

A. Preamble

Rev. 12/6/2018

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 the 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 irrebuttable 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 Law School.

### 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 in

on the 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. Administration Discipline Proceedings

- a) Discipline proceedings shall be administered by an Honor Board. The Honor Board shall be comprised of five members, consisting of two full- time faculty members and three students in good standing. One of the serving faculty members shall act as Chair of the Honor Board.
- b) 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.
- c) The three student members shall be elected by the Student Body for one- year terms and serve as members of the Drake University Law School Student Bar Association. There shall be a representative from each law school class among the student representatives on the Honor Board (1L, 2L, 3L).
- d) The faculty members shall be appointed by the Faculty Committee for one- year terms.
- e) No member of the Honor Board may participate in an Honor Board proceeding if disqualified due to the presence of a conflict of interest or other circumstance which might reasonably impair their impartiality. 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.

- f) 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 Drake University Law School Student Bar Association President shall appoint a replacement from the same class.
- g) The Honor Board shall have jurisdiction to review all disciplinary actions taken in response to student violations of the Drake University Law School Code of Student Conduct. The Honor Board shall not have jurisdiction to review misconduct violations of any other nature.
- h) All disciplinary measures relating to student violations of the Drake University Law School Code of Student Conduct must be referred to the Associate Dean and resolved through the disciplinary proceedings set forth herein. Faculty members and staff shall not be permitted to resolve such violations informally.
- i. Faculty members are in full control of any grade given to a student enrolled in a course they offer, regardless of whether the student's assignment relates to any misconduct proceeding. Any finding of the Honor Board will not affect any grade given by a faculty member to a student. A finding of the Honor Board may be inconsistent with a grade given by a faculty member to a student.

## 2. Initiation of Discipline Proceedings and Investigation

- 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. Such complaint may be filed orally or in writing.
- b) Upon the filing of a complaint, the Associate Dean must promptly notify the student accused of misconduct of the nature of the complaint, the investigatory process, and the overall disciplinary process.
- c) The Associate Dean must investigate the factual basis of the

complaint to the extent necessary to make an informed determination as to whether the student committed the misconduct charged. Such an investigation must include interviewing the charged student about the alleged misconduct or providing the charged student with a reasonable opportunity to submit to such an interview. Such an interview must occur at a reasonable time before further action is taken, but need not occur at the beginning of the Associate Dean's investigation.

- d) If the Associate Dean has a conflict of interest or is unable to act, the Associate Dean shall appoint a full-time faculty member with no conflict of interest to investigate the factual basis of the complaint.

### 3. Determination of Disciplinary Action

- a) If the Associate Dean reasonably determines that the student did not commit the misconduct charged, the Associate Dean may dismiss the complaint. The Associate Dean must promptly notify all five members of the Honor Board of the content of the complaint and the basis for dismissal of the complaint. The Honor Board may reinstate discipline proceedings by a majority vote.
  - i. The Associate Dean may reopen the investigation, at any time, upon the discovery of new evidence.
- b) If the Associate Dean reasonably determines that the student committed the misconduct charged, the Associate Dean shall draft a summary of factual findings and a proposed resolution of the matter to be submitted to the full membership of the Honor Board for review. Such resolution may recommend any reasonable disciplinary measure or measures in light of the circumstances, including suspension or expulsion from the law school.
- c) After submitting the summary of factual findings and proposed resolution to the Honor Board, the Associate Dean must promptly notify the charged student in writing of the Associate Dean's factual findings and proposal. The Associate Dean must also notify the charged student that the charged student will have a reasonable opportunity to respond to the factual findings and proposal at the meeting during which the Honor Board will vote on the Associate Dean's proposed resolution.
- d) If the charged student disputes the evidence contained in the

summary of factual findings compiled by the Associate Dean and desires to present additional contrary evidence, the charged student may submit a petition in writing to the Honor Board requesting that the charged student be permitted to present such evidence during the meeting at which the Honor Board will vote on the Associate Dean's proposed resolution.

- i. If the Honor Board reasonably believes that good cause exists to permit the charged student to present additional contrary evidence due to the presence of a legitimate issue of fact, the Honor Board may permit the charged student to present such evidence by majority vote.
- ii. If the Honor Board believes that good cause is not present, the Honor Board may reject the charged student's petition.
- iii. Such additional contrary evidence may include the presentation of witnesses, physical evidence, documents, or any other exhibit which might reasonably inform the judgment of the Honor Board as to the issue of fact in dispute.
- iv. If the Honor Board grants the charged student's petition, the Associate Dean will also be permitted to introduce additional evidence on the issue of fact in dispute if necessary to respond to the charged student's additional contrary evidence.

#### 4. Review of Summary of Factual Findings and Proposed Resolution

- a) Upon receipt of a summary of factual findings and proposed resolution concerning an incident of potential student misconduct, the Chair of the Honor Board shall set a meeting of the Honor Board to review the materials provided by the Associate Dean and vote on the proposed resolution.
- b) During this meeting, the Honor Board may ask the Associate Dean to elaborate on his or her findings or answer questions concerning the factual basis of the complaint, the investigation, the proposed resolution, or any other information relevant to the Honor Board's determination.
- c) During this meeting, the Honor Board must provide the charged

student or the charged student's agent with a reasonable opportunity to respond to the allegations of the complaint, contest the factual findings of the Associate Dean, dispute the proposed resolution, propose a different resolution, or make any other statement relevant to informing the judgment of the Honor Board.

- d) After reviewing all the materials from the Associate Dean and hearing all parties who have exercised their opportunity to respond, the Honor Board must vote to accept, reject, or modify the Associate Dean's proposed resolution of the matter by a majority of all voting members. In order to accept the Associate Dean's proposed resolution or issue a modified resolution, the Honor Board must identify clear and convincing evidence that the charged student committed the misconduct alleged in the complaint.
  - i. If the Honor Board rejects the proposed resolution of the Associate Dean by majority vote, the Honor Board must specify whether the complaint is dismissed with prejudice or without prejudice. If the complaint is dismissed without prejudice, the Associate Dean may amend the proposed resolution and resubmit the complaint to the Honor Board within one month of the Honor Board's decision. The charged student must again be provided all relevant materials, prompt notice, and a reasonable opportunity to respond at the Honor Board's subsequent hearing of the amended resolution.
  - ii. If the Honor Board accepts the proposed resolution of the Associate Dean or issues a modified resolution by majority vote, the resolution becomes binding.
- e) The charged student must be given prompt written notice of the decision of the Honor Board.

## 5. Relief Beyond Determination

- a) A student may only appeal a determination of the Honor Board in cases resulting in suspension or expulsion. Any other determination of the Honor Board is a final determination and cannot be appealed.
  - i. An appeal from a determination of the Honor Board resulting in the suspension or expulsion of a student may

be appealed by the convicted student by petition to the entire faculty of the law school within fifteen days of the Honor Board's determination. The faculty shall review and vote on the appeal within a reasonable time.

- ii. On appeal, the faculty shall review the findings of the Honor Board under a clearly erroneous standard.
- iii. If the faculty determines that the sanction of suspension or expulsion was erroneously rendered, the faculty may, by a vote of two-thirds of the faculty participating in the appeal, reverse the decision of the Honor Board. The faculty then shall remand the matter to the Honor Board to issue a lesser sanction. The faculty may issue a proposed resolution to the Honor Board.
- iv. If, by a vote of two-thirds of the faculty participating in the appeal, the faculty determines that the finding of misconduct was erroneously rendered, the faculty shall vacate the decision of the Honor Board and dismiss the matter.

b) Any final determination of the Honor Board may subsequently be vacated upon the submission of new, credible, material evidence to the Associate Dean which raises a substantial likelihood that the convicted student did not commit the misconduct that the student was charged with committing.

- i. If such evidence comes to the attention of the Associate Dean, the Associate Dean must promptly notify the convicted student in writing and promptly request that the Honor Board vacate or modify the resolution as appropriate in light of such evidence.