



## Student Conduct Policy and By-Laws of the Honor Code Committee (HCC)

**Revision history:** Formerly a part of the annually revised Student Handbook. Established as a standalone policy August 2022.

**Related policies:** Sexual Misconduct Policy; Policy to Prevent Discrimination, Harassment, and Retaliation.

**Scheduled Review Date:** June 2024 (Dean of Students and Diversity Affairs Office)

### Student Conduct in General

Students enrolled in the law school are subject to the ethical requirements governing the legal profession as well as to the policies and procedures of Southwestern Law School, including those expressed in this *Student Handbook*, and the provisions regarding student conduct and student discipline contained in the Student Honor Code.

Conduct proscribed by the Student Honor Code is set forth below. General information and specific procedures for Honor Code violations are set out in the By-Laws of the Honor Code Committee (HCC).

Most student discipline matters will be handled by the Honor Code Committee. However, the ultimate decision in any disciplinary matter is not delegable. Whenever the law school administration determines that a student's continuance in the law school would not be in the best interests of the institution, or that they are not a person of such character or integrity to be qualified for admission to the legal profession, it may terminate the student's enrollment or refuse to award a degree. In such cases, the notation "Disciplinary Expulsion" will be entered on the student transcript. The procedures set out in the HCC By-Laws do not apply to such determinations. Rather, such matters will be dealt with expeditiously and with procedures which provide notice and an opportunity to respond.

The legal profession regulates the conduct of those licensed to practice. As future lawyers, developing and maintaining professional competence includes the expectation to act with integrity and respect towards your coursework, classmates, colleagues and community.



## **Section 2: Composition**

The Plenary Committee will consist of six (6) faculty members and nine (9) student members. The faculty members will be appointed by the Dean of the law school. Vacancies in the student membership will be filled through an annual application process open to all students. Completed applications are presented to the Committee for approval by majority vote. Faculty members will serve for one calendar year. Student members will ordinarily serve for their remaining law school enrollment, unless they step down from service for any reason, recuse themselves or are removed for cause.

The Chair will be a student elected by the members.



## **2. Pre-Hearing Procedures**

### **Section 2.1: Respondent's Right to Counsel**

The respondent has the right to be represented at all stages of the proceedings by counsel of their own choosing, other than employees of Southwestern. In the alternative, respondent may act as their own counsel.

### **Section 2.2: Discovery and Settlement Officer**

A faculty member of the Plenary Committee will be appointed by the Dean as Discovery and Settlement Hearing Officer. It will be the responsibility of this Officer to decide matters of discovery and to facilitate and determine settlement of the disciplinary matter. All settlements are subject to the Dean's approval.

### **Section 2.3: Discovery Hearing**

If either party wishes to interview witnesses or conduct other discovery outside the law school community, they will first request that the Discovery and Settlement Officer conduct a discovery hearing. Ten-day notice of the hearing will be given to all parties. Prior to the discovery hearing, the parties will identify the persons to be interviewed or other discovery to be conducted outside the law school community, and the reasons therefore. The Discovery and Settlement Officer will determine whether to allow such discovery in accordance with Section 2.4, below. Except as specifically authorized by the Discovery and Settlement Officer, no witness interviews or other discovery outside the law school community will be conducted. Additional discovery hearings move9 ( t)1 (h.6 (i)-2.9 .9 (y)-6.1 ( h

### **3. Settlement**

#### **Section 3.1: Settlement Conference**

Within 30 calendar days after the Discovery Hearing concludes, a mandatory settlement conference will be held. The settlement conference will be conducted by the Discovery and Settlement Officer. The Examiner, respondent, and respondent's counsel will attend the settlement conference.

#### **Section 3.2: Settlement Policy**

The policy of this law school is to encourage reasonable informal resolution of student disciplinary matters. When no Discovery Hearing takes place and no mandatory settlement conference is held, such informal settlement efforts may nonetheless take place between the Discovery and Settlement Officer and respondent (and respondent's counsel) to the degree parties reasonably believe fruitful resolution may be reached. Such resolutions, however, remain subject to the Dean's approval.

### **4. Hearing**

#### **Section 4.1: Hearing Subcommittee**

If efforts at settlement are unsuccessful, the Discovery and Settlement Officer will notify the Plenary Committee Chair. To the extent circumstances permit, within 10 calendar days after the end of the settlement efforts, the Chair will appoint a Hearing Subcommittee, comprised of three (3) students and two (2) faculty members of the Plenary Committee, provided, however, that the Discovery and Settlement Officer may not serve on the Hearing Subcommittee. The Chair will appoint one of the faculty members of the Hearing Subcommittee as its Chair. In instances where the Chair is unavailable (for example, if the matter takes place over summer months and the Chair has recently graduated), appointments will be made by majority vote of current student committee members.

#### **Section 4.2: Commencement of Hearing**

The Hearing will commence no later than 20 calendar days after appointment of the Hearing Subcommittee, to the extent circumstances permit. The Hearing will be closed to the public.







- a. The Respondents receive no credit for the course in question and were required to retake the course from a different professor with no reimbursement of fees;
- b. The Respondents be suspended beginning with the summer session and not be allowed to re-enroll until the spring semester.

The Dean accepted the findings and recommendations of the Committee in this matter and implemented them.

3. A grievance was filed against a student (Respondent) who claimed to have seen another student (Complainant) cheat during an examination. Instead of reporting the alleged cheating to a proctor, the professor, or the HCC, the Respondent chose to speak with his faculty advisor. The Respondent sought his faculty advisor's opinion about the propriety of a personal confrontation with the Complainant. Specifically, the Respondent planned to tell the Complainant that he would not report the cheating to the HCC if the Complainant would relinquish the Student Bar Association post that he held. Describing the plan to his advisor, however, the Respondent was not explicit about the nature or the frequency of the proposed confrontations.

The faculty advisor strongly recommended that the Respondent report the incident to HCC. The student was reluctant to take this approach for he feared that it might result in the Complainant's expulsion. Although the faculty advisor indicated that he could not see anything particularly wrong with a personal confrontation, he reiterated that the Respondent should file a grievance with the HCC.

The Respondent confronted the Complainant on three occasions seeking his resignation. The increasingly persistent manner in which the Respondent pursued the Complainant appeared to go far beyond the type of confrontation envisioned by the Respondent's faculty advisor.

Instead of resigning, the Complainant filed a grievance with the HCC. The Complainant's grievance about the Respondent's conduct and demands was considered in light of the HCC By-Laws, Student Honor Code, and the American Bar Association Code of Professional Responsibility Disciplinary Rules. Under Article III, Section II of the By-Laws, the Subcommittee had to determine whether the Respondent's conduct was "antithetical to the interests of the law school." The Subcommittee found that:

- a. The Respondent's conduct violated the Honor Code and ABA Disciplinary Rule 1-102 (A)(5). The Honor Code was breached, for the Code specifically provides that "all student discipline matters be handled by the HCC... (or) administratively by the Dean." A violation of the Honor Code occurred, for



completion of said Disciplinary P