

# Academic Code of Conduct

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## CHAPTER ONE: GENERAL PROVISIONS

- 1.1 **Applicability.** This Code of Conduct governs the conduct of students of the Law School in matters related to the academic integrity of Villanova Law School and its educational programs. A person enrolled in one or more courses in the J.D. program is a student of the Law School.
- 1.2 **Honor Board.** The Honor Board is established by the Faculty of the Villanova Law School to: (a) administer, in conjunction with the Faculty, this Code of Conduct; (b) assist the Administration of the Villanova Law School in the administration of examinations; (c) administer student elections in cooperation with the Student Bar Association; and (d) review this Code of Conduct periodically and recommend amendments.
- 1.3 **Officers.** The Honor Board shall have a Chairperson and other officers as provided for in the bylaws of the Honor Board.
- 1.4 **Bylaws.** The Honor Board may adopt bylaws, rules, and regulations governing its activities and proceedings that are consistent with this Code of Conduct.
- 1.5 **Definitions.** As used in this Code of Conduct, unless the context otherwise clearly requires:
  - (a) “Accused” means any student of the Law School accused of a violation of the Code.
  - (b) “Board” means the Honor Board established pursuant to section 1.2
  - (c) “Chairperson” means the Chairperson of the Board, or any member of the Board acting as Chairperson in accordance with the bylaws of the Board.
  - (d) “Charge Panel” means the two members of the Board appointed under section 4.1(c) and the Faculty Advisor.
  - (e) “Incident Report” means a written report prepared by a member of the Board or the Faculty Advisor as required by section 4.1(b).
  - (f) “Code” means this Code of Conduct.
  - (g) “Dean’s Designee” means the faculty member designated by the Dean to carry out the functions provided in section 4.3 of this Code for that academic year or an alternate designated by the Dean to serve in place of the Dean’s Designee.
  - (h) “Disposition Report” means the written report of the Dean’s Designee as required by section 4.3(d).
  - (i) “Faculty” means the full-time members of the Faculty of the Law School.
  - (j) “Faculty Advisor” means the faculty member designated by the Dean to carry out the functions provided in this Code or faculty member designated by the Dean to serve in place of the Faculty Advisor.
  - (k) “Hearing Board” means the three students and three faculty members appointed under section 4.4.
  - (l) “Hearing Board Report” means the written report of the Hearing Board required by section 4.6(d).

- (m) "Investigation Report" means the written report of a Board member required by section 4.1(d).
- (n) "Law School" means the Villanova Law School.
- (o) "Law School Academic File," means the file retained by the Law School after a student graduates which contains a student's academic transcript and other records.
- (p) "Probable Cause Report" means the written report of the Charge Panel required by section 4.2(c).
- (q) "Student" means a person who is matriculating in the Law School's J.D. program or enrolled in a course in the Law School's J.D. program.
- (r) "The permanent Honor Board file" means the confidential file containing all documents in all Honor Board matters retained by the Office of the Academic Dean. This file is distinct from the file of Honor Board records from the current academic year maintained by the Faculty Advisor. Only the Academic Dean, the Faculty Advisor, and the Dean's Designee shall have access to the permanent Honor Board file.
- (s) "Notice of Dismissal" means a written notice prepared by a member of the Charge Panel or the Faculty Advisor as required by section 4.2(b).

## CHAPTER TWO: VIOLATIONS OF THE CODE OF CONDUCT

- 2.1 **Obligation of Student.** Students must familiarize themselves with the Code and with the published rules governing examinations or other academic activities in which they participate. Students must also familiarize themselves with the rules for citation, correct citation form, and proper attribution. Students are responsible for being able to paraphrase, summarize and quote sources accurately and responsibly. A student certifies that all words and ideas not identified as another's using attribution are the student's own by placing her or his name on any work submitted to fulfill any academic or co-curricular requirement.
- 2.2 **Student's Knowledge or Belief.** The acts or omissions set forth in section 2.3 are infractions of the Code whether or not a Student
  - (i) knows an act or omission is an infraction of the Code or the published rules governing examinations or other academic activity;
  - (ii) knows or believes an act or omission is contrary to accepted standards of honesty, or
  - (iii) intends by an act or omission to gain academic advantage.
- 2.3 **Infractions.** The following acts or omissions of a Student are infractions of the Code:
  - a) giving or securing any information about an examination except as authorized by the examining professor;
  - b) consulting or copying from any books, papers, notes or other materials of any kind (whether in paper or digital form) during an examination except as authorized by the examining professor;
  - c) retaining possession (defined as within sight or reach of the student's seat) during an examination of any paper or electronic materials or devices, other than those authorized by the examination instructions, whether consulting them or not, after being instructed to store them in a specific place for the duration of the examination;
  - d) continuing writing an examination answer after the permitted time has expired;

- e) violating any other rule of the Law School applicable to examinations, if the conduct is contrary to accepted standards of honesty;
- f) unauthorized taking, concealing, withholding, destroying, mutilating or abusing Law School property;
- g) submitting in an academic activity the work of another as one's own work, with or without the consent of the author of such work;
  - (1) "Submitting in an academic activity the work of another as one's own work" includes the following:
    - A. Quoting the words of another without using quotation marks, even if the writer includes a citation;
    - B. Quoting the words of another without attribution;
    - C. Paraphrasing the words of another without attribution;
    - D. Closely following the structure of another source's argument (structural plagiarism); and
    - E. Using the idea of another without attribution.
  - (2) The term "structural plagiarism" refers to the act of following a source's argument too closely, even with proper attribution. When a writer reproduces the structure of a source's argument, the writer is likely reproducing the source's argument rather than producing original work, which is why structural plagiarism counts as an infraction. Some exceptions may be made if a writer is discussing a well-settled topic in the law, but students should check with a supervising faculty member before assuming one applies to their work.
  - (3) Students should construe the terms "sources" and "the work of another" broadly. "Sources" and "the work of another" include information, ideas, and opinions learned from others, as well published works and authorities. This section does not include sample forms and other written materials commonly used in practice.
- h) permitting one's work to be submitted in an academic activity as the work of another;
- i) concealing, withholding, destroying, mutilating, or the unauthorized taking or using of another Student's property, including, without limitation, books, briefs, class notes and outlines (whether in paper or digital form), if the conduct is contrary to accepted standards of honesty;
- j) misrepresenting in an academic activity a material fact with respect to work performed or required, including misrepresentation of any kind on a timesheet required to be kept in an academic course or co-curricular activity that is awarded academic credit;
- k) signing in for another student or having a person sign in for you on class attendance sheet;
- l) violating a published rule of the Law School or a student organization applicable to a participant in or a member or candidate for membership on a journal, the Moot Court Board, the moot court program, or a legal writing or skills competition, whether or not academic credit is given, if the violation is contrary to accepted standards of honesty;
- m) failing to report, in accordance with the provisions of the Code, a violation of the Code by another Student;
- n) failing to produce evidence or respond to questions when called upon to do so during an investigation conducted under the Code, or failing to appear as a witness, testify, or produce evidence in any proceeding when called on to do so in accordance with the Code; except that an Accused commits an independent violation of the Code only if they fail or refuse to appear at any proceeding conducted under the Code;
- o) making or giving a false or materially incomplete report of a violation of the Code, statement to a member of the Board during an investigation, or testimony as a witness in any proceeding under the Code;
- p) attempting to obstruct or hinder an investigation or other proceeding conducted by the Board;
- q) breaching any duty of confidentiality imposed by the Code;

- r) engaging in any other conduct in an academic activity which is contrary to accepted standards of honesty;
- s) attempting to commit a violation of this section 2.3; or
- t) aiding or abetting a violation or attempted violation or agreeing or conspiring to commit a violation of this section 2.3.
- u) No unauthorized recording of classes is permitted. Students may only record classes (1) with express written permission from the professor, or (2) as part of a reasonable accommodation approved in writing by the Assistant Dean of Students and Academic Success. Any authorized course recording is solely for the student's educational use for personal study for the course; a course recording may not be 1) reproduced or uploaded to publicly or privately accessible web environments or networks; 2) shared with others; or 3) exchanged or distributed for commercial or non-commercial purposes, with or without compensation, for any purpose.

2.4 **Violation.** A Student's infraction of the Code is a violation of the Code subject to sanction under Chapter Five only if, with respect to each element of the infraction, the Student's act or omission was voluntary and either intentional or reckless.

### CHAPTER THREE: RETAINED JURISDICTION

3.1 **Other Student Conduct.** The Faculty and Administration of the Law School retain exclusive jurisdiction over conduct of Students that is not an infraction of the Code.

3.2 **Grading.** Nothing contained in the Code limits the authority of the Faculty with respect to grading.

### CHAPTER FOUR: HONOR BOARD PROCEDURE

#### 4.1 Reporting Procedure

(a) A Student must promptly report an infraction of the Code to the Academic Dean or her designee. A faculty member or other person shall promptly report an infraction of the Code to either the Academic Dean or the Faculty Advisor.

(b) The Academic Dean or Faculty Advisor shall meet promptly with the person making the report and prepare a written Incident Report. The Incident Report shall include:

(1) the name of the person making the report; (2) the name of the Accused; (3) the date and place of the alleged infraction; (4) a narrative statement of the relevant facts; (5) names and addresses of other persons who may have relevant information; (6) the original or a copy of any documentary evidence and any other physical evidence; (7) a reference to the alleged infraction of the Code; and (8) the signature of the person reporting the infraction, the signature of the Board member or Faculty Advisor preparing the Incident Report, and the date.

(c) As soon as reasonably possible after the Incident Report is prepared, the Academic Dean or her designee will consider the Incident Report.

(d) The Academic Dean shall determine whether the Incident Report alleges an infraction of the Code. If the Academic Dean determines the Incident Report does not allege an infraction of the Code, the matter shall be closed. If the Academic Dean determines an infraction of the Code has been alleged, the Faculty Advisor shall give the Accused a copy of the Incident Report and advise the accused that a

written response may be submitted to the Academic Dean. If the Academic Dean determines that further investigation is appropriate, the Academic Dean or her designee shall conduct the investigation.

(f) The Academic Dean shall establish a date for the submission of the Accused's response and the Investigation Report.

#### **4.2 Preliminary Determination**

(a) The Academic Dean and Faculty Advisor shall promptly determine whether there is probable cause to believe that there has been a violation of the Code, whether further action under the Code is appropriate, and whether suspension or expulsion is a possible sanction because of the nature of the violation.

(b) If the Academic Dean and Faculty Advisor finds there is not probable cause to believe that there has been a violation of the Code, or that no further action is appropriate, the Faculty Advisor shall prepare a Notice of Dismissal stating that the charges have been dismissed and providing a brief explanation. The Notice of Dismissal shall be provided to the Accused and the Dean. The Notice of Dismissal shall be retained in the Accused's Law School Academic File and in the permanent Honor Board file.

(c) If the Academic Dean and Faculty Advisor find there is probable cause to believe there has been a violation of the Code and that further action is appropriate, the Faculty Advisor shall prepare a Probable Cause Report that lists the violation(s) for which there is probable cause and sets forth the evidence which supports the finding of probable cause.

(d) The Academic Dean and Faculty Advisor shall refer the matter to the Dean's Designee for Administrative Review under section 4.3 unless they determine that suspension or expulsion is a possible sanction because of the nature of the violation. The Academic Dean and Faculty Advisor shall refer the matter to the Board for a Board Hearing under section 4.4 if the Charge Panel determines suspension or expulsion is a possible sanction because of the nature of the violation.

(e) Promptly after the Academic Dean and Faculty Advisor refer the matter for Administrative Review or a Board Hearing, the Faculty Advisor shall notify the accused of the accused's right to counsel under § 4.3(a) or 4.5(e).

(f) The Incident Report, the Investigation Report, the Accused's response, any documentary or physical evidence, and the Probable Cause Report shall be provided to the Dean, the Chairperson, the Accused, and, the Dean's Designee or the Hearing Board, whichever is appropriate. These documents shall be retained by the Faculty Advisor to the Honor Board and should also be included in the permanent Honor Board file. These records shall not be included in the Accused's Law School Academic File, unless otherwise agreed by the parties.

(g) If the matter is referred for Administrative Review, the Accused may request a Board Hearing at any time before the earlier of five days after the Probable Cause Report is provided to the Accused or the start of the first meeting with the Dean's Designee.

#### **4.3 Administrative Review**

(a) The Dean's Designee shall meet with the Academic Dean, the Faculty Advisor and the Accused. The Accused may be represented by counsel or by a student selected by the Accused. The Accused may submit documents or other physical evidence and designate witnesses. The Dean's Designee shall hear any available witnesses designated by the Accused, and may decide to hear other witnesses. The Accused, or counsel for the Accused, may question witnesses and make a statement.

(b) The Academic Dean and the Accused may agree to (i) the disposition, (ii) the sanction, or (iii) both the disposition and the sanction.

An agreement to a sanction only does not constitute an admission of a violation by the Accused, proof of a violation, or a finding of a violation. If the Dean's Designee does not approve an agreement, the Charge Panel and Accused may submit another agreement to the Dean's Designee for approval. If the Dean's Designee approves an agreement, the matter shall be terminated in accord with the agreement.

(c) If there is no agreement or the Dean's Designee does not approve an agreement, the Dean's Designee shall decide whether any charged violation has been proven by clear and convincing evidence. If the Dean's Designee finds there was a violation of the Code, the Dean's Designee may impose a sanction under § 5.2.

(d) The Dean's Designee shall provide a written Disposition Report to the Dean, the Board, the Faculty Advisor and the Accused. The Disposition Report shall be retained in the Accused's Law School Academic File and in the permanent Honor Board file.

(e) After the Disposition Report has been provided in accordance with section 4.3(d), the Dean's Designee shall post a notice on the Law School bulletin board that sets forth the date of the administrative review meeting, the alleged violation, and the disposition. The notice shall not disclose the identity of the Accused. (f) The determination of the Dean's Designee is final.

**4.4 Hearing Board.** The hearing shall be conducted before Hearing Board consisting of three members of the Honor Board appointed by the Chairperson and three members of the Faculty appointed by the Dean. The members of the Hearing Board shall select a member as the Hearing Chairperson and another as reporter.

#### **4.5 Hearing Board Procedure**

(a) The Hearing Board shall ascertain the availability of the witnesses and counsel and schedule the hearing, to the extent reasonably possible, to accommodate both the witnesses and counsel.

(b) The Hearing Chairperson shall preside over the hearing.

(c) Only members of the Hearing Board who are present for all of the hearing may participate in Board deliberations and vote on whether a violation has been established. A hearing may begin if four members of the Hearing Board are present. The Hearing Chairperson shall recess and reschedule a hearing if only three or fewer members of the Hearing Board are present at any time during the hearing. If a Hearing Board is unable to proceed promptly with a hearing, the Chairperson shall notify the Dean and the Dean may direct that a new Hearing Board be appointed.

(d) A member of the Charge Panel shall be selected to be the Prosecutor, and another member may be selected to assist the Prosecutor. The Prosecutor shall notify all witnesses who have already been identified, as well as any person designated as a witness by the Accused, of the date, time, and place of the hearing and provide the names of these witnesses to the Hearing Board and the Accused.

(e) The Accused may retain counsel. If requested, the Honor Board shall assist the Accused in obtaining the assistance of another Student to act as counsel. The Accused shall, promptly after selecting counsel, notify the Hearing Chairperson and the Prosecutor who will be counsel for the Accused.

(f) The Accused and counsel have the right to be present at all times during the hearing. The Accused may testify or remain silent.

- (g) The party calling the witness shall first conduct direct examination and then the opposing party may conduct cross examination. Members of the Hearing Board may question a witness during the course of the examination.
- (h) The Hearing Board is not bound by the formal rules of evidence. Evidence may be admitted by the Hearing Chairperson based on relevance and fairness.
- (i) The Hearing Board may request the Accused to testify or produce evidence. If the Accused declines to testify or to produce evidence as requested by the Hearing Board, the Hearing Board may draw an adverse inference against the Accused on the issue of whether the Accused violated the Code and, if appropriate, when imposing a sanction.
- (j) The Prosecutor, the Accused, and the Accused's counsel may make a closing statement.
- (k) The hearing shall be recorded. The Hearing Board's deliberations shall not be recorded. The recording shall be destroyed upon final disposition of the case.

#### **4.6 Hearing Board Findings.**

- (a) The Hearing Board shall determine by majority vote whether the factual elements of each alleged violation were established by clear and convincing evidence.
- (b) If the Hearing Board finds there was no violation, it shall dismiss the charge and promptly notify in writing the Accused, the Prosecutor, the Dean, and the Board. The notice of dismissal shall be retained in the Accused's Law School Academic File and in the permanent Honor Board file.
- (c) If the Hearing Board finds that an alleged violation has been committed, the Accused may address, personally and by counsel, the issue of sanction. The Prosecutor may also address the issue of sanction. The Hearing Board shall determine by majority vote the sanction(s) for the violation.
- (d) The Hearing Board shall submit a written Hearing Board Report which shall include: (1) a reasonably detailed summary of testimony given at the hearing; (2) the Hearing Board's findings of fact; and (3) a statement of the sanction imposed. The votes of individual members of the Hearing Board shall not be disclosed, but a member's separate statement shall be included in the Hearing Board Report.
- (e) The Hearing Board shall provide copies of the Hearing Board Report to the Accused, the Dean, the Board, the Prosecutor, and the Faculty Advisor. The Hearing Board Report shall be retained in the Accused's Law School Academic File and in the permanent Honor Board file.
- (f) If the sanction imposed by the Hearing Board is suspension or expulsion, the Hearing Chairperson shall advise the Accused and counsel for the Accused in writing of the Accused's right to request Faculty Review pursuant to Chapter Six.
- (g) After the Hearing Board Report has been provided in accordance with section 4.6(e), the Chairperson shall post a notice on the Law School bulletin board that sets forth the date of the hearing, the alleged violation, and the Hearing Board's disposition of the case. The notice shall not disclose the identity of the Accused.

5.1 **Factors in Selecting Sanction.** In choosing a sanction, the Dean's Designee or the Hearing Board may consider any relevant information and shall consider:

- (a) the nature and seriousness of the violation, including the degree of potential harm which the violation posed to the academic integrity of the Law School community;
- (b) the circumstances of the violation; including any aggravating or mitigating factors;
- (c) the need to uphold and promote respect for the Code and to deter future violation by the Accused and others;
- (d) whether a sanction will reconcile the Accused with the Law School community;
- (e) whether the Accused reported the violation to the Board, and, if so, when the report was made;
- (f) the extent to which the Accused cooperated and was forthright during the investigation and Administrative Review, and whether the Accused declined, after a request by the Hearing Board, to testify or produce evidence;
- (g) any comments of the Accused and counsel for the Accused relevant to the question of sanction; and
- (h) whether or not the Accused gained, or acted with the intent to gain, academic advantage or benefit by the violation.

5.2 **Sanctions Imposed by Either the Dean's Designee or a Hearing Board.** The Dean's Designee or a Hearing Board, upon finding of a violation of the Code, may impose a sanction or sanctions, including, but not limited to:

- (a) compensatory damages or restitution;
- (b) a reprimand to be included in the Accused's Law School Academic File or noted on the Accused's transcript, or both;
- (c) a reprimand not to be included in the Accused's Law School Academic File or noted on the Accused's academic transcript;
- (d) suspension or denial of library or other Law School privileges or offices;
- (e) dismissal from the journal, board, or other activity to which the violation related;
- (f) denial of credit for a course;
- (g) an incomplete grade with or without the opportunity to retake the examination, take the next scheduled examination, or to redo the work involved;
- (h) appropriate compulsory service to the Law School community;

5.3 **Sanctions Imposed Only by a Hearing Board.** A Hearing Board, upon a finding of violation of the Code, may impose the sanction of suspension or expulsion.

5.4 **Length of Sanction.** The Dean's Designee or the Hearing Board may impose any sanction on a probationary or temporary basis.

## CHAPTER SIX: REVIEW OF HEARING BOARD DECISIONS

6.1 **Faculty Review of Suspension and Expulsion.** The Hearing Board's decision is final, except that, if the Hearing Board imposes the sanction of suspension or expulsion, the Faculty shall review the Hearing Board's decision on petition of the Accused. A petition for

review by the Faculty shall state with specificity the grounds for review and must be filed with the Dean within five school days of delivery of the Hearing Board's Report to the Accused.

- 6.2 **Disqualification.** The Faculty Advisor and the members of the Faculty who served as members of the Hearing Board that heard the case that is the subject of Faculty review shall not attend or participate in the Faculty's review of the case.
- 6.3 **Record.** The record on review by the Faculty is (1) all reports and other material delivered to the Hearing Board under section 4.2(e); (2) the recording of the hearing before the Hearing board and any exhibits from the hearing; and (3) the Hearing Board Report.
- 6.4 **Right to Address Faculty.** The Accused, counsel for the Accused, or a Student representing the Accused may address the Faculty. A member of the Charge Panel may address the Faculty.
- 6.5 **Standard of Review.** The Faculty shall approve the Hearing Board's Report, including the sanction imposed, unless a factual finding or findings are clearly erroneous, the Hearing Board's interpretation of the Code or a published rule governing examinations or an academic activity is erroneous, or the Hearing Board clearly abused its discretion in a manner prejudicial to the substantial rights of the Accused.
- 6.6 **Remand.** If the Faculty, by a majority vote, disapproves the Hearing Board's Report or any part of that report, the Faculty may remand the matter to the Hearing Board for further proceedings, or may consider and dispose of the matter either on the record before the Faculty or after the conclusion of any additional proceedings which the Faculty determines are appropriate under the circumstances of the case.
- 6.7 **Proceedings on Remand.** If the matter is remanded to the Hearing Board for further proceedings, the Faculty shall provide the Hearing Board and the Accused with a written statement of the reasons for the remand and whether and how the record should be supplemented.
- 6.8 **Disposition: Notice and Publication.** The Faculty shall provide a written statement of its disposition of the case to the Accused, the Honor Board, the Hearing Board, and the Faculty Advisor. The statement of disposition shall be retained in the Accused's Law School Academic File and in the permanent Honor Board file. Notice of the Faculty's disposition shall be posted on the Law School bulletin board in the same manner and form as provided in section 4.3(e).

## CHAPTER SEVEN: PERIODIC REPORTING

- 7.1 **Faculty Advisor Report.** The Faculty Advisor shall report to the Faculty and Board from time to time on the operation of the Code, but shall not disclose the identity of Accused persons.

## CHAPTER EIGHT: CONFIDENTIALITY

- 8.1 **All Proceedings Confidential.** All proceedings under the Code are confidential and may be disclosed only as provided by this Code, as reasonably necessary in the administration of the Law School or University, and as required by law.