

HONOR BOARD PROCEDURE

From Complaint to Disposition

Step 1 – Complaint

The student or faculty member (complainant) wishing to report a student for a suspected Honor Code violation first prepares the complaint. The complaint must include as much of the following as possible: 1) the date, time, and place of the alleged violation, 2) the name(s) of the person(s) involved in the alleged violation and the name(s) of any witness(es), and 3) a statement specifying with reasonable particularity the conduct or actions giving rise to a suspected violation of the honor code. The complainant must sign the complaint and, upon completion, the complaint must be submitted to the Chief Justice.

Step 2 – Notification of Accused and Appointment of Investigation Committee

The Chief Justice receives the complaint and inspects it to make sure it is signed and “capable of being investigated.” The Chief Justice immediately prepares a notification letter to be transmitted to the accused party, which informs the party of the complaint against him, the investigation procedure that will follow the notification, and the party’s rights under the Honor Code. A copy of the original complaint is not disclosed to the accused party at this time. The notification is then transmitted to the accused party, either by hand delivery or by certified mail.

Upon notifying the accused party of the complaint against him, the Chief Justice appoints an investigation committee, made up of the Honor Board Co-Chairman and two Honor Board members. This committee will investigate the complaint and determine if probable cause exists for the allegations against the accused party. After appointing the investigation committee, the Chief Justice transmits all documents to the Co-Chairman and removes himself from the investigation. The Co-Chairman and the Chief Justice are not allowed to discuss the matter while the investigation is pending.

Step 3 – Investigation of the Complaint

The investigation committee receives the complaint and begins its investigation. When the complainant is a student, the investigation committee must find probable cause in the allegations made in the complaint. When the complainant is a faculty member, probable cause is presumed.

The investigation committee usually questions the accused student, the complainant, and any witnesses who may have information regarding the alleged incident, and may subpoena documents and records to aid in its investigation. This investigation may not last more than 15 days, but the investigation committee may unanimously petition the Chief Justice for an extension of 15 days or less.

Upon culmination of the investigation, the committee determines if probable cause exists. At least two members of the investigation committee must agree that probable cause exists for a

student to be formally charged with a violation of the Honor Code. If probable cause is found to exist, the committee files an investigation report with the Chief Justice that details the provisions of the Honor Code allegedly violated and the conduct and circumstances surrounding the allegation. The Chief Justice then transmits a copy of the investigation report and the original complaint to the charged party. (Note: the “accused party” now becomes a “charged party”) If the investigation committee finds that probable cause is lacking, it files a report with the Chief Justice designating a finding of no probable cause. The Chief Justice will then order the case dismissed and notify the accused party and the complainant in writing of such dismissal.

Step 4 – Informal Disposition

Upon formally charging a student with a violation of the Honor Code, the Investigation Committee offers the student an informal disposition. An informal disposition is the charged student’s admission of guilt and acceptance of negotiated sanctions. The Investigation Committee and the charged student discuss the facts of the case and available sanctions. The Investigation Committee then makes an offer of sanctions, which the charged student may accept or reject. If the charged student and the Investigation Committee agree on the informal disposition, a report of the negotiated disposition is prepared and forwarded to the Chief Justice.

Upon receipt of the proposed informal disposition, the Chief Justice appoints a hearing panel of four Honor Board members and himself to consider the disposition. This panel may accept, reject, or amend any part of the proposed disposition after reviewing the allegations and investigation report. Any amendments to the proposed disposition must be accepted by the charged student for the disposition to be approved. If the charged student and the hearing panel agree to the terms of the informal disposition, judgment is entered and forwarded to the Dean of the College of Law for concurrence and enforcement. (Skip to Step 6)

If the charged student refuses to admit guilt, rejects the offer for an informal disposition, if the charged student and the Investigation Committee cannot come to an agreement for sanctions, if the hearing panel rejects the proposed disposition, or if the charged student refuses to accept amendments offered by the hearing panel, the case proceeds to a hearing.

Step 5 – Formal Hearing

Upon exhaustion of possibilities for an informal disposition, the case proceeds to a hearing. The Chief Justice, Honor Board Co-Chair (Presenter), and charged party confer and set a date for a formal hearing. The Chief Justice notifies all necessary parties of the date, time, and place of the hearing in writing. If, upon proper written notification, the charged party fails to appear, the hearing may proceed *ex parte*.

A. Case Preparation and Discovery

Both sides then prepare their case. The charged party (or her student defense counselor) is entitled to the timely inspection and copying of all tangible evidence the Presenter intends to

introduce at the hearing as well as the names of any witnesses who may have information regarding the incident. Either party may compel witnesses to testify, but must submit a written request for subpoena to the Chief Justice at least three days before the scheduled hearing. The Chief Justice then notifies the witnesses in writing that their presence is requested and compels their attendance at the hearing.

B. Panel Composition and Presentation of Case

The Chief Justice, four members of the Honor Board, the Presenter and the faculty advisor make up the hearing panel, but only the Chief Justice and the four appointed board members are voting members. All Honor Board hearings are closed hearings; however, the proceedings are recorded on video or audio tape and maintained until the charged party accepts the hearing panel's judgment or upon exhaustion of appeals. The deliberations of the hearing panel, however, are not recorded.

Honor Board hearings proceed as informally as possible in an effort to foster full presentation of the case against the charged party and the party's defense. The hearing begins with the Chief Justice announcing the case and confirming that the parties are ready to proceed. Under special circumstances, the Chief Justice may grant a continuance or recess at any time. The Presenter gives his opening statements first, followed by the charged party. The Presenter then presents the case against the charged party, offering evidence and questioning witnesses. Once the presenter concludes, the charged party then presents his defense, offering evidence and questioning witnesses. Upon conclusion of the presenter's case and defense, both sides give closing statements. The Presenter proceeds first, followed by the defense, and the Presenter has the right of rebuttal.

C. Witnesses

Either party may subpoena and question witnesses at the hearing. Witnesses are allowed at the hearing only while they are giving testimony, and the Chief Justice shall administer an oath or affirmation to each witness to testify truthfully. The party who called the witness questions the witness first. The opposing party is then allowed to cross-examine the witness. The Chief Justice may grant a re-direct examination if he feels it is appropriate. Once the parties are finished questioning the witness, any member of the Hearing Panel, including the Chief Justice, may question the witness for further clarification of the evidence. Upon conclusion of the Hearing Panel's questions, the witness is excused.

D. Evidence

Evidence in an Honor Board hearing is intended to help fully expose the facts surrounding the case against the accused. For this reason, statutory and common law rules of

evidence are not observed. The Chief Justice may, however, exclude irrelevant or unduly repetitious evidence *sua sponte* or upon objection by one of the parties.

E. Deliberations, Standard of Proof, and Verdict

Upon conclusion of the proceedings, the Hearing Panel retires to a closed session for deliberations and must arrive at a verdict. A simple majority of the voting members of the panel is required for a finding of a violation. (Recall that the faculty advisor and the Presenter are not voting members). Voting is conducted by secret ballot.

The standard of proof employed in all Honor Board Hearings is by clear and convincing evidence.

If the charged party is acquitted, the charges are dismissed and the entire case record, with the exception of the judgment of acquittal, is destroyed. If the charged party is found to have violated the Honor Code, the Hearing Panel recommends an appropriate sanction to the Dean of the College of Law. The panel may recommend any sanctions enumerated in Section VIII of the Honor Code. The Hearing Panel's verdict and recommended sanctions (if any) are then transmitted in writing to both the charged party and the complainant within 24 hours of adjournment of the hearing.

The Chief Justice (or a designee) also writes a majority opinion supporting the verdict. Any member of the Hearing Panel is also entitled to write a concurring or dissenting opinion. Further, the student found to be in violation of the Honor Code is entitled to submit a statement to be included in the case file. All opinions are due within 10 days of the hearing and shall be included in the file transmitted to the Dean of the College of Law. Honor Board opinions shall not be used as precedent in subsequent cases.

Step 6 – Transmission to the Dean

A. Transmission of the Case Record to the Dean

Once an informal disposition is reached or the case record is completed after a hearing where a violation has been found, the Chief Justice submits the entire case record with the recommended sanctions to the Dean of the College of Law for his concurrence, amendment, or rejection and for enforcement by his office. The Dean has the final authority on what sanctions to impose for a given violation.

The sanction is then enforced by appropriate College of Law administration.

B. Appeals

A student may appeal a finding of an Honor Board Hearing Panel directly to the Dean of the College of Law. There is no procedure for this appeal prescribed in the Honor Code, and the Dean has full discretion whether to entertain the appeal or not.