

The Drake University Law School Code of Student Conduct

Rev. 04/04

A. Preamble

As future members of the legal profession, students of Drake University Law School are expected to maintain the high ethical standards of the profession. Accordingly, it is expected that each student will scrupulously regard the rights of others and will observe high ethical standards of both personal and professional conduct. Law students are expected to assist in maintaining the integrity and competence of those studying to enter the legal profession and to avoid even the appearance of impropriety. Each student is admitted to Drake University Law School on the condition that his or her conduct meets the standards established by the law school. If in the opinion of the Faculty, Administration, Staff or the Student Body, the conduct of a student fails to meet these standards, he or she may be subjected to discipline proceedings in accordance with this Code.

B. Misconduct

Offenses listed in this section are strict liability offenses, unless otherwise specified. A law student shall not engage in unprofessional conduct, including but not limited to:

1. Making a material misrepresentation or omission to a member of the faculty or administration or to law school employees respecting law school admission, financial aid, academic credit or standing, any matter concerning enforcement of this Code, or to gain an advantage in pursuit of employment.
2. (a) Plagiarism - Submitting plagiarized work in any law school activity, including but not limited to competitions and pursuit of employment. The term "plagiarized work" shall mean any use of eight (8) or more consecutive words without the use of quotations and a citation to the source of such material, or any substantial reliance on the ideas or words of another without proper attribution. A student's use of form pleadings or other form documents, or materials from a document or brief bank at the Legal Clinic in representing a Clinic client, does not constitute a violation of this section unless prohibited by the instructor.

(b) Wrongful collaboration – Collaborating with another person in violation of an instructor's policy prohibiting such conduct in work being submitted for academic credit.
3. Offering for academic credit work previously offered by that student for academic credit or work simultaneously being offered for credit to more than one instructor, except as authorized by each instructor.
4. Falsely marking or otherwise misrepresenting the student's own presence or absence or the presence or absence of another student on attendance sheets or other documents presented to any member of the faculty or administration or to any law school employee.

5. Signing another's name or allowing another to sign one's name in any manner that can affect academic credit, except as permitted by the instructor.
6. Forging, altering, or using school documents, records, or identification cards with intent to defraud.
7. Cheating or other similar dishonesty in connection with any law school activity, including pursuit of employment.
8. Intentionally disrupting the classroom.
9. Violating any examination procedure which relates to the integrity of the examination process or engaging in impermissible conduct during exams, including but not limited to,
 - (a) intentional or reckless conduct of any kind that breaches the anonymity of examination grading;
 - (b) knowingly retaining notes taken during an examination, or retaining or making a copy of the examination, except as expressly authorized in the instructions to the examination, by the instructor, or by a person administering the examination;
 - (c) discussing the contents of an examination with a student who is scheduled to but has not yet taken the examination;
 - (d) possessing or consulting, during an examination, books, papers, notes, or data of any kind, except as authorized by the instructor;
 - (e) securing, giving, or exchanging any unauthorized information about the contents of or answers to an examination in advance of or during the examination, including the viewing of the examination paper of another student while taking the examination;
 - (f) talking in any room during an examination, except as authorized by the instructor or other individuals administering the examination or except for other justifiable reasons;
 - (g) reading examination questions or writing answers to any examination except during the authorized time for taking the examination or except as authorized by the instructor;
 - (h) taking an examination outside the room(s) authorized for that purpose;
 - (i) taking an examination for another student or permitting one's examination to be taken by another;
 - (j) invading the administrative security maintained for the preparation and storage of examinations, unless such invasion was unintentional and the Associate Dean or Registrar is promptly notified;
 - (k) voluntarily creating a distraction during an examination after having been asked to stop by those administering the examination; or
 - (l) otherwise obstructing the administration of any examination.
10. Committing theft at the law school or at any other site.
11. Unreasonably interfering with the appropriate use of the library or the legal clinic by other members of the law school or university community, including but not limited to, the following misconduct:

- (a) Hiding or damaging library or legal clinic materials or property;
- (b) The unauthorized removal of materials or property from the library or legal clinic;
- (c) The fraudulent use of law school or legal clinic equipment or facilities, including the unauthorized use of WESTLAW or LEXIS for clerking or other purposes not permitted under Drake's educational use contract;
- (d) The intentional damaging of library, legal clinic, or student computer software or hardware, such as by adding a virus or deleting a file; or
- (e) Violating other library rules to the detriment of another library user, such as by refusing to return library materials when requested if they are needed by another patron after the due date.

12. Intentionally or recklessly damaging or defacing property of the law school or university or of any member of the law school or university community.

13. Acting contrary to general principles of acceptable conduct to the detriment of the law school or any member of the law school or university community, including, but not limited to, the following:

- (a) Assaulting, threatening, harassing, stalking, or sexually harassing, as defined by the Drake University Code of Student Conduct, or the Drake University Policy Concerning Community, Diversity, Freedom of Expression, and Harassment;
- (b) Engaging in conduct which threatens or endangers the health or safety of any person on school premises, or at school-sponsored or school-supervised functions at any place;
- (c) Knowingly or recklessly interfering with the work performance of a member of the law school or university community;
- (d) Engaging in unlawful discrimination on the basis of sex, race, color, religion, creed, national or ethnic origin, age, disability or veteran or veteran disability, or discrimination on the basis of sexual orientation, as a member of any group funded by the law school, Student Bar Association or other entity recognized by the University, except when such discrimination may be required by Federal or State law or regulations. Membership or leadership requirements related to the fundamental character of the group shall not be regarded as unlawful discrimination.

14. A student, knowing of facts from which a reasonable person would conclude that there has been a violation of the Code, shall promptly report it in person to the Associate Dean, and failure to do so shall constitute misconduct. A student should also report any suspected violation. This reporting obligation does not apply to information that is privileged by virtue of the attorney-client privilege.

15. Interfering with the enforcement of this Code. Conduct in violation of this rule includes, but is not limited to, the following:

- (a) Accusing another student of a violation of this Code knowing that the accusation is false;
- (b) Intimidating, restraining, retaliating against, coercing, or bribing another student with respect to reporting an alleged violation of this Code or participating in an Honor Board proceeding;
- (c) Refusing reasonable cooperation in an investigation of an alleged violation of this Code;
- (d) Failing, without a reasonable excuse, to appear and give testimony before the Honor Board, the Associate Dean, or faculty;
- (e) Misrepresenting or failing to disclose material facts to the investigator, the Honor Board, the Associate Dean, or faculty;
- (f) Failing to comply with an order issued under this Code, unless an appeal from that order is pending;
- (g) Tampering with evidence relevant to a Conduct Code charge.

16. Attempting or conspiring to violate this Code constitutes misconduct.

17. Violating published law school regulations or the Drake University Code of Student Conduct.

18. Engaging or having engaged in any conduct that, under the laws of the United States or the state where such conduct occurred, constitutes a crime punishable by incarceration, whether or not the student is charged in a criminal court and whether or not the punishment of incarceration is actually imposed. If such conduct occurs in a foreign nation, it is misconduct under this code if it constitutes a crime punishable by incarceration both (1) in that foreign nation and (2) under the laws of the United States or any state.

19. Engaging in any other conduct that would render a student unfit to practice law, including violations of any state's rules of professional responsibility while acting under student practice rules in that state.

C. Special Procedures for Charged Criminal Misconduct

When a student is charged with criminal misconduct, as defined in Section B(18) of this Code, the following special procedures shall be followed. Section E(3) and (4) of this Code will also apply unless this section provides otherwise.

1. Notice of Charge of Criminal Misconduct

If criminal charges are filed in any state, federal or foreign court against a student for criminal misconduct as defined in Section B(18) of this Code, such charges must be reported to the Associate Dean immediately or as soon as possible after the student's enrollment occurs. Failure to comply with this reporting provision constitutes misconduct under the Code.

2. Suspension of Student Charged with Criminal Misconduct

(a) If a currently enrolled student is so charged, the student shall be suspended from the Law School, unless for good cause shown, pending resolution of the criminal charge in court. In any event, suspension shall occur upon conviction. Suspension shall commence at the end of the semester during which the student is charged or convicted, although the Dean may require that the suspension take place immediately if it is the student's last semester in Law School or for other extraordinary circumstances.

(b) The student may request a hearing on the suspension within 15 days of notification of suspension or intent to suspend. Such hearing shall be held before a faculty hearing panel of three faculty members, whose decision on suspension shall be final.

3. Determination of Complaints of Criminal Misconduct, When Charged and When Uncharged in Criminal Court

(a) If a student is convicted in court of such criminal charges (including a plea of guilty or no contest), such conviction shall constitute irrefutable evidence of such misconduct. If the student applies for readmittance to the Law School following such a conviction, the application shall be reviewed by the Admissions Committee. The Admissions Committee may grant readmittance, deny readmittance, or grant readmittance subject to conditions or with imposition of other sanctions. Other than by the ordinary process for faculty review of Admissions Committee decisions, the determination of the Admissions Committee shall be final. The student shall have no right of appeal from the Admissions Committee decision.

(b) If the criminal misconduct charge is resolved other than by conviction, the student may apply to the admissions committee for readmission or to continue in school if the student has not been suspended under Section C(2). The admissions committee may grant the application or may refer the matter to a faculty hearing panel of five faculty members to determine by clear and convincing evidence whether the student engaged in criminal misconduct as defined in Section B(18) or any other misconduct under this Code. In addition to witnesses, if available in person or by affidavit, the faculty hearing panel may rely upon the transcript of the court proceedings, when available. The faculty hearing panel shall not be bound by the evidentiary rulings of the criminal court and may, as it determines to be fair and appropriate, consider evidence that was not admitted at the trial. The faculty hearing panel may grant readmittance, deny readmittance, or grant readmittance subject to conditions or with imposition of other sanctions. The faculty hearing panel's decision shall be final unless the student appeals to the faculty in writing within 30 days of the date of the hearing panel's decision. In the event

of a timely appeal, the faculty will take action on the matter based upon the record before the faculty hearing panel.

(c) Uncharged criminal misconduct shall be handled by the procedures set out in Section E of this Code.

D. Applicability and Interpretation of this Code

1. Applicability

This Code applies to all students of the Drake University School of Law.

2. Other Discipline Permitted

(a) Minor Offenses

This Code shall not be construed to limit the power or duty of any member(s) of the law school administration, faculty, library, or student organizations to discipline students for a transgression of any law school or course rule or regulation or of any organizational guidelines that do not constitute misconduct under this Code.

(b) Offenses Involving Courses

Nothing in this Code shall prevent any faculty member from enforcing standards and rules established for the purpose of evaluating students' academic performance. Nor shall this Code limit any faculty member's power to deny, reduce, or cancel grades or preclude a student from sitting for an examination for any class for failure to adhere to the faculty member's rules, notwithstanding that the student's conduct is also governed by this Code or that the student is acquitted of any alleged violation.

(c) Reporting Conduct

Nothing in this Code shall affect the responsibility of any member of the law school community to report misconduct to the character and fitness committees of any bar association or to any other proper authority.

(d) Offenses Involving Student Organizations

Nothing in this Code shall prevent any organization from enforcing standards and rules established for the purpose of evaluating a member's organizational performance. Nor shall this Code limit internal organizational disciplinary procedures, notwithstanding that the student's conduct is also governed by this Code.

3. Time Periods

The calculation of time periods shall not include law school holidays or the day on which the time period begins to run, unless otherwise specified. The calculation shall include weekends; however, if the end of the period is on a weekend, the time shall be extended to the next business day. A period of time fixed by this Code for the doing of an act shall be shortened on the written application of the accused student.

4. Definitions

- 1) "University community" means the faculty, staff, and students of Drake University, as well as visitors to the Drake campus.
- 2) "Agent" means any person designated by the student to represent the student's interests.
- 3) "State" means any state of the United States, the District of Columbia, and any United States territory.

E. RULES FOR DISCIPLINE PROCEEDINGS

1. Discipline Proceedings Shall Be Administered By A Faculty-Student Honor Board:

- (a) The Honor Board shall have five members: two from the full-time faculty and three students in good standing. One of the faculty members shall serve as chair. The chair shall determine the date, time, and place of meetings of the Honor Board, preside over all Honor Board meetings and perform such other duties as hereinafter specified.
- (b) The student members shall be elected by the Student Body for one-year terms. There shall be a representative from each law school class (1L, 2L, 3L).
- (c) The faculty members shall be appointed by the Faculty Committee for one-year terms.
- (d) No member of the Honor Board may participate in an Honor Board proceeding if disqualified because of conflict of interest or other reason. Each member shall generally have responsibility for determining whether to disqualify himself or herself from participation. However, a majority of the other members of the Honor Board may determine that a particular member shall not be permitted to participate.
- (e) In the event of disqualification or other inability to serve: if the vacancy is a faculty member, the Faculty Committee shall appoint a replacement; if the vacancy is a student, the Student Bar Association President shall appoint a replacement from the same class.

2. Initiation Of Discipline Proceedings

- (a) Any member of the faculty, administration, staff, or student body may initiate a discipline proceeding against a student for misconduct by filing a complaint charging misconduct with the Dean or Associate Dean of the law school.
- (b) The complaint may be orally presented initially but prior to investigation shall be in writing, identify the complainant and state in plain language and with reasonable particularity the date, place and act complained of, and if possible, identify the standard of conduct which has been violated. The written complaint shall be presented to the Dean's Office within thirty (30) days of the discovery of the alleged act or acts complained of or, if the alleged act(s) occurs during an examination period, within one week of the beginning of the following semester, whichever is later. For purposes of this subparagraph, the Law School has three semesters, fall, spring and summer.
- (c) The Associate Dean shall investigate the complaint. In discharging this responsibility, the Associate Dean may interview the complainant and witnesses, and examine records and other documents. The Associate Dean shall impress upon all persons contacted the confidential nature of the inquiry. The Associate Dean may meet informally with the charged student or, upon the student's request, with the student's agent. If the Associate Dean has a conflict of interest or is unable to act, the Dean shall investigate or, if necessary or appropriate, appoint a tenured faculty member to investigate the complaint.
- (d) The Associate Dean shall determine the disposition of the complaint within ten (10) days after receipt of the written complaint, unless good cause exists to extend this time.
- i. The Associate Dean may, in his or her discretion, informally dispose of the complaint, in which case the Associate Dean shall terminate the investigation and inform the complainant and the charged student accordingly without filing any statement with the Honor Board.
 - ii. The Associate Dean may find that probable cause exists to charge the student. If probable cause is found, the Associate Dean shall promptly present written charges to the Honor Board and the chair of the Honor Board shall deliver a written copy of the charges, together with notice of the institution of disciplinary proceedings and a copy of applicable procedures, to the student. Items are deemed delivered either (1) when tendered to the student in person, or (2) mailed in the U.S. mail in an envelope bearing proper first class prepaid postage, registered and receipt requested, and addressed to the student at the local address for the student as reflected in the records of the law school.
 - iii. The Associate Dean may determine there is no probable cause to charge the student with misconduct, in which case the Associate Dean shall terminate the investigation and inform the complainant and the student accordingly. The Associate Dean shall file with the chair of the Honor Board a brief written statement concerning the lack of probable cause.

- iv. The Associate Dean may reopen the investigation, at any time, upon the discovery of new evidence.
- v. The Associate Dean shall have the power to compromise or settle a complaint alleging violation of this Code at any time. If the settlement occurs after a complaint has been filed, the proposed settlement must be approved by the Honor Board. Evidence of offering to settle a complaint or evidence of conduct or statements made in settlement negotiations is not admissible to prove or disprove a violation of this Code.
- (e) Within five (5) days after delivery of the charge and notice to the student, the student shall respond in writing to the chair of the Honor Board. Such response shall admit, deny, or otherwise respond to each factual matter charged. The chair of the Honor Board may extend the time for such response.
- (f) Within five (5) days after the response is due, the chair of the Honor Board shall set a time for a hearing which shall be within ten (10) days after the response is due. The chair of the Honor Board may extend the time within which the hearing must be held.
- (g) The Associate Dean shall present proof on the charge at the hearing. The Associate Dean shall have authority to present witnesses and evidence.
- (h) The Honor Board shall have no jurisdiction over charged Criminal Misconduct as described in Section C of this Code.

3. Conduct Of Hearings

- (a) The hearing shall be conducted according to the procedures set forth in this Code and such other procedures as adopted or applied by the Honor Board. The Honor Board is not bound by the formal rules of criminal procedure and rules of evidence. The Honor Board is authorized to take official notice of statutory law and published rules, procedures and policies of the law school.
- (b) The charged student is entitled to information held by the Associate Dean that is exculpatory in nature, that is, would offer or support a defense against the charge, and to a list of the names of witnesses known to the Associate Dean. Although the presumption is in favor of disclosure of this information, the Associate Dean may withhold the names of witnesses or other information that would reveal the identity of witnesses under exceptional circumstances, such as when the Associate Dean reasonably believes these individuals would be subject to harassment if identified. The information, or an explanation for why the information is being withheld, shall be provided to the student as soon as possible after the case is referred for a hearing. Even under exceptional circumstances, alternative means should be explored to accommodate the charged student's legitimate need for information.

- (c) The hearing shall be private unless the charged student, the complainant and the Honor Board all agree to an open hearing.
- (d) In hearings involving more than one (1) charged student, where a request for a separate hearing is made, the Board may allow severance for good cause.
- (e) The chair of the Honor Board shall audiotape or videotape the proceedings.
- (f) A student charged with misconduct has the right to represent himself or herself or be represented by an agent.
- (g) The Associate Dean shall address questions to the complainant, witnesses and the charged student. Members of the Honor Board may also question the complainant, witnesses and the student. The student or the student's agent may question the complainant and witnesses and may offer witnesses and evidence in his or her defense, subject to the right of cross-examination by the Associate Dean or by Honor Board members. The chair may in his or her discretion limit the number of witnesses and questions. The Honor Board may also receive reliable non-testimonial evidence from the Associate Dean and the charged student. At the conclusion of testimony, the Associate Dean and the charged student, personally or by agent, may deliver an oral summation of the evidence and a closing argument. The charged student may at his or her expense provide for transcription of the proceedings by a court reporter.
- (h) In the event that the student admits factual matters constituting misconduct as charged, evidence in support of the charge need not be presented.
- (i) The standard of proof to sustain a charge shall be proof by clear and convincing evidence. Evidence is clear and convincing if there is no serious or substantial uncertainty about the conclusion to be drawn from the evidence. The decision of a majority of the Honor Board shall be the decision of the Honor Board.
- (j) If the Honor Board sustains the charge against the student, it shall make a prompt report consisting of (1) a summary of the hearing, including a statement of the charges and the evidence presented; (2) the decision of the panel; (3) a statement of reasons for the decision; and (4) the recommended sanction. The Honor Board chair shall deliver a copy of the report to the charged student, complainant, Dean and Associate Dean. In addition, the chair shall provide to the Dean and the charged student a certified copy of a transcript of the hearing if one was ordered by the charged student and a copy of the audiotaped or videotaped recording of the proceedings;
- (k) Similarly, the Honor Board shall promptly notify the charged student, complainant, Dean and Associate Dean of its decision to dismiss the charge after finding that the charge had not been proven. That decision is final and not reviewable. The tape recording of the proceedings and a summary of the hearing shall be preserved.
- (l) Deliberations of the Honor Board shall be confidential.

4. Sanctions

The Honor Board may impose any one or more of the following sanctions to be implemented by the Dean's office; the sanctions are not mutually exclusive.

- (a) **Admonition:** An oral statement to the charged student that he or she violated the Student Code of Conduct. The Board may decide to include a written statement of the admonition in the student's file.
- (b) **Warning:** Oral notice to the student that continuation or repetition of the conduct found wrongful may be cause for more severe disciplinary action in the future. The Board may decide to include a written statement of the warning in the student's file.
- (c) **Censure:** A written reprimand for the violation and a warning of the possibility of more severe disciplinary sanctions in the event of a subsequent finding against the student under this Code.
- (d) **Probation or Exclusion from activities:** Probationary participation or exclusion from participation in school privileges or extracurricular activities for a specified period of time.
- (e) **Course Failure:** Recommendation for entry of a failing grade in the course in which the violation occurred.
- (f) **Restitution:** Financial reimbursement for damage or misappropriation of property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damage.
- (g) **Suspension:** Exclusion from classes and other privileges or activities for a specified period of time.
- (h) **Expulsion:** Termination of the student's status for an indefinite period of time. The conditions for readmission, if readmission is contemplated, shall be stated in the order of expulsion.
- (i) **Other:** Any other sanction that the Honor Board deems appropriate and reasonable.

5. Review And Appeal

- (a) The charged student may appeal to the faculty from an adverse decision of the Honor Board within seven (7) days of delivery of the Honor Board decision by filing a notice of appeal with the Dean.
- (b) Within 15 days of filing a timely notice of appeal, the student or the student's agent shall file a brief with the Dean setting forth the specific grounds for reversing the deci-

sion of the Honor Board. The Dean may extend the period for filing the brief at his or her discretion for good cause. Failure to file briefs shall constitute an abandonment of the appeal and the appeal shall be dismissed. The Associate Dean may file a responsive brief within seven (7) days of the filing of the student's brief.

(c) Normally, an appeal to the faculty will be presented and decided at the next meeting of the faculty taking place more than five (5) days after expiration of the time specified for the filing of briefs. All members of the faculty may participate in the appeal.

(d) Review by the faculty on appeal shall be limited to a review of the written decision and report of the Honor Board, briefs filed by the charged student or the student's agent, the videotape or audiotape of the hearing (or transcript thereof) if factual issues are raised, and, if requested by the student, oral argument by the student or the student's agent to determine whether the Honor Board acted fairly in light of the charge and evidence presented at the hearing. The faculty may limit the duration of oral argument.

(e) The factual findings of the Board are subject to review under a clearly erroneous standard. The factual review shall be limited to the videotape or transcript of the hearing. The faculty may review questions of law, including questions of the interpretation of this code under a de novo standard. The sanction or remedy imposed by the Board shall be affirmed unless there is an abuse of discretion or unless the faculty rules in favor of the student on issues of fact or law justifying an amendment of the sanction. The decision of the faculty on appeal shall be by a majority vote of a quorum of the faculty. The faculty's decision is final and not reviewable by the Dean.

(f) Deliberations of the faculty on appeal shall be confidential.

(g) The Honor Board may recommend a stay of the imposition of sanctions pending appeal of the case to the faculty on application of the student or on its own initiative. The decision of the Honor Board on this question is final and not reviewable.

6. Miscellaneous

(a) No record shall be made in the charged student's law school file concerning any charge which was not proved.

(b) Information concerning proved charges shall be disclosed by the law school only as required by statute, court or administrative rule or order, compulsory process, or ethical standard, as requested by state bar authorities, or as otherwise provided by law.

(c) Each academic year, the office of the Dean shall publish or post a list of cases occurring in the previous five academic years in which a hearing was held. This list shall include a summary of the violation charged, the result of the hearing and appeal, and any sanctions imposed. The office to the Dean shall redact any information that would identify students accused.

- (e) Confidentiality shall be observed at each stage of the proceedings. Except for purposes of investigation and deliberation, the Associate Dean, faculty, or members of the Honor Board shall not discuss the case with others.
- (f) A copy of this Code of Student Conduct shall be distributed to all incoming students.
- (g) Amendments to this code shall be made by the faculty. Proposed amendments shall be posted for student comment and the Student Bar Association's input shall be solicited before any changes are made.

This code shall take effect at the beginning of the fall semester, 1998.