

CUMBERLAND SCHOOL OF LAW HONOR CODE

Article I STATEMENT OF PURPOSE

§ 1.1 PREAMBLE

This Code shall be officially known as “THE HONOR CODE OF CUMBERLAND SCHOOL OF LAW AT SAMFORD UNIVERSITY” and may be referred to as “THE HONOR CODE.”

§ 1.2 PURPOSE

The purpose of this Honor Code is to establish principles by which the students of Cumberland School of Law will govern their school conduct. Cumberland School of Law does not condone forms of conduct which bring discredit to the student body, to the law school, or to the legal profession. This code is intended to provide fair protection to the members of the student body from the unethical activities of fellow students and to protect the rights of all students accused of such activities.

Article II JURISDICTION

§ 2.1 JURISDICTION

The Honor Code shall apply to all Cumberland School of Law student when engaged in Professional Activities as defined in § 3.4. The Honor Code shall have jurisdiction over violations of the Honor Code.

Article III DEFINITIONS

For the purposes of this Code the following definitions are used:

§ 3.1 CHEATING

“Cheating” shall mean any and all intentional activities that accrue an unfair benefit to a student. Cheating includes the submission to any organization or class of the law school, of any work by a student that is not the result of the student’s own research, efforts and/or knowledge, or prohibiting or impeding another student’s doing research or submitting work. Cheating further includes the intentional deprivation of the rightful use of any institutional or personal property for the purposes of preventing other students from completing or submitting assignments for which such materials are needed.

§ 3.2 STEALING

“Stealing” shall mean the unauthorized taking of any institutional or personal property during any professional activity as defined hereafter.

§ 3.3 LYING

“Lying” shall mean to knowingly issue a false or misleading oral or written statement in the context of a professional activity concerning a material fact with the intent to create a benefit to the issuer or a detriment to the hearer or a third party, or both.

§ 3.4 PROFESSIONAL ACTIVITY

“Professional Activity” means any activity conducted in connection with Cumberland School of Law’s program of legal education including law classes, student services, use of law school resources, externships and internships, student competitions, and student organizations approved by the law school administration.

§ 3.5 DEAN

“Dean” shall mean the Dean of the Cumberland School of Law at Samford University.

§ 3.6 CONTEMPT

“Contempt” shall mean the willful failure to appear at an Honor Court proceeding when summoned to do so, or the willful failure to give testimony in an Honor Court proceeding subject to the provisions of § 5.3,

§ 3.7 REPORT

“Report” shall mean a communication to the Honor Court alleging a violation of the Honor Code.

§ 3.8 ACTUAL KNOWLEDGE

“Actual Knowledge” shall mean direct, personal, first-hand knowledge and shall not include hearsay, rumor, speculation or second-hand information.

§ 3.9 SCHOOL DAY

“School Day” shall mean any day on which law school classes are conducted.

§ 3.10 INFORMAL INQUIRY

“Informal Inquiry” shall mean an investigation of the facts and circumstances forming the basis for an alleged violation of the Honor Code.

§ 3.11 INFORMAL INQUIRY REPORT

“Informal Inquiry Report” shall mean the communication to the Honor Court of the findings of the informal inquiry.

§ 3.12 FORMAL CHARGES

“Formal Charges” shall mean the specific accusation that the accused has committed an Honor Code violation.

§ 3.13 FORMAL PROCEEDINGS

“Formal Proceedings” shall mean the hearing convened by the Honor Court to consider the formal charges.

Article IV VIOLATIONS

§ 4.1 HONOR CODE

Cheating, stealing, lying, or aiding or assisting another to do so, or conduct constituting contempt of the Honor Court, shall constitute a violation of the Honor Code. An intentional failure to report a violation of which a student has actual knowledge shall also constitute a violation of the Honor Code.

§ 4.2 STANDARD OF PROOF

The standard of proof for any violation of the Honor Code shall be “clear and convincing evidence.”

§ 4.3 AFFIRMATIVE DEFENSES

It shall be a defense to any alleged Honor Code violation that the professor or director of any Professional Activity permitted or authorized the activity constituting the alleged violation. A written statement from the professor of the class or director of the Professional Activity will be a sufficient affirmative defense to the charge of a violation of the Honor Code

It shall be a qualified affirmative defense to any alleged Honor Code violation that statements or actions by the professor of any class, the director of any Professional Activity, or any third person were reasonably relied upon by the student accused of the alleged violation.

The accused shall have the burden of proof of any affirmative defense, and such shall be proved by clear and convincing evidence.

§ 4.4 LIMITATIONS ON VIOLATIONS

In no event shall the Honor Court institute any inquiry upon a report that alleges violations more than one year old, or reported more than 30 school days after the discovery of the alleged violation by the person making the report, whichever shall first occur. In no case shall the Honor Court consider anonymous reports, and such reports shall be deemed invalid on their face. Further, no violation of this Honor Code shall be actionable unless an informal inquiry begins within 25 school days of the initial report and formal charges are instituted within 15 school days of the Informal Inquiry report, unless the accused, in writing, asks for a continuance.

Article V SPECIFIC RIGHTS

§ 5.1 THE ACCUSED HAS RIGHTS

The accused has the rights specifically contained in this section of the Honor Code that shall not be impinged upon by the Honor Court, its representatives, or the faculty and administration of the Cumberland School of Law at Samford University.

§ 5.2 RIGHTS OF THE ACCUSED

Any individual formally accused of any Honor Code violation has the following specific rights:

1. To review the initial report made the subject of the informal inquiry at any and all times unless the Honor Court does not deem the violation actionable.
2. To be given a copy of the Honor Code and the Rules of Procedure of the Honor Court.
3. To be given written notice of the formal hearing which notice shall set out the alleged violation and the date, time and place of such hearing, which said notice shall be given at least 15 days prior to such hearing.
4. The right to an open formal hearing provided such is requested in writing at least five days before the date set for the hearing.
5. To obtain copies of any and all testimony or reports made during the informal inquiry or the formal hearing, including tapes or other such recordings.
6. To act as his or her own counsel or to be represented by another person of his or her own choosing and at his or her own expense.
7. To present evidence and ask questions of all witnesses in the accused's own defense during any hearing.
8. To testify in his or her own behalf, subject to examination by the Honor Court, or to remain silent without prejudicial effect.
9. To use the authority of the Honor Court to compel attendance and testimony of witnesses on his/her behalf, subject to the rights of witnesses.
10. If exonerated, to have any and all records which specifically identify the accused destroyed.

§ 5.3 WITNESSES

A witness in a proceeding before the Honor Court must appear at the time and place specified in a written notice given to the witness at least three days prior to the date of such proceedings. The failure to appear shall constitute contempt of the Honor Court. A witness shall not be required to testify or make statements if such statements will implicate the witness in a violation of the Honor Code.

Article VI SANCTIONS

§ 6.1 IMPOSITION OF SANCTIONS

Any person duly found to have violated the Honor Code shall be subject to such sanctions as may be imposed by the Honor Court, subject to review by the Dean.

A student's report of his or her violation, or a student's admission of a violation of which he or she is accused, may be considered by the Honor Court in determining appropriate sanctions. In no event shall a student's failure to admit to the allegations be considered against him or her.

§ 6.2 SANCTIONS

The Honor Court may impose the following sanctions, either singly or in combination:

1. An official reprimand made a part of the student's permanent record.
2. Loss of credit for the course involved, or removal of any awards or honors received by the student as a result of the violation. A class grade of "F" shall be deemed a loss of credit for the purposes of this section.
3. Suspension from the law school for such period of time as the Honor Court deems appropriate.
4. Permanent expulsion from the law school.
5. Any other penalty that fairness and justice may require, including restitution where there has been loss of, or damage to, property.

§ 6.3 SANCTIONS REVIEW

The sanctions imposed shall be certified by the Honor Court to the Dean not later than 30 days after the sanctions are imposed. The Dean may review the record, and may modify or rescind the sanctions so imposed.

Article VII APPEAL

§ 7.1 APPEAL

The accused, if found to have violated the Honor Code, may appeal in writing to the Dean within thirty (30) days from the date of the Honor Court's certification of the sanctions to the Dean. Such appeal may be made upon either or both of the following grounds.

1. The sufficiency of the evidence. If the Dean finds from the record that there is sufficient evidence to support the Honor Court's finding, then the Honor Court's decision shall be affirmed. If the Dean finds that the

decision of the Honor Court is not supported by sufficient evidence, he shall reverse the Honor Court's ruling and the accused shall be thereupon exonerated.

2. The severity of the sanctions. If the Dean determines that justice and fairness so require, he may modify the sanctions, but in no case shall the Dean increase the severity of the sanctions.

Notice of appeal shall be filed with the Dean and with the Chief Justice of the Honor Court, and upon such filing, the Chief Justice shall certify the record of the proceedings to the Dean.

The Dean shall make a ruling on the appeal within thirty (30) days after the record is certified to the Dean.

§ 7.2 PETITION FOR RECONSIDERATION

An accused who has been sanctioned may petition the Honor Court within one (1) year of the Honor Court's imposition of sanctions for a rehearing on the grounds of newly discovered evidence that was not reasonably available at the formal hearing. Should the Honor Court consider that the petition has merit, and should justice so require, the Honor Court shall convene a formal hearing to consider the new evidence and reconsider the findings in light of the new evidence. Following such hearing the Honor Court shall enter an order affirming, modifying or reversing its original decision and shall notify the petitioner and the Dean of its decision.

Article VIII HONOR COURT PROCEDURE

§ 8.1 HONOR COURT PROCEDURE

The Honor Court shall be subject to all provisions of the Honor Code and shall adopt rules and procedures for the conduct of its proceedings which shall be consistent with, and not in conflict with, the provisions of this Honor Code.

Article IX EFFECTIVE DATE

§ 9.1 EFFECTIVE DATE

This Honor Code shall become effective at 8:00 A.M. on the day following its ratification as a part of the Constitution of the Student Bar Association of the Cumberland School of Law at Samford University.

THIS CODE WAS ADOPTED BY
REFERENDUM OF THE STUDENT BODY OF
CUMBERLAND SCHOOL OF LAW ON
MARCH 11, 1997.