

# University of Colorado Law School

## Honor Code

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### PART I: INTRODUCTION

#### Section 1.1: Definitions

- a. Business Day – Any day on which the Law School’s administrative offices are open.
- b. Chairperson – Primary representative of the Honor Council and liaison between Honor Council and the Law School during Formal Hearings.
- c. Code or Honor Code – This Honor Code.
- d. CU Representative – Student appointed by the duly-elected Student Bar Association President to present the case for the school.
- e. Dean – Dean of the University of Colorado Law School.
- f. Dean’s Administrative Representative – Law School faculty or staff member of the Dean’s choosing.
- g. Faculty – All instructors who teach courses for credit for the Law School.
- h. Faculty Review Committee – The committee, as constituted by the Faculty, that hears appeals from decisions of a Hearing Panel, pursuant to Section 8.3 of this Code.
- i. Formal Hearing – Any formal proceeding before a duly constituted Hearing Panel.
- j. Hearing Panel – Six members of the Honor Council chosen to conduct a Formal Hearing. The members are selected in accordance with Section 7.1 of this Code.
- k. Honor Council – The body responsible for administering this Honor Code, as established in Part V of this Code.
- l. Journal – Any recognized journal of the Law School, including the University of Colorado Law Review.
- m. Knowingly – A person acts knowingly with respect to a material element of a violation when:
  - i. They are aware that their conduct is of that nature or that such circumstances exist, if the element invokes the nature of their conduct or the attendant circumstances; and
  - ii. They are aware that it is practically certain that their conduct will cause such a result, if the element involves a result of their conduct.
- n. Law School – The University of Colorado Law School.
- o. SCCR – The Office of Student Conduct and Conflict Resolution of the University of Colorado Boulder or its successor.
- p. Recklessly – A person acts recklessly with respect to a material element of a violation when they disregard a substantial and unjustifiable risk that the material element exists or will result from their conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor’s conduct, its disregard involves a gross deviation from the standard of conduct outlined in the Code.
- q. Respondent – The person who is the subject of the alleged violation.
- r. SBA – Student Bar Association.
- s. Secretary – Keeper of Honor Council records.
- t. Settlement Negotiations – Any talks among the SBA President, Vice-Chairperson, and the Respondent in furtherance of reaching a settlement.
- u. Source – A person, location, or thing from which information or advantage can be derived.
- v. Student Body – All individuals currently enrolled in the Law School and seeking degrees from the Law School.
- w. They or them – Either an individual or group of individuals, as context requires.
- x. University Honor Code – The honor code of the University of Colorado Boulder or successor documents.

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- y. Vice-Chairperson – Representative of the Honor Council and liaison between Honor Council and the Law School during Settlement Negotiations.

### Section 1.2: Purpose

This Code is predicated on the premise that the study and teaching of law in an academic setting is an integral part of the legal profession. Students and Faculty engaged in that activity, therefore, do so as members of the legal profession, and as such recognize the need to maintain a high level of professional competence and integrity in their work and conduct. The purpose of the Honor Code is to foster a commitment to professional ethics and academic integrity.

The Goals of the Honor Code are:

- a. To enable students at the Law School to learn and practice the essential responsibility of promoting a healthy ethical climate within the law school and the legal profession.
- b. To assist the members of the Student Body in developing an understanding of the importance of integrity as an essential aspect of practicing law.
- c. To make clear to all the standard of conduct by which the members of the Student Body will conduct themselves.
- d. To ensure the academic integrity of the Law School.

### Section 1.3: Authority to Promulgate Code

While the Faculty of the Law School has been vested by the Laws of the Regents with “jurisdiction over matters of academic dishonesty, under such procedures as may be approved by the Board of Regents,” the Faculty is of the view that the professional interest of students in their work fully warrants student participation in the formulation and administration of any code dealing with matters of academic dishonesty. For that reason, this Code was prepared by a Faculty committee working jointly with a student committee and adopted after an advisory vote of the Student Body at a referendum.

## PART II: VIOLATIONS

### Section 2.1: Violations

It shall be a violation of this Honor Code for any student, whether or not currently enrolled at the Law School, to engage in or attempt to engage in any of the following conduct, which, unless otherwise stated, must be done knowingly or recklessly:

#### a. Plagiarism

Submitting the work (whether quoted words, paraphrased words, or ideas) of another, without attribution.

#### b. Use of Unauthorized Sources

Using any unauthorized Source in the completion of coursework, when preparing for an examination, or while writing or taking an examination. “Unauthorized Sources” include, but are not limited to, sources prohibited by Faculty.

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## **c. Use of Unauthorized Collaboration**

Engaging in unauthorized collaboration in the completion of coursework, when preparing for an examination, or while writing or taking an examination, or giving unauthorized aid of any kind to another student for such student's use in completing coursework or during preparation for, writing, or taking an examination.

## **d. Material Misrepresentations**

Making any material misrepresentation to the University, the Law School, or prospective employers as to any matter, including, but not limited to academic performance, extracurricular activities, or financial need; except cases of transcript falsification, which are handled under the Rules of the Law School.

## **e. Previously Submitted Material**

Submitting the same, or substantially similar material for credit in more than one course, whether or not each course is offered at the Law School.

1. In General: A Faculty member may authorize the use of previously submitted material in their course. Students may be permitted to use work currently being prepared for one course in another course with the consent of both Faculty members.
2. Journals. The Faculty advisor for the law review or a journal must authorize the use of the previously or concurrently submitted material where the material is used for such purposes. However, students may not submit for a grade in another course, any material prepared for one of the journals, unless both the Faculty member receiving the work and the Faculty advisor for the journal know that the material was prepared for such purpose and expressly authorize the use of the work.

## **f. Academic Materials**

Reading, taking possession of, making use of, or otherwise accessing any other student's or Faculty member's academic materials, without such person's prior express or clearly implied permission.

## **g. Obstructing Access to Materials**

Intentionally obstructing another's access to academic materials by:

1. Misuse or vandalism of library materials intended to, or having the effect of, making the materials unusable by others; or
2. Abuse of library borrowing privileges intended to, or having the effect of, obstructing the access of others to those materials.

Failure to return overdue library materials shall not be a violation of this Subsection (g) absent exceptional circumstances.

## **h. Location of Examinations**

Writing or typing any examination in any place other than those authorized by the Faculty.

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## **i. Examination Time Limits**

Exceeding the authorized maximum time limit for an examination or section of an examination, including but not limited to the time limits given in the exam instructions. Students given official time accommodation by the University shall not be in violation of this Subsection (i) unless they exceed the limits of the accommodation.

## **j. Failure to Report Violation of Another**

Failing to report information concerning a violation of this Code committed by another student,

- i. To an Honor Council member, the SBA President, or to any Dean, Assistant Dean, or Associate Dean of the Law School, and
- ii. Within fourteen (14) days of discovering the information; or

Failing to fully disclose any knowledge or information about such a violation when properly requested by any person, authority, or tribunal empowered to investigate or otherwise act with respect to such alleged or apparent violation of this Code.

## **Section 2.2: Questions**

Questions concerning what constitutes an Honor Code violation can be submitted by email to the Honor Council question email address. Questions submitted are confidential and are reviewed regularly by Honor Council members. Submission of a question about a potential violation is not grounds for an Honor Council investigation. Emailed questions do not satisfy the reporting burden, except in extraordinary circumstances.

## **Section 2.3: Faculty Prerogative**

The express written course policies of a Faculty member may supersede any part of the above violation provisions.

## **Section 2.4: Scope of Authority**

The Honor Council shall not adjudicate or engage in settlement proceedings for any conduct falling outside the provisions of Section 2.1 of this Code.

## **PART III: SANCTIONS AND AUTHORITY TO PROMULGATE CODE**

### **Section 3.1: Available Sanctions**

1. A Colorado Law Student found to have violated this Code may be subject to one or more of the following sanctions:
  - i. Compulsory withdrawal (expulsion) from Colorado Law.
  - ii. Suspension from Colorado Law for a period of one or more semesters.
  - iii. A grade of “F” in any class in which the student committed the violation.
    - a. The discretion to assign any grade other than an “F” is within the exclusive purview of the professor of the class in question, subject to the Rules of the Law School.
  - iv. Such lesser sanctions as the Honor Council and SBA President may deem appropriate, such as the completion of a course or study of a particular topic or topics, essays, research papers, or reflections related to the violation, or to ethics generally.

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2. The Honor Council may consider the self-admission of a student as a mitigating factor in sanctions where:
  - i. The report occurs before the student gains any knowledge that someone suspects them of an Honor Code violation; and
  - ii. Upon investigation by the Student Bar Association President, the student's report is found to be a complete and honest account of the violation.
3. If a student fails to comply with the terms of a settlement agreement or the sanctions imposed during a sentencing proceeding within a reasonable time, the student may be subject to additional sanctions.
  - i. Additional sanctions may include any sanction available under this section.
  - ii. A "reasonable time" under this subsection is determined by establishing the earliest possible date that such terms or sanctions could be complied with and adding sixty (60) calendar days.
    - a. Any time-related expectations included in the terms of a settlement agreement or the sanctions imposed will supersede the "reasonable time" defined in the subsection above.

### **PART IV: AGREEMENTS TO ABIDE BY THE HONOR CODE AND JURISDICTION**

#### **Section 4.1: Agreement to Abide as Precondition to Registration**

No student admitted to the Law School or permitted to take any course in the Law School for academic credit shall be permitted to register for enrollment in any term without first having signed a statement which in substance shall state that the student (1) is familiar with the provisions of the Honor Code; and (2) agrees to abide by the provisions of the Honor Code.

#### **Section 4.2: Agreements to Abide by the Honor Code**

All students taking courses at the Law School are bound by the substantive provisions of this Code, whether those students are candidates for a law degree, for another degree, or for no degree. Law students taking courses on this campus outside the Law School are bound by the substantive provisions of the University Honor Code.

#### **Section 4.3: Agreement by Faculty to Comply with Code**

The acceptance by any person of an offer to teach any course offered by the Law School for academic credit to students constitutes an agreement to abide by all lawful University and Law School rules, regulations, practices and policies relevant to such employment. The provisions of this Code (including subsequent amendments) and any other rules or regulations governing academic honesty and conduct, as may be established in addition to or in substitution for this Code, are specifically declared to be relevant Law School rules applicable to such employment.

#### **Section 4.4: Duty to Report Apparent Violations**

It shall be the duty of all students, faculty, and staff to report as provided in Subsection 2.1 (j).

#### **Section 4.5: Jurisdiction**

Jurisdiction to decide Code matters resides with the Law School when the offense is alleged to have been committed within the scope of a Law School course, regardless of the student's primary degree school. A law student alleged to have violated the University Honor Code while taking classes outside of the law school will be subject to proceedings before SCCR under the University Honor Code. A student not enrolled in a law

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degree program who is alleged to have violated this Code will be subject to proceedings before the Honor Council following this Code's procedural and substantive rules.

### **Section 4.6: Availability of Code**

A copy of this Code shall be made available to students upon their first registration and to Faculty (including all adjunct and visiting faculty) members upon their first offering of a course for academic credit. A copy of this Code shall also be posted permanently on the Law School website, and one shall be placed on reserve in the Law Library. Additional copies shall be made available as the Dean may direct.

## **PART V: HONOR COUNCIL**

### **Section 5.1: Establishment**

The Honor Council shall consist of twelve members, all of whom shall be students enrolled in the Law School, four enrolled as members of the first-year class, four as members of the second-year class, and four as members of the third-year class.

### **Section 5.2: Basic Responsibilities**

The Honor Council shall be responsible for advising the Faculty and students on matters of academic honesty and recommending to the Faculty and students suitable amendments to this Code. When matters relating to violations of this Code by specific persons are submitted to the Honor Council, those members of the Honor Council who are appointed to do so shall conduct formal hearings, make factual and legal determinations, submit findings and conclusions, and when appropriate, make recommendations for sanction, as provided hereinafter.

### **Section 5.3: Appointment of Honor Council Members**

Members of the Honor Council shall be appointed for a three-year term. Returning members of the Honor Council shall solicit applications for membership from first-year students within the first month of the fall semester. After reviewing the applications, the Honor Council shall hold an internal vote to appoint the four first-year members of the first-year class. In making the appointments, the Honor Council and the SBA shall take account of the diversity of the student body and appoint persons who reflect such diversity to the extent possible.

### **Section 5.4: Vacancies on the Honor Council**

1. Vacancies created by resignation or removal shall be filled the semester following such resignation or removal, or sooner should the need arise, using the same application procedure described in Section 5.3. The position shall be filled by a student in the same class as the vacating member. The replacement member shall serve the duration of the vacating member's term.
2. If the vacancy leaves an Officer position unfilled, this position will be filled by succession. Thus, if the Chairperson resigns or is removed, the Vice-Chairperson will assume the position of Chairperson and the Secretary will assume the position of Vice-Chairperson. A vacancy in the position of Secretary will be filled by a vote according to Section 5.6. All changes of position will be subject to a confirmation vote by the Council.
3. Resignation Procedure:



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- i. If a member shall choose to resign from the Honor Council, that member must submit in writing, their resignation letter to the Chairperson, the SBA President, and the Dean or Dean's Administrative Representative.
- ii. Upon the sending of a resignation letter to the above parties, the resignation shall be final.

### **Section 5.5: Removal of Honor Council Members**

Honor Council Members shall be removed for:

- a. Violation of this Code, or
- b. Dereliction of Honor Council duties, upon the unanimous vote of the other members of the Honor Council.

### **Section 5.6: Election of Honor Council Officers; Duties**

During the spring semester, the currently serving Chairperson shall call an organizational meeting of the appointed members, at which meeting the members shall elect by majority vote, one of their members to assume the duties of Chairperson and to serve as the presiding officer of the Honor Council, one to serve as Vice Chairperson, and one to serve as Secretary. General duties of Honor Council Officers shall be as follows:

- a. Chairperson
  1. Interpret the Honor Code as provided by Section 6.2, Section 7.1, or as otherwise required by this Code.
  2. Be the primary liaison with the faculty, Dean or Dean's Administrative Representative, and the Student Body as a whole.
  3. Preside over Honor Council meetings.
  4. Draft advisory opinions.
  5. Jointly with the SBA President, compose, issue, and disseminate end of semester reports, as provided by Section 9.4 and Section 9.5 of this Code.
  6. Receive and process complaints and refer qualifying issues to the SBA President.
  7. Organize and preside over hearings for official complaints.
- b. Vice-Chairperson
  1. Preside over Settlement Negotiations.
  2. Act as liaison with the faculty and Dean or Dean's Administrative Representative during Settlement Negotiations.
  3. Effectuate Honor Code changes as instructed by the Chairperson, delegating duties to other Honor Council members where appropriate.
  4. Be the deciding vote in formal hearings.
  5. Fulfill the duties of the Chairperson when they are unavailable or presented with a conflict.
- c. Secretary
  1. Keep Honor Council records.
  2. Record meeting minutes.
  3. Organize and prepare any recommended changes to the Honor Code by the Honor Council for faculty and student body approval.

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4. Fulfill the duties of the Vice-Chairperson when they are unavailable or presented with a conflict.
5. If the Secretary is unavailable or presented with a conflict, the Honor Council Chairperson will select a replacement from within the Honor Council.

### **Section 5.7: Meetings; Formal Hearings; Quorums**

At meetings other than formal hearings or deliberations relating thereto, seven members of the Honor Council shall constitute a quorum. At any formal hearing called to determine alleged violations of any of the provisions of Section 2.1 of this Code by one or more specific persons (and any deliberations relating thereto), five of the six members of the Hearing Panel shall constitute a quorum.

### **Section 5.8: General Honor Council Procedures**

For the purpose of conducting meetings, formal hearings, or transacting any other business, the Honor Council shall have authority to adopt, generally in advance, in writing or otherwise, or on a case-by-case basis prior to the commencement of the first hearing in any formal hearing, such rules of procedure as they deem just and reasonable, provided, no rule or practice of procedure shall be inconsistent or in conflict with the provisions of this Code, the Rules of the Law School, the Laws of the Regents, Federal or State Statutes, or the State or Federal Constitutions. Should a procedural question arise during a formal hearing or any deliberation of the appointed Honor Council members relating thereto, the matter shall be determined by the presiding officer by reference to whichever of the following is the most relevant and authoritative: this Code, any rules previously adopted by the Honor Council pursuant to this Code, the Rules of the Law School, the Laws of the Regents, State or Federal Statutes, the State or Federal Constitutions, or the general principles of the common law. The Honor Council shall also have the right to promulgate bylaws.

## **PART VI: INVESTIGATION, INITIATION OF FORMAL HEARINGS, AND SETTLEMENT NEGOTIATIONS**

### **Section 6.1: Reporting of Apparent Violations**

Under Rule 2.2, all students have a duty to report material information concerning violations of the Honor Code to either a staff member, faculty member, or directly to the Honor Council. Any staff or faculty member who becomes aware of an accusation shall report the accusation to the Honor Council.

### **Section 6.2: Referral of Reports to Chairperson**

All material information regarding an alleged violation of this Code disclosed pursuant to this Code, upon receipt by a person authorized to receive such reports by this Code, shall be immediately conveyed to the Chairperson of the Honor Council (Chairperson), except as provided in Section 6.3 of this Code.

- a. If the Chairperson determines there is probable cause to suspect that the alleged violation occurred, they shall refer the alleged violation to the SBA President for investigation, after ensuring the requirements of this Section 6.2 are met.
- b. The Chairperson shall not refer any report to the SBA President when doing so would tend to: exceed the scope of this Code as provided in Section 2.1 of this Code, be contrary to the purposes of this Code as provided in Section 1.2 of this Code, or be unreasonable or unnecessary in light of the nature or absence of any harm resulting from the alleged violation. The Dean or the Dean's

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Administrative Representative shall have the authority to review and reverse any decisions not to refer made pursuant to this subsection.

- c. The Chairperson shall make these determinations and any referral within seven business days of receiving such material information.
- d. For the purposes of this Section, probable cause shall exist when the material information is of sufficient quality to cause a reasonable person to suspect that the accused student committed the alleged violation, but shall not exist where suspicion is unparticularized or based solely upon a hunch.
- e. The Chairperson shall keep a written record, by whatever practical means, of all referral determinations. These records shall not be made publicly available.

### **Section 6.3: Reports Involving the Chairperson or the SBA President**

- 1. Material information regarding an alleged violation of this Code by the Chairperson shall be immediately reported to the Vice-Chairperson.
  - a. Upon receiving such material information, the Vice-Chairperson shall be responsible for performing the duties of the Chairperson in relation to the alleged violation as provided in Section 6.2 of this Code.
  - b. In the event that an alleged violation by the Chairperson is referred to the SBA President and the SBA President makes a final decision other than to completely dismiss the charges, the Chairperson shall be suspended from performing any duties as Chairperson until the alleged violation is resolved.
  - c. In no event shall the Chairperson be the sole party involved in investigating an alleged violation, notwithstanding any other provision of this Code.
- 2. Material information regarding an alleged violation of this Code by the SBA President shall be immediately reported to the Honor Council.
  - a. Upon receiving such material information, the SBA Vice-President shall be responsible for performing the duties of the SBA President in relation to the alleged violation as provided in Section 6.4 of this Code.
  - b. In the event that an alleged violation by the SBA President is referred to the SBA Vice-President and the SBA Vice-President makes a final decision other than to completely dismiss the charges, the SBA President shall be suspended from performing any duties as SBA President until the alleged violation is resolved.
  - c. In no event shall the SBA President be involved in investigating an alleged violation involving the SBA President, notwithstanding any other provision of this Code.

### **Section 6.4: Duty of the SBA President to Investigate; Settlement**

It is the SBA President's duty (or the SBA Vice-President) to investigate all alleged Honor Code violations referred to the SBA President by the Chairperson (or, in such a case as described in Section 6.3, by the Vice-Chairperson). The purpose of the SBA President's investigative function is to determine whether enough evidence exists to provide reasonable grounds to initiate a formal hearing. In conducting the investigation, the SBA President shall:

- a. In the event that there is material information regarding an alleged violation of this Code by the SBA President, the SBA Vice-President will be responsible for performing the duties of the SBA President in relation to the alleged violation as provided in this code.

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1. In no event shall the SBA President be involved in investigating an alleged violation involving the SBA President, notwithstanding any other provision of this Code.
- b. Promptly, upon referral of an alleged violation from the Chairperson,
  1. Notify the Accused Student (Respondent) of the accusation against them.
    - i. The SBA President shall notify the Respondent in the manner most likely to reach the student.
    - ii. The SBA President shall be proactive in receiving confirmation that the Respondent is aware of the ongoing investigation, the investigative timeline, and their rights herein.
    - iii. The SBA President shall have seven business days to contact the Respondent. If by the seventh day the SBA President has been unable to contact the Respondent, they may begin the investigation process. The SBA President will make further frequent attempts after the process has begun to contact the Respondent.
- c. Beginning on the sooner of (1) the date that the SBA President receives confirmation that the Respondent is aware of the investigation or (2) the eighth business day following referral of the alleged violation, the SBA President shall have 14 business days to investigate the alleged breach.
  1. The SBA President is responsible for acting as executive in creating an investigative timeline which adheres to the rules outlined herein, and providing the timeline to the Chairperson.
  2. The SBA President shall compile all relevant materials, including evidence, witness lists, and testimony into a report.
- d. Following the conclusion of the investigation, the SBA President's report shall be reviewed by the Chairperson. The SBA President shall then have seven business days to meet with the Chairperson and make a final decision as to whether there are reasonable grounds to initiate a formal hearing.
  1. Though the SBA President retains the ultimate authority to determine whether there are reasonable grounds to initiate a formal hearing, they shall confer with the Chairperson before making a final decision.
    - a. The SBA President's decision must be based on reasonable grounds.
      - i. "Reasonable grounds" shall be established by reviewing the totality of the evidence and determining that a reasonable person could believe that the Respondent committed the alleged violation.
      - ii. The reasonable grounds provided shall be reviewed by the Chairperson.
    - b. The SBA President must notify the Respondent of the final decision.
      - i. Confirmation of notification from the Respondent is required before the final decision can take effect, so long as confirmation occurs within seven business days of such notification.
      - ii. If confirmation of notification is not received within seven business days, the final decision will automatically take effect on the eighth day after the Respondent is notified.
  2. If the SBA President determines there are reasonable grounds to initiate a formal hearing, the SBA President shall prepare a charging document detailing the date, location, and nature of the charged violation. The SBA President shall provide this document to the Respondent, the Chairperson, and the Dean or the Dean's Administrative Representative. This document shall

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otherwise be kept confidential within the membership of the Honor Council and the Law School administration.

3. If the SBA President determines that there are reasonable grounds to initiate a formal hearing, they shall first attempt to reach a settlement with the Respondent.
  - a. The Vice-Chairperson shall preside over settlement talks and act as liaison to the Dean.
  - b. All settlement agreement terms must be agreed upon by the Vice-Chairperson, the SBA President, and the Respondent in order to be submitted to the Dean for review.
  - c. If the Vice-Chairperson is unavailable or has a conflict of interest, the Secretary of the Honor Council will perform all duties listed in Part VI of this Code pursuant to Section 5.6.
  - d. No settlement agreement shall be effective without the approval of the Dean. If the Dean does not approve of a proposed settlement, the Vice-Chairperson, the SBA President and the Respondent may renegotiate the proposed settlement or request a formal hearing.
- e. Generally, throughout the investigation process, the SBA President shall:
  1. Attempt to maintain the anonymity of the Accuser(s) and the Respondent from all persons outside of the SBA Leadership, Honor Council, and Faculty to the extent reasonably possible, and;
  2. Recuse themselves if a conflict of interest arises and relinquish investigative powers to the SBA Vice President. In the case of incapacity or extreme hardship, the SBA President may request that investigative duties be undertaken by the SBA Vice President or another member of the Student Body where appropriate. This request shall be made to the Chairperson, who shall have the sole authority to approve or deny such request. In such cases as provided in this Subsection, all references to the SBA President in this Part VI shall refer to the SBA President's approved replacement.

### **Section 6.5: Authority of Faculty to Impose Sanctions**

Conduct that might otherwise be a potential violation under this Honor Code may be subject to separate sanctions imposed by a Faculty member. Any such sanctions or any determinations made by a faculty member and imposed in this manner shall not be deemed an Honor Code violation. Nothing in this section shall abrogate the Faculty member's duty to report under Section 4.4.

### **Section 6.6: Decisions Not to Initiate Formal Hearings; Consultation with, and Review by, Dean**

A decision by the SBA President or the CU Representative not to initiate a formal hearing relative to a reported or referred alleged violation shall be final, provided that (1) before making such decision, the SBA President or the CU Representative shall have first discussed their tentative decision not to initiate a formal hearing, and the reasons therefor, with the Dean, and the Dean has determined that the decision not to initiate a formal hearing is one a reasonable person could make and; (2) the student alleged to have violated the Code does not request a formal hearing be held in order to give the student an opportunity to have their innocence authoritatively established. The Dean may require a formal hearing when the Dean concludes a negative decision is not reasonable under the circumstances. Should the Dean find the SBA President's decision not to initiate a formal hearing unreasonable, or should the student alleged to have violated the Code request a formal hearing, the SBA President or the CU Representative shall initiate a formal hearing.

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## **Section 6.7: Right to a Formal Hearing**

Any person subject to this Code accused of a violation shall have the right to a formal hearing before the Honor Council prior to the imposition of any sanction.

## **Section 6.8: Failure to Comply with Time Limitations**

The failure of the SBA President or any other person to comply with time limitations contained in this Part VI shall not constitute a defense to charges of a violation of this Code or constitute grounds for dismissing charges of a violation of this Code, unless the failure to comply with any such time limitation was without any reasonable excuse or such failure might reasonably be expected to result in an action or decision unfairly prejudicial to the rights of the Respondent.

## **Section 6.9 Opinions of Decisions**

Upon the conclusion of a formal hearing or settlement, the Chairperson shall designate an Honor Council Member to write an opinion of the result of the proceedings (Opinion), which shall be made available to the Colorado Law Student Body. This requirement is intended to give the student body the means to ensure that their conduct complies with this Code. All Opinions issued under this Subsection shall omit the identifying information of all parties involved, with the exception of the Opinion's author, and shall include a brief synopsis of the facts of the case, as well as the disposition and reasoning used by the Honor Council in deciding the action.

## **PART VII: FORMAL HEARINGS BEFORE HONOR COUNCIL**

### **Section 7.1: Convening a Formal Hearing**

After a determination to convene a formal hearing, the Chairperson of the Honor Council shall, as soon as is reasonably possible, appoint a Hearing Panel consisting of six members of the Honor Council who shall act as the finders of fact in the formal hearing. The Chairperson shall not be one of the members of the Hearing Panel appointed. The Chairperson shall organize and preside over the formal hearing to interpret the code and decide procedural matters. In the event six Honor Council members cannot serve on the Hearing Panel, the Chairperson shall appoint a replacement. The replacement shall be from the Student Body, and it is recommended that such replacement be a class officer or SBA officer. A formal hearing shall then be called by the Chairperson (or their designee) as soon as is convenient, giving due consideration to the rights of all persons concerned.

### **Section 7.2: Authority to Decide Questions of Law or Fact**

All questions normally decided by a judge in a jury case tried in a court of law shall be determined by the Chairperson (or their designee) as the presiding officer, after such consultation, if any, with such other members of the Hearing Panel as they deem appropriate. All questions normally decided by a jury shall be decided by not less than five of the six members of the Hearing Panel.

### **Section 7.3: Closed Hearings**

All formal hearings shall be closed and only the Respondent, counsel, witnesses and persons making a record of the proceeding for the Respondent or the Honor Council shall be admitted, unless the Respondent shall have waived their right to a closed hearing. The Respondent shall in all cases have the right to have the proceedings opened to the law school and/or to the public. A waiver of a closed hearing shall be made knowingly, willfully, and voluntarily by the Respondent.

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## **Section 7.4: Record of Proceedings**

Both audio and video recordings shall be made of the proceedings before the Honor Council Hearing Panel, and a stenographic record may be made. Such records, unless the Respondent has waived their right to a closed hearing, shall be treated as confidential.

## **Section 7.5: Representation of Parties**

The SBA President or the CU Representative shall represent the Law School with respect to the complaint filed with the Honor Council. The Respondent may represent themselves or be represented by a lawyer or by any member of the Student Body. The Respondent may not be represented by a Faculty member.

## **Section 7.6: Burden of Proof**

In a formal hearing, the SBA President shall have the burden of proving, by clear and convincing evidence, both that the alleged violation occurred and that it was committed by the Respondent. The SBA President has a good faith obligation to present any evidence that is favorable to the Respondent's case. A finding of violation must be made by the affirmative vote of not less than five members of the Hearing Panel. In the event that no violation of this Code is found, then the decision that no violation has occurred is the final decision on the part of the Honor Council.

## **Section 7.7: Formal Hearing Procedure**

1. The CU Representative and the Respondent shall submit all material they propose to introduce into evidence in the hearing to the Dean's office five days prior to the hearing. The exhibits shall be labeled and indexed. These exhibits will be copied for the Hearing Panel members and opposing parties prior to the hearing. Any exhibits introduced at the hearing that were not submitted to the Dean's office shall not be allowed into evidence. All objections to the admission of presented evidence will be ruled upon by the Chairperson at the hearing. In all cases, the formal rules of evidence shall not apply.
2. The SBA President (or CU Representative) may call witnesses, except that the Respondent may not be called over their objection. The Respondent's decision not to testify shall not be construed in any way as an admission of guilt by the hearing panel. The Respondent shall have the right to call witnesses, including those reporting the alleged violation who may be called as adverse witnesses, and to testify on their own behalf. All witnesses shall be admonished of their obligations to tell the truth, and all student witnesses shall be informed that the making of a false statement constitutes a violation of this Code. The Respondent and any other witness shall have the right against self-incrimination.
3. The presiding officer of the Hearing Panel shall begin the hearing by reading the formal charges and initially asking the Respondent if they wish to respond to the charges. If the Respondent chooses to do, so they may at that time. The SBA President (or CU Representative) may make an opening statement followed by the same opportunity for the Respondent.
4. Next, the SBA President (or CU Representative) must present the evidence through witnesses and/or physical evidence. The Respondent may question all witnesses.
5. Once the SBA President (or CU Representative) has finished presenting evidence, the Respondent may present evidence through witnesses and/or physical evidence. The CU Representative may question all witnesses.
6. At the conclusion of the Respondent's case, the SBA President (or CU Representative) may present rebuttal evidence. The Respondent may question any witnesses presented in the rebuttal case.
7. Following the rebuttal evidence, the SBA President (or CU Representative) may make closing arguments. At this time, the SBA President (or CU Representative) is only to make a closing argument; they are not

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allowed to make recommendations for sanction at this time. Finally, the Respondent may make closing arguments.

8. At any time during the Hearing, members of the Hearing Panel may ask questions of witnesses. The Hearing Panel members may examine exhibits as they are allowed into evidence, and during deliberations. Opposing parties may also examine exhibits as they are allowed into evidence, and may raise any objection at that time.
9. The Hearing Panel may call additional witnesses if additional testimony is required for a just and fair resolution.
10. At the end of the Respondent's closing argument, the Hearing Panel shall retire to decide whether, by clear and convincing evidence, a violation of this Code has occurred or whether a violation has not occurred. As noted in Section 7.6, a finding of violation must be made by the affirmative vote of not fewer than five members of the Hearing Panel. In the event that no violation of this Code is found, the decision that no violation has occurred is the final decision on the part of the Honor Council.
11. In the event that the Hearing Panel concludes that a violation has occurred by an affirmative vote of not fewer than five members of the Hearing Panel, the Hearing Panel shall immediately commence a sanctions hearing.
12. The SBA President (or CU Representative) shall present their recommendations for sanctions and the reasons that they are recommending particular sanctions, including any mitigating or aggravating factors. The Respondent shall then have the opportunity to present any other mitigating factors to the Hearing Panel for the Hearing Panel to consider in its deliberations.
13. At the conclusion of the sanctions hearing, the Hearing Panel shall retire to consider the SBA President's (or CU Representative's) sanction recommendations and any and all mitigating and aggravating factors forthwith presented.
14. At the conclusion of its deliberations, the Hearing Panel shall announce to the SBA President (or CU Representative's) and the Respondent its decision for sanctions. Any sanctions imposed must be agreed upon by an affirmative vote of not less than four members.

### **Section 7.8: Deliberations**

Only the Hearing Panel shall be present during deliberations, at which time the Hearing Panel may review any evidence and any record made of the hearing pursuant to Section 7.4.

### **Section 7.9: Finding of No Violation**

Upon a finding of no violation of this Code, the charge shall be dismissed and no sanctions shall be imposed. The Respondent shall be provided with written notice by the SBA President that the charge has been dismissed within seven days of the Hearing Panel's finding of no violation.

### **Section 7.10: Inability to Make a Finding**

Should the Hearing Panel be unable to make a finding of violation or no violation of this Code, the Chairperson, to the extent possible, shall appoint the remaining six members of the Honor Council to conduct a second formal hearing. In the event any one of these members is unable to serve, the Chairperson shall appoint a replacement. It is recommended that such replacement be a class officer or SBA officer. Should the second Hearing Panel be unable to make a finding of violation or no violation, the charge shall be dismissed.



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## **Section 7.11: Recommendations for Sanction**

The Hearing Panel shall recommend sanctions, upon a finding that the Respondent committed a violation, as written in Part III.

## **Section 7.12: Reports to Dean; Reports as Precedent**

Upon making a finding of violation or no violation of this Code, the Hearing Panel members shall prepare a report to the Dean setting forth a summary of the testimony, findings of fact, and conclusions of law. Should the Hearing Panel find that a violation has occurred, the report shall also set forth recommendations for sanction. Members of the Hearing Panel in disagreement with any view or position taken by any required majority may submit as part of the report their minority view or position. For use in future cases as precedent, a copy of the report (with the identities of all persons excised, even when the Respondent shall have waived their right to a closed hearing) shall be maintained in the files of the Honor Council. Copies of reports kept for this purpose shall be kept confidential within the membership of the Honor Council.

## **Section 7.13: Reopening of Formal Hearings**

A formal hearing resulting in a finding of no violation shall not be reopened by the Honor Council except upon the production of new evidence bearing directly on the innocence of the Respondent and when, in the opinion of not less than seven members of the Honor Council, at least four of whom were members of the Hearing Panel (if possible), the interests of justice clearly require it. A person seeking to reopen a formal hearing upon the ground of newly discovered evidence shall appear before the Honor Council and state the nature of the evidence relied upon, and the Honor Council shall determine whether the evidence warrants reopening the case. If a case is reopened, it shall be left to the discretion of the Hearing Panel appointed to conduct a formal hearing on the matter to determine whether the charges should be retried completely or whether the new evidence alone should be considered in connection with the old record.

## **PART VIII: ADMINISTRATIVE REVIEW OF HONOR COUNCIL FORMAL HEARING REPORTS AND RIGHT TO APPEAL**

### **Section 8.1: Submission of Reports and Recordings to Dean**

All reports of formal hearings, and the recordings thereof, conducted before a Hearing Panel of the Honor Council shall be submitted to the Dean for review. All reports and matters relating thereto shall be treated as confidential, except:

- a. In cases where the Respondent has waived the right to a closed formal hearing before the Hearing Panel; or
- b. In cases where the Respondent has requested identification under Section 9.4; or
- c. To the extent necessary to adhere to the review procedures set out in this Part VIII or as are necessary to implement any sanction which may be imposed; or
- d. To the extent the case is to be covered in a published report under Section 9.4.

### **Section 8.2: Review and Action by the Dean**

The Respondent and the SBA President or the CU Representative may, within one week after receipt of a copy of the report prepared in accordance with Section 7.12, submit any further written arguments they desire. Thereafter the Dean shall review the report, together with its attachments and any such arguments. Except as provided in Section 8.3, if the Dean concludes that the findings and recommendations of the report, including

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sanctions, if any, are supported by the evidence and otherwise appropriate, the Dean shall implement the recommendations of the report. If the Dean concludes that the findings and recommendations are not supported by the evidence, or that any recommended sanction is inappropriate under the circumstances of the case, the Dean shall refer the case to the Faculty Review Committee under Section 8.3.

### **Section 8.3: Review and Action by Faculty Review Committee**

Any case in which the Dean disagrees with the report, or in which the recommended sanction is expulsion from the Law School or suspension for longer than one semester, shall be referred to a Faculty Review Committee. The Committee shall hold a hearing at which Respondent, with or without counsel, the student who served as CU Representative, and a member of the Hearing Panel shall be given the opportunity to present any further evidence or argument relevant to the case. After reviewing the report of the Hearing Panel and any recommendations submitted by the Dean, the Committee may:

- a. Dismiss the case, or refer the case back for rehearing by a Hearing Panel of the Honor Council, whichever the Committee deems most appropriate, if the Committee determines that:
  1. The findings of fact are not supported by substantial evidence, considering the record as a whole;
  2. A constitutional right of the Respondent was violated;
  3. The Hearing Panel acted without or beyond the scope of its jurisdiction;
  4. Any applicable substantive rule was erroneously applied by the Hearing Panel, and such error was not harmless; or
  5. Any applicable procedural rule intended for the protection of the Respondent was not substantially complied with and such noncompliance was not harmless;
- b. Affirm the findings and recommendations, and re-refer the case to the Dean for implementation; or
- c. Hear the case *de novo* and determine an appropriate sanction, provided that this may only occur if the Hearing Panel found no violation of this Code, and if the Committee determines that the finding of no violation was clearly the result of a gross misinterpretation or misapplication of this Code, or was the result of an unreasonable failure to evaluate and weigh the evidence in a conscientious manner;
- d. Modify any recommended sanction, either to increase or decrease its severity, and as modified to rerefer the case to the Dean for implementation; provided, that this may only occur if the Committee determines, after considering the record as a whole, that the action taken would be just and reasonable in light of the sanctions which have previously been imposed for other violations of the Code or for other misconduct, and provided further, that this may only occur if the Committee and the Dean concur on the sanction to be imposed; if no such agreement can be reached the case shall be remanded to a Hearing Panel of the Honor Council, for reconsideration of the sanction only, and this review process shall then be repeated.

### **Section 8.4: Additional University Review and Appeals**

Any additional review within the University of actions taken under this Code shall be as provided by those rules and regulations duly established for such review. Any student against whom a final decision to impose disciplinary action shall have been made under this Code shall have the right to appeal such decision to the Dean of the Law School or the Dean's Administrative Representative within 10 days of such decision. Information regarding the appeals process and the filing of an appeal may be obtained from the Dean's Office of the Law School.

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## **PART IX: AMENDMENTS AND ADMINISTRATION**

### **Section 9.1: Amendments**

This Code and any of its provisions may be repealed or amended by the Faculty in the same manner as the Faculty may repeal and amend the Rules of the Law School, provided that such repeals or amendments shall also be subject to such additional approval by such other persons as may be required by the Laws of the Regents, and provided further that, depending on the nature of the proposed repeal or amendment, some or all of the members of the Student Body shall be permitted to express their views as to such proposed amendment or repeal (in addition to those methods provided by the Rules of the Law School) in such manner and to such extent as the Dean determines to be appropriate.

### **Section 9.2: Other Authority of Dean and Faculty**

Except as to conduct governed by this Code to which the procedures of this Code shall be applicable, the Dean or the Faculty, or both, shall retain all other authority possessed by them to take appropriate disciplinary action for improper conduct on the part of a student or Faculty member.

### **Section 9.3: Confidentiality of Reports, Recordings, and the Like**

Once a matter has been disposed of finally, unless the Respondent has waived their right to a closed hearing before the Hearing Panel of the Honor Council, or except to the extent the Respondent has waived any other right they may possess to have any matter or proceeding under this Code treated confidentially, all reports, tape recordings, records and the like relating to any formal hearing or the review thereof (except those items specifically identified for other treatment under this Code and except to the extent any such matters must, under University regulations, be referred to or transmitted to another office of the University) shall be sealed and kept in the Dean's office and the same shall be opened subsequently only upon the direction of the Dean, a higher University academic official, or a court of law. After five years, the Dean may direct the destruction of all, or so much of all, such material as they may determine is appropriate. Any material which is not destroyed shall be kept sealed in the student's permanent personal file.

### **Section 9.4: Publication of Honor Code Violation Data**

The SBA President and Honor Council Chairperson shall jointly produce a report at the end of every semester that shall be distributed to the Colorado Law Student Body. The report shall include the nature of any offense alleged, the findings, and the sanctions imposed, if any, from the past semester. The report shall not include personally identifying information in order to protect the identity of the parties involved.

### **Section 9.5: Reporting to the Office of Student Conduct and Conflict Resolution**

At the end of each academic semester, the honor council chairperson will send a summary of the cases to SCCR and information from the report may be included in SCCR's annual report to be distributed to other governing bodies within the University of Colorado. The annual report published by SCCR shall not include personally identifying information in order to protect the identity of the parties involved.

### **Section 9.6: Effective Date**

Every provision of this Code shall become effective immediately upon approval of not less than two-thirds of the Faculty, or as soon thereafter as, considering the nature of the provision (e.g., signing Honor statements at registration), it is first realistically possible to implement such provision.

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*Approved by the Faculty on June 1, 2024.*