board as an Honor Code or Code of Conduct violation.

**B. Constitution of the Judicial Board**

- 1. The CSOL Judicial Board shall be comprised of sixteen (16) current CSOL law students and five (5) members of the CSOL faculty and administration, with at least 3 of those members holding faculty positions.
  - a. Student Members shall be made up of no more than eight (8) 3Ls and eight (8) 2Ls.
- 2. The Dean will appoint the faculty and administration members.
- 3. The administration members will be chosen from those who hold the position of Assistant Dean or higher.
- 4. Faculty and administration members shall serve two-year terms but are eligible for re-appointment.
- 5. Adjunct faculty members will not be eligible to serve on the Judicial Board.
- 6. Students who wish to apply to be members of the Judicial Board must submit an application to the Executive Board the first week of classes in the fall semester of the academic year

- or at another designated time by the Executive Board.
7. Students who satisfy the following criteria are eligible to apply.
    - a. Any student who has successfully completed at least 27 credit hours.
    - b. Any student who is in good standing academically and has at least a 2.7 cumulative GPA.
    - c. Any student who is not currently under investigation for an honor code or code of conduct violation at the Charleston School of Law.
    - d. Any student who has not been found guilty of an honor code or code of conduct violation at the Charleston School of Law.
  8. After the Executive Board has verified that the applicants satisfy the above requirements, these applicants must receive prescribed training on the issues of violations of the Honor Code and Code of Conduct, how to conduct an investigation, how to participate in the hearing process that protects the student and promotes accountability; and other elements of law.
  9. Upon completion of the training, the Executive Board will make a list of the applicant names available to be voted on by way of general student election. Those listed applicants may not engage in any type of campaigning for a position on the Judicial Board.
    - a. 2L applicants will be elected by current 2L students.
    - b. 3L applicants will be elected by current 3L/4L students.
  10. The students who receive the highest number of votes corresponding to the number of open seats on the Judicial Board will be elected to the Judicial Board.
  11. The names of the new members of the Judicial Board will be publicized to the law school community.
  12. Student members shall serve until either their graduation, resignation, or are otherwise disqualified from holding the position.
  13. In the event of exigent circumstances, such as student member resignation, student member disqualification, or early graduation, the Executive Board may appoint student members to the Judicial Board to ensure a full Judicial Board is composed.

## **II. Executive Board**

- A. The Executive Board of the Judicial Board shall be comprised of one (1) faculty member of the Judicial Board, one (1) administration member of the Judicial Board, and one (1) student member of the Judicial Board.
- B. The faculty member and administration member of the Executive Board shall be appointed by the Dean from the appointed members of the Judicial Board.
- C. The student member of the Executive Board will be elected by the body of student members of the Judicial Board.

## **III. Allegations of Violation**

- A. An allegation of violation of the Honor Code or Code of Conduct shall be in writing, signed by the complainant, and submitted to a member of the Executive Board of the Judicial Board.
- B. The allegation shall specify with reasonable particularity the conduct claimed to constitute a violation.
- C. The Executive Board may recommend to the Dean the imposition of interim and/or protective or remedial measures prior to any finding or determination of an allegation. In matters where there is a serious or immediate threat to the CSOL community, CSOL may issue a timely warning or emergency notification to the community of the threat. Interim measures include, by way of example only, a change in class schedule, academic support and/or no-contact orders.

#### **IV. Initial Review**

- A.** Upon receipt of an allegation, the Executive Board shall promptly complete an initial review of the allegation to determine whether the facts alleged, when construed in the light most favorable to the complainant, warrant an Honor Code or Code of Conduct proceeding.
- B.** If, upon completion of the initial review, the Executive Board determines that the allegation fails to identify any behavior that is prohibited by the Honor Code or Code of Conduct, or that because the alleged violation is so minor or trivial in nature that a proceeding is not justified, the allegation shall be terminated and the Executive Board shall advise the complainant and any faculty member who may have been affected by the alleged violation, of said termination.
- C.** It is the policy of CSOL, that any allegation that is terminated at the initial review stage does not constitute a disciplinary proceeding of any kind, nor an accusation of violation of the Honor Code or Code of Conduct. Such terminated allegation will not be recorded in a student's permanent file and will not be reported as part of a state Bar Character and Fitness review process.
- D.** If, upon completion of the initial review, the Executive Board determines the acts alleged by the complainant warrant an Investigation, the Executive Board shall provide prompt written notice of the allegation, including the nature of the violation alleged, to the law student against whom the complaint was filed. The identity of the complainant shall not be disclosed to a law student who is the subject of the allegation until a charge is filed with the Honor Court.
- E.** The Executive Board shall appoint a three-member panel, the Investigative Panel, to investigate the allegation.

#### **V. Admissions & Expedited Resolution**

##### **A. Conscientious Admissions**

A student who voluntarily admits misconduct before gaining any knowledge that someone else may suspect that student of an Honor Code or Code of Conduct violation, shall be entitled to have this admission considered as a mitigating factor relevant to the determination of appropriate sanctions. A student who has the courage and integrity to come forth with a good-faith admission has reaffirmed personal commitment to honor which shall be considered in determining the appropriate sanction(s).

Any student interested in making a conscientious admission should contact the Associate Dean of Students immediately. Any such admission shall be made in a written statement fully acknowledging any and all misconduct. The statement should include a clause attesting to the fact that the student admitted all acts before being approached by anyone concerning the matter.

##### **B. Other Admissions**

Even an admission of wrongdoing made after a student has been accused of misconduct shall have some mitigating value. The post-accusation admission shows an acceptance of the wrongful nature of a student's conduct which shall be considered in determining the appropriate sanction(s).

##### **C. Expedited Resolution of Admissions**

Students who have been alleged to have violated the Honor Code or Code of Conduct and who wish to admit the allegations and take responsibility for their actions are encouraged to do so at any and all stages of the process set forth herein.

1. Admissions offered before an investigation has occurred may, at the discretion of the Executive Board, warrant a sufficient investigation to determine any additional facts relevant to the admission whereafter the admission shall proceed to the sanctions phase set forth hereinbelow.
2. Admissions offered after an investigation has occurred shall proceed to the sanctions phase set forth hereinbelow.

**VI. Investigative Panel**

- A. The faculty member of the Panel shall chair the Investigative Panel.
- B. No Investigative Panel member shall serve on the Panel in any matter where s/he will be a witness to any matter at issue, cannot be impartial, or has a personal interest in the outcome, which would create a conflict of interest or the appearance of impropriety.
- C. A recused member of the Investigative Panel will be replaced by another member of the Judicial Board by appointment of the Executive Board.
- D. No law student on academic probation shall serve as a member of the Investigative Panel.
- E. No law student who is currently charged with a violation of the Honor Code or Code of Conduct or who has been found by the Honor Court to have violated either Code shall serve as a member of the Investigative Panel.
- F. Any law student who is the subject of an Honor Court proceeding may challenge the service of any student member of the Investigative Panel for reasonable cause.
- G. Challenges shall be in writing and delivered to the Executive Board without undue delay.
- H. Challenges shall be decided by a simple majority of the Executive Board.
- I. Challenges for reasonable cause shall be sustained only upon a finding that the student member of the Investigative Panel whose service is challenged cannot be impartial, has a conflict of interest, or would create the appearance of impropriety by participating in the proceeding.
- J. The Executive Board shall rule in writing on all challenges.
- K. All rulings on challenges for reasonable cause are non-appealable.
- L. A recused student member of the Investigative Panel will be replaced by the appointment of another member of the Judicial Board.
- M. The faculty member of the Investigative Panel will not participate in the Honor Court Hearing.

**VII. Investigation of Allegations**

- A. The Investigative Panel shall conduct an investigation.
- B. The Investigative Panel shall have the power to take statements in the investigation and collect evidence.
- C. All law students have a duty to cooperate in Honor Court Investigative Panel investigations.
- D. At the outset of the investigation, the charged law student has the right to assistance from one member of the current student body, excluding any student member of the Judicial Board.
- E. Upon completion of the investigation, the Investigation Panel shall create an investigation report, which must summarize the factual findings of the investigation. The investigation report shall specify the identity of the complainant(s), the portion or portions of the Codes alleged to have been violated, i.e., the violations alleged, and the conduct alleged to constitute the violation, including the date, place, and circumstances of the alleged violation and all evidence collected in the course of the investigation.
- F. The Investigation Panel shall submit a written investigative report to the Executive Board within 14 days after appointment unless the Executive Board has granted a reasonable

extension of time. The report should make a recommendation whether or not a formal charge should be issued.

**VIII. Determination of Formal Charge(s)**

- A.** After the investigation and based upon the Investigative Panel recommendations in its investigation report, the Executive Board will decide whether to issue a formal charge.
  - 1.** If, after reviewing the investigation report, the Executive Board concludes that probable cause of a violation is lacking, a formal charge will not be issued, the allegation shall be dismissed, and the complainant and student against whom the allegation has been filed shall be notified of the dismissal.
  - 2.** If, after reviewing the investigation report, the Executive Board concludes that probable cause of a violation exists, it shall issue a formal charge of violation. The formal charge shall specify the identity of the complainant(s), the portion or portions of the applicable Code(s) alleged to have been violated, and the conduct alleged to constitute the violation, including the date, place, and circumstances of the alleged violation.
- B.** The Executive Board shall promptly provide the law student charged with a copy of such charge.
- C.** Upon the issuing of a charge, the Executive Board shall appoint a five-member court, the Honor Court, to adjudicate the charge.
- D.** The existence of a pending charge against a law student otherwise entitled to graduate from CSOL shall not prevent the law student's participation in graduation ceremonies; however, no law student against whom a charge is pending shall be conferred a degree.
- E.** The Executive Board is responsible for filing the initial allegation, the charge, and any information regarding the disposition of a matter to the applicable law student's permanent file maintained in the Dean of the Law School's office. and any information regarding the disposition of a matter to the applicable law student's permanent file maintained in the Dean of the Law School's office.

**IX. Honor Court**

**A. Honor Court Responsibilities**

- 1.** The five-member Honor Court will be composed of 2 (two) faculty members of the Judicial Board and 3 (three) student members of the Judicial Board as appointed by the Executive Board.
- 2.** One of the faculty members will serve as Chief Justice. The Executive Board will appoint the Chief Justice.
- 3.** It is the responsibility of the Honor Court to interpret the Honor Code and Code of Conduct.
- 4.** It is the responsibility of the Honor Court to interpret these Policies and Procedures. Nothing contained in the Honor Code or Code of Conduct shall be construed as a limitation of the Honor Court's ability to interpret the Codes. The Honor Court shall have the power to interpret all terms, phrases, determinations of sanctions, and overall meaning of the Codes.
- 5.** Nothing in this paragraph shall limit the ability of the Dean or any other member of the faculty or administration to interpret the Honor Code or Code of Conduct in the performance of their duties to CSOL.
- 6.** Any justice shall recuse her/himself from a proceeding where s/he will be a witness to any matter at issue, cannot be impartial, or has a personal interest in the outcome that would create a conflict of interest or the appearance of impropriety.

7. A recused justice will be replaced by another member of the Judicial Board upon appointment by the Executive Board.
8. No student member of the Judicial Board on academic probation shall serve as a justice.
9. No student member of the Judicial Board who is currently charged with a violation of the Honor Code or Code of Conduct or who has been found by the Honor Court to have violated either Code shall serve as a justice.
10. Any law student who is the subject of an Honor Court proceeding may challenge the service of any student justice for reasonable cause.
11. Challenges shall be in writing and delivered to the Chief Justice without undue delays.
12. Challenges shall be decided by a simple majority of the voting justices; the challenged justice shall not vote.
13. Challenges for reasonable cause shall be sustained only upon a finding that the justice whose service is challenged cannot be impartial, has a conflict of interest, or would create the appearance of impropriety by participating in the proceeding.
14. The Court shall rule in writing on all challenges.
15. All rulings on challenges for reasonable cause are non-appealable.
16. A sustained challenge for reasonable cause, which leads to a vacancy will be filled by another member of the Judicial Board appointed by the Executive Board.

**B. Scheduling Conference**

1. After the Executive Board issues a formal charge, the Chief Justice of the Honor Court shall schedule a conference and provide notice of the conference to the Investigative Panel, the Honor Court, and the law student charged.
2. At the conference, the Chief Justice may:
  - a. Advise the law student of the range of sanctions in the event the Honor Court finds a violation including the mitigating impact of an admission;
  - b. Permit the law student to advise the Honor Court of her/his intention to admit or deny the charge(s). Any statement of intention shall not be binding unless otherwise intended by the student charged.
    - i. Formal admissions shall proceed to the Sanctions stage set forth hereinbelow.
  - c. Provide the law student with a list of names of possible witnesses and copies of any documents likely to be presented at the hearing;
  - d. Schedule the Honor Court Hearing;
  - e. Issue pre-hearing orders concerning the disclosure of witnesses and exhibits;
  - f. Provide notice to the law student that he/she must provide a list of witnesses and documents to the Chief Justice no less than three (3) days before the scheduled date of the hearing;
  - g. Permit action on any other matters in the Chief Justice's discretion.
  - h. If the student charged admits guilt to the charge(s), the Honor Court will proceed to the Sanctions Phase and forego the Honor Court Hearing.

**X. Honor Court Hearings**

**A. Confidentiality**

Hearings shall be closed to the public and conducted under conditions designed to ensure confidentiality.

**B. Recordings**

1. Hearings shall be recorded verbatim.
2. The law student charged has the right, at her/his expense, to have the proceedings recorded in a manner other than that provided by the Honor Court.

**C. Notice of Witnesses and Evidence**

The law student charged has the right to:

- a. Notice of the names of all persons the Investigative Panel intends to call as witnesses at the Honor Court Hearing;
- b. Notice of the names of all persons known to Investigative Panel to have personal knowledge of the events at issue;
- c. Production of all tangible evidence Investigative Panels intend to offer at the hearing;
- d. Notice of the existence and nature of all potentially exculpatory evidence discovered by Investigative Panel.

**D. Right to Assistance**

The law student charged has the right to represent himself/herself or appoint another member of the current student body excluding any student member of the Judicial Board to represent him/her during the investigation and Honor Court Hearing to present witnesses and evidence and to confront and examine any opposing witness.

**E. Opening and Closing Statements**

At all Honor Court hearings, the parties or their representatives have the right to make opening and closing statements. The student members' Investigate Panel shall have the right to make the first opening statement and the last closing statement.

**F. Honor Court Hearing**

- 1. The Honor Court shall proceed, offering reasonable opportunity for the full presentation of the charge and the defense.
- 2. The Honor Court shall not be bound by statutory or common law rules of evidence, other than applicable rules of privilege.
  - a. All evidence must be relevant to be admissible. All relevant evidence is admissible unless otherwise proscribed herein.
  - b. Any and all testimony shall be heard by the Honor Court without objections, with one exception: A party may object to testimony given, or about to be given, but only on the ground that *it is not reliable*. From there, the Honor Court shall hear the testimony and note the objection. During deliberation, the Honor Court, as a whole, shall determine the reliability of the evidence.
  - c. Character evidence is only admissible in favor of the law student charged. Only one-character witness may be proffered by the law student charged who is subject to cross-examination.
  - d. The character of witnesses, including the law student charged, may not be attacked with evidence of character or otherwise.
- 3. The Honor Court may consider any evidence having probative value, preserving the opportunity of the law student charged to confront adverse evidence. Still, it may exclude irrelevant or unduly repetitious evidence.
- 4. The law student charged, or a witness may refuse to provide evidence on the ground that doing so would significantly expose her/him to the threat of criminal prosecution.
- 5. The Honor Court may draw inferences from such a refusal, but the inferences shall not be the sole basis for a finding of violation.
- 6. If the law student charged fails to appear at the Honor Court Hearing after reasonable notice, the Honor Court in its discretion may hold the hearing in the student's absence.
- 7. The student members of the Investigative Panel shall have the burden of proving, by clear and convincing evidence, that the law student has committed the violation.

**G. Honor Court Findings and Sanctions Phase**

1. Following closing arguments, the Honor Court shall vote upon its findings in executive session.
2. A majority vote of the Honor Court is required for a finding of violation.
3. If the Court finds a violation, it shall continue to the Sanctions Phase.

**XI. Sanctions**

**A. Sanctions Phase**

1. If the Court finds a violation or in cases where a student has submitted an admission, the Court shall consider the question of imposition of Sanctions as defined herein.
2. Within seventy-two (72) hours of a guilty finding or within seventy-two (72) hours of notice of the confirmed acceptance by the Executive Board of an admission, the Investigative Panel and the law student may present arguments related to the question of sanctions by written brief, not to exceed five (5) pages.
3. A law student may request a hearing in the Sanctions brief and such hearing requests shall be liberally granted absent extraordinary circumstances. If a Sanctions hearing is requested, it should be scheduled as soon as is practicable.
4. Following the Sanctions briefing deadline, or the completion of a Sanctions hearing, the Honor Court shall then vote on sanctions in executive session and provide written notice thereof within seventy-two (72) hours to the Executive Board and law student charged.
5. A majority vote of the Honor Court is required to impose a sanction.
6. If the law student has been found to have violated the Honor Code or Code of Conduct on a prior occasion, the opinion setting forth the circumstances of that violation and the sanction(s) imposed shall be admissible in determining the appropriate sanction for the subsequent violation.

**B. Imposition of Sanctions**

1. Upon receipt of written sanctions brief(s) or following the Sanctions Hearing, the Honor Court may impose or recommend the sanctions listed in this section, either singularly or in combination, in furtherance of the objectives of the Honor Code and Code of Conduct.
2. When imposing sanctions, the Honor Court may consider any previous Honor Code or Code of Conduct violations committed by the same law student.
3. Honor Code or Code of Conduct sanctions shall be independent of any grade or credit sanctions imposed by the instructor in the affected course. The instructor in a course affected is solely responsible for determining the appropriate grade or credit sanctions for academic dishonesty or violation of course requirements, and such instructor sanctions do not require a formal finding that the Honor Code or Code of Conduct was violated.
4. A law student who fails to comply with the terms of a sanction shall be subject to further sanctions.

**C. Reprimand**

1. Written notice prepared by the Honor Court, separate and distinct from the Honor Court's written opinion that a law student violated this Code may be imposed.
2. The Chief Justice shall deliver any reprimand issued by the Honor Court to the reprimanded student, Executive Board, and the Associate Dean of Students.
3. The reprimand shall be placed in the law student's permanent file maintained by the Deans' Office.
4. In addition, the Honor Court may direct the following:
  - a. That relevant information from the reprimand be placed on the law student's CSOL transcript maintained by the CSOL Registrar; and/or

- b. That relevant information from the reprimand is published to the students, faculty, and staff of CSOL.

**D. Public Service**

Service to the public as specified by the Honor Court may be imposed.

**E. Remedial Education**

Education or training intended to improve the law student's understanding of and compliance with rules of ethical conduct may be imposed.

**F. Restitution**

An order to repair or replace any property misappropriated or defaced, or to reimburse the owner of the property for any loss may be imposed

**G. Probation**

1. Suspension or withholding of imposition of any sanction pending a probationary period, the terms of which shall be within the discretion of the Honor Court may be imposed.
2. Upon the successful completion of the period of probation, the Honor Court shall lift the sanction.

**H. Disciplinary Suspension**

1. The Honor Court may recommend to the Dean the sanction of exclusion by way of disciplinary suspension from any or all CSOL courses, exams, and professional and/or social activities for a specified period, either immediately or at the conclusion of the academic term or semester, may be imposed.
2. Duration will be set forth in the terms of the sanction and imposed by the Dean after the appeals period.

**I. Expulsion**

1. The Honor Court may recommend to the Dean the sanction of permanent expulsion from CSOL.
2. The final decision will be made by the Dean after the appeals period.

**J. Denial of Degree**

1. The Honor Court may recommend to the Dean the sanction of denial of the award of the Juris Doctor or LLM degree, whether or not the law student may have otherwise satisfied the requirements for the degree.
2. The final decision will be made by the Dean after the appeals period.

**XII. Post-Hearing Matters**

**A. Opinions**

1. The Chief Justice shall appoint a member of the Honor Court to write an opinion supporting the Court's decision.
2. Any member of the Honor Court may file a dissenting or concurring opinion.
3. The opinion, along with any concurrences or dissents, shall be made a part of the record of the case.
4. Opinions shall not be made public except as provided in Section X. However, opinions may be disseminated as desired by the law student who is the subject of the opinion.
5. Opinions shall not be used as precedent in subsequent Honor Court determinations.

**B. Record of Determination**

Following the hearing, the Chief Justice shall place a copy of the opinion, along with any concurrences or dissents, in the law student's permanent file maintained in the Dean's Office.

**C. Appeals**

1. The Honor Court's finding of violation(s) and the determination of sanctions(s) are final

- subject only to an appeal by the law student.
2. The law student may appeal the Court's finding of violation(s) and the sanction(s) by delivering a written notice of appeal to the Dean or her/his designee within seven (7) calendar days of the date the student is informed of the Honor Court's determination.
  3. An appeal shall be determined by a panel of three (3) members chosen from among the tenure-track, long-term contract, and tenured faculty appointed by the Dean for the purpose of hearing the appeal.
  4. Faculty members who participated as members of the Judicial Board or who were complainants in the matter are not eligible to hear the appeal.
  5. The law student may present arguments in writing or may appear, in person or by a representative, prior to the deliberations and vote by Appellate Panel.
  6. The Appellate Panel shall reverse a finding of violation only if it was against the manifest weight of the evidence or violated any procedural requirement set forth herein, which resulted in prejudice to the law student. The Appellate Panel may reverse or modify a sanction imposed under Section XI subsections A through F above or recommended under Section XI subsections G through I above if the Appellate Panel deems it was not appropriate under the circumstances.
  7. The decision of the Appellate Panel on anything other than sanctions imposed under Section XI subsections G through I is a final determination.

### **XIII. Confidentiality and Record-Keeping**

#### **A. Confidentiality of Information**

1. All persons involved in Court proceedings, except the law student charged, shall treat all allegations, investigations, statements, hearings, findings, and opinions in connection with Court proceedings as confidential, except as required or permitted by law; they shall disclose information concerning the proceedings to only those persons to whom disclosure is reasonably necessary to further the proceedings.
2. The law student charged with a violation of this Code may disclose the charges against her/himself and the findings based on those charges.
3. Communications among CSOL staff, administration, and faculty are outside of the scope of this section.

#### **B. Honor Court Records & Postings**

1. The Deans' Office shall serve as the repository for the official Court files of all proceedings under this Code.
2. Files shall be kept for a minimum of five years following the conclusion of the proceeding.
3. The Court file shall consist of all written notices, pleadings, motions, briefs, opinions, and other communications lodged with or prepared by the Court as part of the proceedings against a student charged with a violation of this Code.
4. At the beginning of each semester, the Associate Dean of Student Affairs shall, except in cases when an appeal is pending, post in a conspicuous location at CSOL a list of:
  - a. violations reported
  - b. violations found
  - c. violations that were referred to the Honor Court
  - d. a list of sanctions imposed.
5. The names of the student violators will not be included.

### **XIV. Associate Dean of Students**

The Associate Dean of Students will be available to assist any student with issues reported to the CSOL

Counsel or Honor Court, including during, investigation, hearing, or appeal. Additionally, the Associate Dean of Students is available to provide advisory information about the Court policies and proceedings and interpretation of this Code.

**XV. Authority, Effective Date and Amendments to Code**

- A.** The faculty and Dean of the School of Law must approve all changes to the Honor Code, Rules, or Bylaws.
- B.** Unless an amendment provides otherwise, amendments to this Code shall take effect after approval by the faculty and on the date the Dean signifies her/his approval by signing the amended Code.