

# *Code of Academic Conduct*

## Preamble:

The Code of Academic Conduct establishes and provides a system for the enforcement of minimum standards of integrity, fairness, equal opportunity, and professionalism in the conduct of academic pursuits at The University of Tennessee College of Law. As with the American Bar Association's "Code of Professional Responsibility," the touchstone of our system is self-regulation. The policy of self-regulation underlying the Code of Academic Conduct demands the cooperation of each member of the Law School community. All work should be done in full compliance with both the spirit and letter of the Code.

## Chapter One: Statement of Purposes

1.01 The purpose of the Code of Academic Conduct is to promote and secure academic integrity, fairness, equal academic opportunity, and professionalism at The University of Tennessee College of Law.

## Chapter Two: Scope

2.01 This Code of Conduct applies to all students who are enrolled in the College of Law and are involved in academic matters pertaining to the College of Law.

2.02 A student is enrolled in the College of Law if he or she is registered for a course offered by the College of Law or is engaged in any of the academic matters specified in ñ 2.03(A)-(G).

2.03 " Academic matters pertaining to the College of Law" means any activities which may affect a grade, satisfaction of requirements for graduation, or the award of professional honors at the College of Law, and any other activities sponsored or administered by the College of Law in which such grades, satisfaction of degree requirements, or professional honors are relevant. Academic matters include but are not limited to:

- (A) Examinations;
- (B) Research or other assignments to be done for a course;
- (C) Any work which is in whole or partial satisfaction of requirements to receive credit for participation in any activity for which credit is given;
- (D) Registration for enrollment in courses which may be taken

in whole or partial satisfaction of requirements for graduation;

- (E) Competitions for professional honors awarded by the College of Law or under its auspices, including but not limited to Law Review membership, Moot Court awards, and essay prizes;
- (F) Participation in the activities of the Academic Review Board of the College of Law or the activities of any individual, committee, or board authorized to establish or administer policies pertaining to academic matters at the College of Law; and
- (G) Representations about one's participation or performance in an academic matter in connection with any activity sponsored or administered by the College of Law.

## Chapter Three: Standards of Conduct

3.01 Prohibited Conduct: It shall be a violation of the Code of Academic Conduct for any student enrolled in the College of Law to commit an act of academic dishonesty. A student has committed an act of academic dishonesty if he/she

- (A) With respect to any academic matter, intentionally
  - (1) Misrepresents a fact or fails to state a fact in circumstances which render any statement made misleading;
  - (2) Sequesters, mutilates, destroys, or uses without permission the books or work product of another student; or
  - (3) Sequesters, mutilates, or destroys library materials; or
- (B) With respect to an examination, intentionally
  - (1) Acquires or attempts to acquire a copy of any examination without the permission of the instructor responsible for the examination;
  - (2) Uses or attempts to use materials other than those specifically authorize by the instructor responsible for the examination;
  - (3) Provides or acquires, or attempts to provide or acquire, information or assistance when specifically prohibited from doing so by the instructor responsible for the examination;
  - (4) Copies or attempts to copy the examination answer of

another student or permits or attempts to permit another student to copy his/her answers; or

- (5) Engages or attempts to engage in any other form of cheating, i.e., conduct specifically intended to secure an unfair advantage or to subject another to an unfair disadvantage; or

(C) With respect to research or other writing assignments in connection with the academic matters specified in § 2.03(B), (C), or (E), intentionally

- (1) Uses or attempts to use materials the use of which has been specifically prohibited by the instructor or other person responsible for the academic matter;
- (2) Plagiarizes;
- (3) Gives or receives, or attempts to give or receive, information or assistance when specifically prohibited from doing so by the instructor or person responsible for the academic matter; or
- (4) Engages or attempts to engage in other forms of cheating, i.e., conduct specifically intended to secure an unfair advantage or to subject another to an unfair disadvantage; or

(D) With respect to his/her participation in the activities of the Academic Review Board of the College of Law or of any individual, committee, or board authorized to administer policies about academic matters pertaining to the College of Law, intentionally

- (1) Obstructs the administration of such policies by sequestering, mutilating, or destroying relevant materials;
- (2) Refuses to provide relevant information within his/her possession when requested to do so by an individual, committee, or board acting within their authority to administer policies pertaining to academic matters, except where permitted to do so by law or by regulations of The University of Tennessee; or
- (3) Where prohibited by law or by regulations of The University of Tennessee, discloses to others information about specific students or identifiable groups of students which was acquired by virtue of his/her participation in the administration of such policies, except where such disclosure is necessary to report an act of academic dishonesty to the Dean of the College of Law.

### 3.02 Reporting Prohibited Conduct: Students enrolled in the College of Law

who know of acts of academic dishonesty committed by another student enrolled in the College of Law are expected to report such acts to the Dean of the College of Law.

## Chapter Four: Administration of the Code

4.01 There shall be established an Academic Review Board of the College of Law.

- (A) Composition and Membership: The Academic Review Board of the College of Law shall consist of both appointed faculty and elected student members as set forth below. Additionally, the Academic Review Board shall consist of a member of the Office of the Dean of Students who shall serve as the non-voting chairperson of the Board; the responsibilities of the chairperson shall include the scheduling of meetings, notification of parties and witnesses, and reporting regularly to the Student Affairs Council the activities of the College of Law's Academic Review Board.
  - (1) Faculty members: As each case arises, the Dean of the College of Law shall appoint an appropriate number of faculty members to the Academic Review Board to ensure the availability of a quorum, as set forth below;
  - (2) Student members: Two members from each College of Law class shall be elected by the student body at large to serve as the student members to the Academic Review Board. Student members shall be subject to the Dean's approval and shall serve until their successors are elected. Elections shall be held once a year at the beginning of the fall semester. Three student members, selected from the elected six, shall be chosen by the Dean as each case arises to ensure the availability of a quorum, as set forth below. If a quorum cannot be obtained from duly elected student members of the Academic Review Board, the Dean shall appoint additional student members from a list of students submitted to him/her by the Executive Council of the Student Bar Association.
  - (3) Quorum: A quorum shall consist of the non-voting chairperson, three voting faculty members appointed as set forth above, and three voting student members elected or appointed as set forth above.

4.02 The Academic Review Board shall have jurisdiction:

- (A) To adjudicate charges that an individual has committed an act of academic dishonesty in connection with an academic matter pertaining to the College of Law while that individual was enrolled

in the College of Law and to impose, subject to the authority of the Dean of Students, any of the following penalties:

- (1) **Loss of Privileges.** These penalties are intended to serve as reminders of operating regulations and are for specific periods of time. Such penalties may include loss of scholarship, stipend, right to participate in certain extracurricular activities, use of facilities, etc.
- (2) **Disciplinary Reprimand.** Disciplinary reprimands are used for minor infractions. A reprimand indicates that further violations will result in more severe disciplinary actions.
- (3) **Disciplinary Probation.** Disciplinary probation means that a student is permitted to remain in the University on a probationary status. Conviction of a similar violation during probation will result in suspension. Other conditions of probation are specific to the individual case and may include loss of eligibility to serve as a student organization officer or to participate in specified student activities. The Director of the Office of Student Conduct, who is charged with the responsibility of supervising those on probation, may also specify the terms of probation.
- (4) **Suspension for a Specific Period of Time.** Suspension for a specific period of time is used in cases of serious misconduct or repeat offenders and means that the student is withdrawn from the University and is not eligible to apply for readmission for the designated period of time. Usually, the period of designated suspension does not exceed one year.
- (5) **Indefinite Suspension.** Indefinite suspension means that no specific date has been recommended by the Board for the readmission of the suspended student. This penalty is used when the prognosis of rehabilitation is uncertain and the Board desires that some additional evidence of rehabilitation be presented by the student before he/she is readmitted to the University. Applications for readmission shall be considered by the Student Affairs Council.
- (6) **Permanent Dismissal.** Permanent dismissal means that a student is permanently barred from matriculating as a student on the Knoxville campus. This penalty is used when the violation of one or more of the institution's Standards of Conduct is deemed so serious as to warrant total and permanent disassociation from the University community without the possibility of re-enrollment; or when, by his/her repeated violation of the institution's Standards of Conduct, a student exhibits blatant disregard for the health and safety of other members of the University community or the

University's right to establish rules of conduct.

(7) In cases where a Board desires to impose suspension, it may so recommend to the Dean of Students. In the event a recommendation of suspension is not approved by the Dean of Students, he may substitute any less severe penalty; if probation is substituted, it may be for a greater period than the period specified for suspension. The Dean of Students shall notify the Dean of the College of Law when a recommendation for suspension is not approved.

(B) To hear appeals by an individual against whom a penalty has been assessed by an instructor in the College of Law for alleged acts of academic dishonesty in connection with academic matters for which that instructor was responsible and to either uphold or make findings and recommendations at variance with the determination of the instructor.

(C) To hear such other academic matters as may be appropriate under the standards set forth in Hilltopics.

4.03 The procedures for adjudication of alleged acts of academic dishonesty by the Academic Review Board of the College of Law shall be as follows:

(A) Allegations that an individual has violated the Code of Academic Conduct shall be communicated in writing to the Dean of the College of Law. If the Dean concludes that there are reasonable grounds to believe that a violation has occurred, he or she shall refer the matter to the office of the Dean of Students for prosecution and shall empanel an Academic Review Board as provided in ñ 4.01.

(B) A quorum, consisting of six board members, must be present in order to hear a case. A two-thirds vote of the members is required for all decisions of the Board. Any board member who cannot hear the evidence fairly and objectively for any reason shall dismiss himself/herself from the case.

(C) The chairperson shall ascertain that the accused has been advised of his/her rights and shall read the statement of charges. The accused shall have the right to:

(1) Exercise or waive his/her right, as set forth in Hilltopics, to a hearing conducted in accordance with the Uniform Administrative Procedures Act (T.C.A. ñ 4-5-101 et. seq.).

- (2) Written notice of charge(s), an account of the alleged misconduct, the name of any witnesses to the misconduct, and notice of the scheduled hearing delivered 72 hours before the hearing. The student may request additional time by showing good cause.
  - (3) A public or closed hearing. A public hearing can involve only a limited number of spectators, and appropriate control measures will be established by the Dean of Students. If there is difficulty with crowd control, the hearing board chairperson can designate those parties to be present.
  - (4) Notice of the maximum allowable penalty (i.e., permanent dismissal).
  - (5) The assistance of the counsel of his/her choice.
  - (6) Testify or remain silent at his/her option.
  - (7) Present witnesses.
  - (8) The presumption of innocence. The burden of proof rests with the University to establish by a preponderance of the evidence that the accused has committed the alleged act of academic dishonesty.
  - (9) A written decision specifying the rule violated, penalty assessed, and right to appeal.
  - (10) Challenge the seating of any board member for good cause. The dismissal of a challenged hearing board member shall be at the discretion of the hearing board chairperson. If the chairperson is challenged, he/she may be excused at the discretion of the majority of the hearing board.
  - (11) Have his/her case heard only on the misconduct specified in the written notice.
  - (12) Challenge the admissibility of evidence.
  - (13) Confront or cross-examine all available adverse witnesses.
  - (14) Appeal to the Student Affairs Council as provided in 4.03(0).
- (D) A student who fails to appear before the Academic Review Board in accordance with proper notification shall be deemed to

have waived his/her right to be present during the presentation of evidence to the Board, to know the evidence against him/her, to present evidence in his/her own behalf, and to exercise reasonable cross-examination of witnesses appearing against him/her. This waiver shall become effective if the student fails to appear at the designated time and place of the hearing unless, prior to the time set for the hearing, the student communicates in writing to the Dean of Students good cause for granting a continuance of a scheduled hearing.

- (E) The accused shall enter a plea of guilty or not guilty. If a guilty plea is entered, he/she shall be advised of the maximum penalty.
- (F) The chairperson is in charge of maintaining an orderly discussion throughout the hearing. Proceedings should be conducted with fitting dignity and should reflect the importance and seriousness of the hearing. Any person who fails to follow the instructions of the chairperson, after a warning, shall be referred to the Dean of Students for appropriate disciplinary action.
- (G) In the event that the accused pleads guilty, the Board shall review the circumstances of the case and make appropriate decisions or recommendations regarding the penalty.
- (H) The Dean of Students or his/her designee shall present such evidence as he/she has at the hearing, including any witnesses. He/she shall not present written statements as evidence, unless circumstances make such presentation necessary and unavoidable. Under similar restrictions the accused may present written statements in his/her defense. Unsigned statements shall not be admitted as evidence.
- (I) After the presentation of evidence by the Dean of Students, the accused shall be allowed to present all relevant evidence. If a not guilty plea has been entered, evidence in mitigation of the alleged offense shall be presented only after the Board has determined the issue of innocence or guilt.
- (J) During Board deliberations all persons except the board members shall be excused from the hearing room. All matters upon which the decision may be based must be introduced at the hearing, and the decision shall be based solely upon the evidence presented. No mention will be made during the hearing on innocence or guilt of the student's previous disciplinary record, unless appropriate as rebuttal to character evidence introduced by the accused.

- (K) Upon a determination of guilt by the Board, the previous disciplinary record of the accused, if any, shall be given to the Board together with the recommendation of the Dean of Students as to an appropriate penalty.
- (L) After the Board determines the penalty, the accused shall be advised in writing of its decision.
- (M) The results of the Board's decision shall be kept on official University judicial forms, and such a record will be considered sufficient. If a verbatim record of the hearing is prepared, it shall be retained in the custody of the Dean of Students and considered a confidential disciplinary record. If necessary for adjudication of an appeal, the Dean of Students may prepare a summary, certified by the chairperson of the Academic Review Board, of that portion of the record that has been designated by the Student Affairs Council as material to the appeal.
- (N) A Board member shall not discuss cases prior to or after the hearing. The information received by members of a judicial board during a case is considered strictly confidential.
- (O) An individual who has been found guilty and penalized by the Academic Review Board of the College of Law shall have the right to appeal those decisions to the Student Affairs Council, the final decision-making board of The University of Tennessee, Knoxville judicial system. All appeals shall be taken in accordance with the following:
  - (1) In all cases the request for appeal must be submitted in writing to the Dean of Students within seven (7) calendar days of written notice of the board decision. If the seventh (7th) day falls on a weekend or holiday, the time is extended to the next regular work day.
  - (2) If written briefs are submitted, they must be submitted within the same time allowed for filing a request for appeal. Under normal circumstances, appeals will be heard within fourteen (14) days after they have been filed.
  - (3) Unless the Student Affairs Council elects to hear the case de novo, all appeals must be taken upon the record made before the Academic Review Board of the College of Law.
  - (4) The Student Affairs Council will review the request for appeal together with any written briefs or other supporting documents to

determine if the appeal presents a substantial question within the scope of review. The scope of review shall be limited to the following:

- (a) Penalty. In cases appealing the appropriateness of the penalty, the appeal board shall uphold the penalty unless the penalty is shown to be "clearly unreasonable" (i.e., "that which has been clearly and fully proven to have no sound basis or justification in reason").
  - (b) In cases appealed on grounds of new evidence, the moving party must show that such evidence is material to the decision of the board on the issue of innocence or guilt, and that said evidence could not have been discovered by due diligence prior to the original hearing.
  - (c) In cases appealed on the grounds of denial of due process, the moving party must show that the adjudicatory process of the initial hearing was not conducted in conformity with properly prescribed procedures. In this regard, the moving party must also show that the alleged discrepancy was materially adverse to the moving party's interest. Nothing contained in the foregoing shall be construed as limiting the right of the Dean of Students to request the Student Affairs Council to review the decision of the Academic Review Board of the College of Law.
- (P) The decision of the Student Affairs Council is subject to review by the Chancellor and the President of The University of Tennessee.

4.04 The procedures for an appeal of a penalty assessed by an instructor for alleged acts of academic dishonesty shall be as follows:

- (A) Penalties for academic dishonesty may be imposed by an instructor. He/she has full authority to suspend a student from his/her class, to refuse to allow a student to take an examination, to lower a student's grade, to assign a grade of 0.0 in an exercise or examination, or to assign a grade of 0.0 in the course. In addition to or prior to establishing a penalty, the instructor may refer the case to an Academic Review Board by notifying the Dean of the College of Law. In all cases involving suspension of a student from a class, the student must be provided a hearing, as hereinafter described, prior to the effective date of such suspension.
- (B) An instructor shall notify the student in writing of the penalty, the nature of the misconduct for which the penalty was

assessed, the names of any witnesses to the misconduct, and the student's right to appeal, and shall have the writing countersigned by the Dean of the College of Law. Copies shall go to the Office of the Dean of Students, and, if the student is enrolled in another academic unit, to the head of that academic unit.

- (C) A student who has been penalized by an instructor shall first discuss the penalty with the instructor involved and, if necessary, the Dean of the College of Law. If the student is unable to resolve the penalty with the instructor and the Dean, he/she may appeal the penalty to the Academic Review Board by notifying the Dean within seven calendar days of receipt of written notice of the penalty from the instructor.
- (D) An appeal by a student to an Academic Review Board must be in writing. It is the responsibility of the student to make a complete and thorough case for the appeal to the board. This is particularly important because of the procedure which allows the Academic Review Board to make a determination based on documentary evidence without providing the student an opportunity to make an oral presentation. The appeal statement should contain the following information:
  - (1) The name of the person the appeal is against, what class (if any) is involved, and when and where the problem took place.
  - (2) The nature of the complaint; the specific way in which the student was allegedly aggrieved, harmed, injured, or denied rights. (Example: unjust allegation of academic dishonesty.)
  - (3) The specifics of the problem. A mere statement like, "I did not cheat, misuse materials, etc." is not sufficient. The student must state why he/she feels the penalty imposed by the instructor was improper or unfair.
  - (4) The existence of papers, exams, reports, etc. which verify the complaint; the names of persons (another student, advisor, etc.) who can verify the facts.
  - (5) The steps which have been taken to solve the problem and the names of the persons, including the instructor, with whom the student has talked in an effort to resolve the problem.
  - (6) The remedy desired by the student.
  - (7) The student's name, address, telephone number, student identification number, and signature.

- (E) Upon receipt of a student appeal statement, the Dean of the College of Law shall empanel an Academic Review board as provided in ñ 4.01.
- (F) A quorum of six board members must be present in order to hear an appeal. A two-thirds vote of the members is required for all decisions of the Board. Any board member who cannot hear the appeal fairly and objectively for any reason shall dismiss himself/herself from the case.
- (G) The chairperson shall ascertain that the student who has been penalized has been advised of his/her rights in connection with the appeal of the penalty. The student shall have the right to:
  - (1) As provided in ñ 4.04(b), written notice of the penalty, account of the misconduct for which the penalty was imposed, the names of any witnesses to the misconduct, and the student's right to appeal the penalty.
  - (2) Assistance of the counsel of his or her choice.
  - (3) The presumption of innocence. The burden of proof rests with the University to establish by a preponderance of the evidence that the accused has committed the alleged act of academic dishonesty for which the penalty was imposed.
  - (4) A written decision specifying the Academic Review Board's determination of the appeal and the student's right to appeal an adverse decision, as provided in ñ 4.04(K) and (L).
  - (5) Challenge the seating of any board member for good cause. The dismissal of a challenged hearing board member shall be at the discretion of the Hearing Board chairperson. If the chairperson is challenged, he/she may be excused at the discretion of the majority of the hearing board.
  - (6) Have his/her case heard only on the misconduct specified in the written notice.
  - (7) If a formal hearing is approved by the Academic Review Board, the additional rights to
    - (a) At least 72 hours notice of the time and place of the hearing.
    - (b) Testify or remain silent at his/her option.

- (c) Challenge the admissibility of evidence.
  - (d) Confront or cross examine all available adverse witnesses.
  - (e) Present witnesses.
  - (f) A public or closed hearing. A public hearing can involve only a limited number of spectators, and appropriate control measures will be established by the Dean of Students. If there is difficulty with crowd control, the chairperson of the Academic Review Board can designate those parties to be present.
  - (g) A student who fails to appear before the Academic Review Board in accordance with proper notification shall be deemed to have waived his/her rights to be present during the presentation of evidence to the Board, to know the evidence against him/her, to present evidence in his/her own behalf, and to exercise reasonable cross-examination of witnesses appearing against him/her. This waiver shall become effective if the student fails to appear at the designated time and place of the hearing unless, prior to the time set for the hearing, the student communicates in writing to the Dean of Students good cause for granting a continuance of a scheduled hearing.
- (H) The Academic Review Board shall first review all written documentation submitted to it by the appellant and the instructor and, if necessary, conduct a preliminary investigation to determine if a full evidentiary hearing by the Board is necessary. If the Board determines that a full evidentiary hearing is not necessary to insure that fundamental fairness is extended to both the student and the instructor involved, the Board shall forthwith render its determination of the appeal.
- (I) If a formal hearing is approved by the Academic Review Board, the Board shall inform the appellant, the instructor, the Dean of the College of Law, and the Office of the Dean of Students of that determination.
- (J) The formal hearing shall be conducted in accordance with the appellant's rights as specified in 4.04(G) and in accordance with the following procedures:
- (1) The chairperson is in charge of maintaining an orderly discussion throughout the hearing. Proceedings should be conducted with fitting dignity and should reflect the importance and seriousness of the hearing. Any person who fails to follow the instructions of the chairperson, after a warning, shall be referred

to the Dean of Students for appropriate disciplinary action.

- (2) The Dean of Students or his/her designee shall present such evidence as he/she has at the hearing, including any witnesses. He/she shall not present written statements as evidence, unless circumstances make such presentation necessary and unavoidable. Under similar restrictions the accused may present written statements in his/her defense. Unsigned statements shall not be admitted as evidence.
  - (3) After the presentation of evidence by the Dean of Students, the accused shall be allowed to present all relevant evidence.
  - (4) During Board deliberations all persons except the board members shall be excused from the hearing room. All matters upon which the decision may be based must be introduced at the hearing, and the decision shall be based solely upon the evidence presented. No mention will be made during the hearing of the student's previous disciplinary record, unless appropriate as rebuttal to character evidence introduced by the accused.
  - (5) A board member shall not discuss cases prior to or after the hearing. The information received by members of a judicial board during a case is considered strictly confidential.
- (K) If the Board supports the determination made by the instructor, the case is terminated. However, an appeal based upon procedural due process may be made to the Student Tribunal in accordance with its prescribed procedures by notifying the Office of The Dean of Students within (7) calendar days of written notice of the Board's determination.
- (L) If the Board makes findings and recommendations at variance with the determination of the instructor, these recommendations shall be forwarded to the instructor and the Dean of the College of Law.
- (1) If the instructor accepts the recommendations of the Board, the case is terminated.
  - (2) If the instructor elects not to follow the recommendations of the Academic Review Board, the student may appeal the penalty to the Student Affairs Council in accordance with its prescribed procedures by notifying the Office of the Dean of Students within seven (7) calendar days of written notice of the instructor's election.
    - (a) If the Student Affairs Council supports the determination of

the instructor, the case is terminated.

- (b) Any other recommendation of the Student Affairs Council will be forwarded to the Chancellor for final adjudication.
  - (c) The results of the appeal shall be forwarded by the Office of the Dean of Students to the administrative head of all academic units involved.
- (M) The decision of any Board or administrative officer of The University of Tennessee is subject to review by the Chancellor and the President of the University of Tennessee.

4.05 Matters referred to the Academic Review Board pursuant to 4.02(c) shall be governed by the procedures set forth in Hilltopics.

4.06 In the event an individual has been adjudicated guilty of an act of academic dishonesty committed while he/she was enrolled in the College of Law, or was penalized by an instructor in the College of Law for acts of academic dishonesty, and such adjudication or penalty has not been appealed or has been upheld upon appeal, the College of Law shall report such fact to duly authorized bar examiners when requested to report on that individual's academic record at the College of Law.