



**HONOR CODE  
and HONOR COURT  
PROCEDURE GUIDE**

# **The Honor Code of Cumberland School of Law of Samford University**

## **Article I—Purpose**

### **1.1 Preamble**

This document establishes “The Honor Code of Cumberland School of Law of Samford University” and may be referred to as the “Cumberland Law School Honor Code,” “Honor Code,” or “Code.”

### **1.2 Purpose**

The Honor Code establishes standards of academic integrity for Cumberland Law students and outlines procedures for any student accused of violating the Honor Code. The Honor Code is a commitment by Cumberland Law students to adhere to the highest degree of ethical integrity in academic conduct and legal professionalism through their matriculation and continued enrollment at Cumberland School of Law.

Cumberland students are also subject to the provisions of Samford University’s Code of Values. Where provisions or procedures set forth in the two documents differ or conflict, this document will prevail in academic matters involving Cumberland law students.

## **Article II—Jurisdiction and Scope**

### **2.1 Jurisdiction**

The Honor Court shall have jurisdiction over complaints alleging violations of the Honor Code.

### **2.2 Application to Students**

The Honor Code applies to students of the Cumberland School of Law in any academic matter. Nothing in the Honor Code, however, precludes Cumberland or Samford University’s administration from enforcing disciplinary measures based on other rules, regulations, handbooks, or codes of conduct.

## **Article III—Definitions**

### **3.1 Academic matter**

An “academic matter” is any activity which (1) may affect a grade, credit for completion of a class assignment, whether graded or ungraded, or the award of course credit; (2) may affect any law school-related extracurricular activity, including, but not limited to, participation in externships and internships, service projects, student services, membership in law school organizations, membership or participation in journals, competitions, legal clinics, use of law school resources for any law-school related activity, and employment efforts; (3) may affect employment, educational or professional opportunities, financial aid, scholarships, or stipends; or (4) which contributes to the satisfaction of the requirements of graduation, without reference to the focus of such activity.

Examples of academic matters include, but shall not be limited to the following:

- a. examinations or assignments for credit;
- b. research or other task to be done for a course;
- c. work that is in whole or partial satisfaction of requirements for the receipt of credit;
- d. requests for accommodation for an academic requirement, such as allowing extended time to complete an assignment;
- e. requests for a recommendation from the Dean or a member of the law school community.

### **3.2 Days**

“Days” or “business days” means days that the Cumberland School of Law is open for business, whether or not classes are in session.

### **3.3 Cumberland School of Law**

References in this Code to the “Cumberland School of Law,” “Cumberland Law School,” or the “Law School” refer to the Cumberland School of Law of Samford University.

### **3.4 Dean**

“Dean” means the Dean of the Cumberland School of Law of Samford University.

### **3.5 Formal Charges**

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

### **3.6 Formal Proceedings**

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

### **3.7 Intentional**

“Intentional” and “intentionally” refers to conduct that is purposeful or consciously disregards what a reasonable person would understand to be a risk that the conduct is prohibited or will lead to a prohibited result. A person’s intent may be inferred from the circumstances.

### **3.8 Knowing**

“Knowing” or “knowingly” means actual knowledge of the fact in question. A person’s knowledge may be inferred from the circumstances.

### **3.9 Law school community**

The law school community includes any person who is a student, alumni, volunteer, instructor, faculty member, staff member, or employee of Cumberland School of Law or Samford University, or any person who regularly works at or is affiliated with the law school or Samford University in any capacity, whether or not they are employed by the law school or Samford University.

### **3.10 Material misrepresentation**

A material misrepresentation is stating a fact that is false, untrue, or misleading. A statement of a fact is a communication about an evidentiary matter or situation that a listener would reasonably consider in making a decision. A material misrepresentation is synonymous with references to “misleading statements” in this Honor Code. The fact that a listener does not ultimately rely upon a misrepresentation is not a defense to a charge of material misrepresentation.

### **3.11 Omission**

An omission is intentionally omitting or withholding the statement of a fact when the knowledge of the fact is necessary to make other statements or evidence not misleading.

### **3.12 Report**

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

### **3.13 Plagiarism**

Plagiarism means intentionally or knowingly copying or imitating the ideas or expressions of another and presenting them the student’s own without proper attribution.

### **3.14 Student**

A “student” is a person who is or was enrolled in Cumberland School of Law, or is or was participating in any program at the Law School for academic credit, when he or she is alleged to have violated the Honor Code. A student shall be deemed “enrolled” from the time of his or her first admission into the Law School until he or she receives a law degree, is dismissed, or formally withdraws from the Law School.

### **3.15 Honor Court**

“Honor Court” means the official representative of law students in deciding matters arising under this Honor Code. Members of the Honor Court are elected pursuant to Article IV, Section Five of the Student Bar Association Election Code and shall be referred to as Honor Court Justices.

### **3.16 Honor Court Justice**

“Honor Court Justice” refers to a law student elected to the Honor Court.

### **3.17 Chief Justice**

“Chief Justice” refers to the Honor Court Justice leading the Honor Court.

### **3.18 Deputy Justice**

“Deputy Justice” shall mean an Honor Court Justice appointed by the Chief Justice.

## **Article IV—Conduct Subject to Sanctions under the Honor Code**

### **4.1 Academic Misconduct.**

A student who intentionally or knowingly engages in academic misconduct commits an Honor Code violation. A student engages in academic misconduct if the student intentionally or knowingly —

- a. makes a material misrepresentation or an omission to any person about an academic matter or any matter related to the student’s association or standing with Cumberland Law School or Samford University;
- b. engages in conduct connected to an academic matter when a reasonable law student would know that the conduct was likely to result in an unfair benefit to the student or an unfair advantage over another student or member of the law school community;
- c. deprives members of the law school community of the rightful use of any institutional or personal property to gain an unfair advantage or benefit over another person, or to prevent other students from completing or submitting assignments for which such materials are needed;
- d. misuses law school facilities or resources, such as entering or remaining in areas of the law school or of Samford University without appropriate authorization when those areas are closed or unavailable for student use, or accessing, using, storing, taking, manipulating, or transferring institutional data or personal information from the law school, Samford University, or about any member of the law school community without authorization;
- e. steals, takes, mutilates, defaces, removes, causes to be unavailable, denies the use of, manipulates, or otherwise improperly uses tangible or intangible property that belongs to the Law School, to Samford University, or to a member of the law school community;
- f. engages in any conduct involving academic dishonesty or misrepresentation, including, but not limited to, conduct during the application process for admission to Cumberland School of Law; or
- g. records any class, law school event, or meeting in violation of Cumberland School of Law’s Audio and Video Recording Policy.

### *Examples of academic misconduct*

The following acts or omissions, although not exhaustive, are typical of academic dishonesty that is prohibited under Honor Code § 4.1(f):

1. using materials or consulting with any other person: (a) during an examination, unless expressly authorized by the instructor; or (b) during research or any assignment in any academic matter, unless expressly authorized by the instructor;
2. committing plagiarism on any examination, assignment, graduation requirement, or any activity related to an academic matter is prohibited;
3. writing, taking, researching, developing, preparing, or creating an examination, assignment, or graduation requirement for another student, in whole or in part;
4. submitting an examination, assignment, or graduation requirement written, taken, researched, developed, prepared, or created by another person, in whole or in part;
5. writing overtime on an examination or assignment for class credit;
6. obtaining unauthorized information about an assignment or examination, without immediately informing the course instructor, professor, or the dean;
7. taking an examination for another student;
8. divulging the contents of an examination designated by the instructor as an examination not to be removed from the examination room;
9. intentionally and unnecessarily disturbing others taking an examination or working on an assignment for class credit;
10. submitting as one's own work as the work of another;
11. submitting work in any academic matter that has been previously offered for credit without securing the instructor's permission in advance of submission;
12. submitting for credit work prepared in collaboration with another without securing the instructor's permission in advance of submission;
13. improperly revealing to a professor or staff member one's own identity or the identity of another student before, during, or after an assignment or examination which is to be graded on an anonymous basis;

14. providing false information or otherwise misrepresenting facts or other personal data about oneself or another student, for example, misrepresenting one's academic record, enrollment status, or involvement in extracurricular activities in efforts to obtain recommendations, employment, academic credit, satisfy bar requirements, or gain other benefits.

The above examples are provided for reference only and are not exclusive of the conduct may violate the Honor Code.

#### **4.2 Violations of professional standards.**

Intentional or knowing violations of the standards of the Model Rules of Professional Responsibility or the Alabama Rules of Professional Conduct will be considered Honor Code violations.

#### **4.3 Attempts.**

Attempts to engage in academic misconduct under the Honor Code may be investigated and sanctioned to the same extent as completed violations.

#### **4.4 Aiding or encouraging Honor Code violations**

Aiding, encouraging, promoting or soliciting another person to violate the Honor Code is itself a violation of the Honor Code.

#### **4.5 Abusing or Obstructing an Honor Court investigation.**

Failing to give testimony true to the best of one's knowledge or belief, or to produce evidence of an Honor Code violation when requested to do so by the Dean of the Law School, the Honor Court, any member of the Samford or law school community, or by the student facing disciplinary charges, is a violation of the Honor Code. A person may refuse to testify, however, to protect oneself from incrimination of a public penal law. The following are examples of abuse or obstruction of an Honor Court investigation:

- a. engaging in conduct intended to obstruct access to potential evidence, or to alter, destroy, or conceal potential evidence connected with an Honor Code investigation or proceeding;
- b. filing a frivolous complaint of an Honor Code violation with the intent to harass another member of the law school community. A frivolous complaint is one without basis in fact;
- c. attempting to intimidate or deter complainants, witnesses, or other participants in an Honor Code investigation or proceeding;
- d. preventing the discovery of Honor Code violations.

The above examples are provided for reference only and are not exclusive of the conduct that can be found to be abusing or obstructing an Honor Court investigation.

## **Article V—Independent Library Rules**

### **5.1 Independent Library Rules**

Nothing in this Honor Code precludes the Director of Cumberland's Beeson Law Library from prescribing and enforcing rules, independently of this Honor Code, regarding the use of library facilities and materials. When it is unclear whether misconduct regarding the use of library facilities and materials should be prosecuted under this Honor Code or under independent library rules, the Director of the Library may determine the appropriate course of action.

## **Article VI—Honor Court Procedure**

### **6.1 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.

### **6.2 Standard of Proof**

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

### **6.3 Affirmative Defenses**

It shall be a defense to any alleged Honor Code violation that the professor or director of any academic 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 a charge of an Honor Code violation.

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

### **6.4 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 own 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.

### **6.5 Sanctions**

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

- a. an official reprimand made a part of the student's permanent record;
- b. loss of credit for the course involved, or removal of any awards or honors received



by the student as a result of the violation;

- c. suspension from the law school for such period of time as the Honor Court deems appropriate;
- d. expulsion from the law school;
- e. any other penalty that fairness and justice may require, including restitution where there has been a loss or damage to property.

**6.6 Withholding diploma during Honor Code investigation and proceedings** The law school may withhold a graduating student's diploma while an Honor Code investigation is pending. When Honor Court charges are brought against a student who is in his or her last semester, every effort will be made to complete the Honor Court proceedings by the date of graduation, or within thirty days after the reporting of the alleged incident to the Honor Court, whichever is later.

### **6.7 Sanctions Review**

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

## **Article VII—Specific Rights**

### **7.1 Rights of the Accused**

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

- a. to be given a copy of the Honor Code and the Honor Court Procedure Guide;
- b. to be given a written notice of the Investigative Panel which shall set out the alleged violation, and the date, time, and place of such hearing, which said notice shall be given at least fifteen business days before the hearing;
- c. the right to an Investigative Panel if the accused requests the Investigative Panel in writing at least ten days before the date proposed for the hearing;
- d. to obtain copies of any and all testimony or reports that will be used or relied upon at a formal hearing, including tapes or other such recordings;
- e. 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;
- f. to present evidence and ask questions of all witnesses in the accused's own defense during any hearing;

- g. to testify in his or her own behalf, subject to examination by the Honor Court, or to remain silent without prejudicial effect;
- h. to use the authority of the Honor Court to compel attendance and testimony of witnesses on his or her behalf, subject to the rights of the witnesses.

## **7.2 Witnesses**

A witness in a proceeding before the Honor Court must appear at the time and place specified in a written notice. The failure to appear without good cause will 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 or in illegal conduct under state or federal penal law.

## **Article VIII—Appeal**

### **8.1 Appeal**

The accused, if found to have violated the Honor Code, may appeal in writing to the Dean within fourteen 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:

- a. 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 Honor Court’s decision is not supported by sufficient evidence, the Dean may reverse the Court’s ruling and exonerate the accused;
- b. Severity of the sanctions—If the Dean determines that justice and fairness so require, the Dean may modify 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 will decide the appeal as soon as practicable after the Honor Court certifies the record.

### **8.2 Petition for Reconsideration**

An accused who has been sanctioned may petition the Honor Court within one year of the Honor Court’s imposition of sanctions for a rehearing on the grounds of newly discovered evidence that was not reasonably available for the Disciplinary Panel. If the Honor Court considers that the petition has merit, and should justice so require, the Honor Court will convene a formal hearing to consider the new evidence and reconsider the findings in light of the new evidence. Following such a 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 IX—Honor Court Procedure**

### **9.1 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 X—Time Limits**

### **10.1 Time Limits**

Any time limits within this Code may be altered for good cause.

## **Article XI—Effective Date**

### **11.1 Effective Date**

This Honor Code shall become effective at 12:00 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 of Samford University.

**THIS CODE WAS ADOPTED BY REFERENDUM OF THE STUDENT BODY OF CUMBERLAND SCHOOL OF LAW ON April 11, 2012.**

## **ARTICLE I—HONOR COURT PROCEDURE GUIDE**

### **1.1 Authority**

This Honor Court Procedure Guide is enacted pursuant to the express authority of the Constitution of the Cumberland School of Law by vote of the duly elected Honor Court Justices. Upon its enactment, it shall be binding upon all future terms of the Honor Court unless specifically amended as provided in Article VIII. All definitions in this Procedure Guide shall be construed in harmony with the Honor Code of Cumberland School of Law.

### **1.2 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 II—HEARINGS PROCEDURE**

### **2.1 Duty Relating to Reports**

It is the duty of the Honor Court to make a determination concerning every report made to the Honor Court pursuant to the Honor Code of Cumberland School of Law, according to the rules and procedures adopted by the Honor Court.

### **2.2 Initiation of Inquiry**

Honor Court Justices shall accept reports by members of the Cumberland and Samford community alleging violations of the Honor Code subject to the following requirements:

1. The report must be in writing, must name the persons involved, and must attest to having actual knowledge of the occurrence. The report should, as much as practicable, state the date of the occurrence and the date of discovery by the individual making the report.
2. The report must contain sufficient facts to warrant an inquiry into the violation. The Chief Justice shall have the sole power to determine if a report is sufficiently actionable.
3. The report must be signed and dated by the person or persons making the Report. The Initial Report and the identity of the person making the report will be kept confidential until the Investigative Panel has determined that probable cause exists to believe that a violation of the Honor Code has occurred. If the Investigative Panel recommends proceeding to a Disciplinary hearing, the accused person shall have an opportunity to see the Initial Report.
4. Any Honor Court justice receiving a report is bound by the duty of the office to submit the report to the current Chief Justice for consideration within a reasonable time after receipt of the report, not to exceed seven calendar days.

### **2.3 Initial Report Procedure**

Upon receiving a report of an honor code violation, the Chief Justice shall determine the sufficiency of the allegation. The sufficiency of an allegation is met if there is no dispute of fact regarding whether the accused has violated the honor code with respect to the allegation. Upon determining the initial report is sufficient on its face, the Chief Justice shall assign a case number and form a Disciplinary Hearing Panel.

If, however, there is a dispute of fact regarding whether the conduct within the case violated the honor code, the Chief Justice shall turn the case over for investigation by an Investigative Panel of not more than three Honor Court Justices, all of whom shall be without bias or prejudice, chosen by the Chief Justice to determine the facts of the case. All remaining justices are to be shielded from the inquiry. The Investigative Panel will determine whether a violation of the Honor Code has occurred.

### **2.4 Investigative Panel Procedure**

Upon receipt of the initial report from the Chief Justice, the Investigative Panel shall promptly notify all persons named in the report, or who may be witnesses to a possible violation, in writing, that an investigation shall be held concerning the allegations in the initial report. Included in that written notice shall be the names of the panel members, the date, time and place of the Inquiry, a short summary of the type of allegations that have been made, and a copy of the Honor Code and Honor Court Procedure Guide. In no case shall the Investigative Panel meet less than three days from the date of notice of the inquiry to all persons whose names are listed in the initial report.

The Investigative Panel may require attendance of all witnesses and has the power to enforce such attendance in any manner consistent with the Honor Code. If a person cannot attend the Investigative hearing, with just cause the investigation panel may accept a signed statement concerning the occurrence. The Investigative Panel shall be closed to persons unnecessary to the proceeding as deemed so by the Investigative Panel. Any person named in the initial report may submit to the Panel additional names of any persons who may have relevant information. All witnesses shall be informed of their duty to tell the truth under the Honor Code. The Investigative Panel shall report to the Chief Justice whether the accused has committed an Honor Code violation. The Investigative Panel may also recommend future actions by the Honor Court on including, but not limited to, the issuance of an advisory opinion.

### **2.5 Disciplinary Panel**

If there is no dispute of fact, or a majority of the Investigative Panel agrees that the Honor Code has been violated, then the Chief Justice shall immediately form a Disciplinary Panel. Upon the decision to proceed to the Disciplinary Panel, the student or students identified by the Investigative Panel, or Chief Justice, as having committed an Honor Code violation shall be notified in writing that a formal accusation from the Honor Court has been issued and that a Disciplinary Panel will be formed. The writing shall be signed by the Chief Justice and set forth:

1. the date and time of the hearing;
2. the specific violations alleged;

3. the names of all witnesses expected to be called by the Honor Court;
4. a copy of the rights of the accused.

The Chief Justice shall then appoint five members of the Honor Court, all of whom shall be without bias or prejudice for the accused and without direct knowledge of the events, to serve as the Disciplinary Panel. The members of the Investigative Panel shall not be placed on the Disciplinary Panel. The Disciplinary Panel shall be given a witness list, the notice of formal accusation given to the accused, and a brief summary of the facts of the case.

The Chief Justice shall give the Panel a list of elements of the specific violations. During the Disciplinary hearing, the format shall be open. If an Investigative Panel was necessary, a member of the Investigative Panel, chosen by the majority of the Investigative Panel, shall present the facts of the alleged violations on which the formal accusation was based by presentation of witnesses and/or other types of information. The accused may also examine such information, by witnesses or otherwise, as he or she may desire. The Disciplinary Panel may also ask questions of any person offering information at the hearing. Witnesses may be required to bring any documents or physical evidence that they have in their possession.

The Chief Justice shall serve as moderator for the hearing. The Chief Justice shall have the power to remove any persons from the hearing for cause of Contempt, including, but not limited to, counsel, if any, for the accused. The Chief Justice may recommend appropriate sanctions for Contempt of an Honor Court proceeding in accord with the Honor Code of Cumberland School of Law.

The Chief Justice shall not ask questions of any witness, and may, in the interests of justice, continue the Disciplinary Panel from day to day as mutually agreeable to all parties involved. After the calling of all witnesses, the Disciplinary Panel shall retire and make a decision concerning whether the Honor Code violation gave the student in question an advantage over students who did not commit the same violation. A finding of an advantage existing from the aforementioned student violating the Honor Code must be arrived at by a unanimous decision of the Disciplinary Panel. Should there be a finding that the student in question received an advantage by breaking the Honor Code, the Disciplinary Panel shall hear from the accused or others concerning appropriate sanctions. The Disciplinary Panel is free to accept or disregard any recommendations. The Disciplinary Panel shall then retire to decide the proposed sanctions for the violation. The Disciplinary Panel is not obligated to announce the sanctions on the day the Disciplinary Panel met, but may consider such for a reasonable period of time, not to exceed fourteen days, before informing the accused by way of written report to the Chief Justice, who shall then inform the accused.

## **2.6 Formal Opinion**

Upon the report of the Disciplinary Panel, the Chief Justice shall write a formal opinion of the case. This report shall include the findings of fact by the Disciplinary Panel, the finding of the Disciplinary Panel and the recommended sanction. Witnesses shall be identified in such a way that their anonymity is preserved. The formal opinion shall then be certified to the Dean.

## **2.7 Certification of Sanctions and Formal Opinions**

Should an accused be found to have committed an Honor Code violation, the Chief Justice of the Honor Court shall certify the official opinion to the Dean within fourteen days of the Disciplinary Panel report to the Chief Justice. The Chief Justice shall also provide a copy of the formal opinion to the accused. Thereafter, the Dean shall review the record and take such action as he deems appropriate under the provision of the Honor Code.

### **ARTICLE III—ADVISORY OPINIONS**

#### **3.1 Advisory Opinions**

The Honor Court shall issue advisory opinions consistent with the procedures set forth in this section. Such advisory opinions shall be considered persuasive authority. Reliance upon any advisory opinion by a student shall be a qualified affirmative defense, but such shall not be an absolute affirmative defense.

#### **3.2 Requests for Advisory Opinions**

Any member of the Cumberland or Samford community may petition the Honor Court for an advisory opinion concerning an issue for which that individual has standing. The Honor Court may hear or decline to hear the petition. In no event shall the Honor Court issue an advisory opinion less than fourteen days from the date of petition.

Should the Honor Court decide to issue an advisory opinion, the Chief Justice shall then assign the petition to an associate justice who shall do the following:

1. Schedule a hearing on the petition for a regularly scheduled meeting of the Honor Court;
2. Contact any persons who may be directly affected by the advisory opinion. Such persons shall be allowed to submit a short memorandum stating their position on the issue, provided such memorandum is received by the deadline set for the receipt of such memorandum;
3. Post a notice on the Honor Court board that shall state the issue under

consideration and the deadline for receiving comments on the issue. Any student or other interested person may submit a short statement concerning their position on the issue provided such a statement is received by the deadline set for the receipt of such statements;

4. Provide each Honor Court justice with a copy of the petition and copies of any statements or memorandum received which addresses the issue no later than five days prior to the date the issue will be decided;
5. After the Honor Court made a decision, an associate justice may choose to write the advisory opinion of the Court for submission to the Chief Justice.

Any Honor Court justice meeting in session may make statements or raise concerns about the issue presented, request additional statements, or respectfully abstain from voting. The Chief Justice shall call for a vote on the issue and record the vote of each justice concerning the issue. He shall then announce the decision of the Court. Justices who dissent from the vote of the majority shall be free to write a dissenting or minority opinion that shall be attached to the advisory opinion.

### **3.3 Limitation on Advisory Opinions**

The Honor Court shall not agree to hear a petition for an advisory opinion if it has reason to believe that an inquiry or Disciplinary Panel concerning the same or substantially the same situation is or will be before the Honor Court during the pendency of the petition. If at any time during the pendency of an advisory opinion a situation arises in which the same or substantially the same issue is presented, the advisory opinion shall be stayed pending the outcome of any other proceeding.

### **3.4 Advisory Opinion Availability**

The Honor Court shall make advisory opinions available to the student body by placing them together with any formal opinions in a place where the student body can inspect such opinions.

## **ARTICLE IV—RECORDS**

### **4.1 Honor Court Records**

The Honor Court shall maintain all records of Honor Court activity, subject to the following:

- A. The following records shall be maintained for three Honor Court terms beginning with the term in which the Initial Report or petition was filed and shall be accessible by Honor Court justices on a showing of good cause:
  1. All Initial Reports, whether deemed actionable or not.
  2. All records, recording and tape documents of any Investigative Panel hearings.



3. All records, tape recordings and documents of any Disciplinary Panel hearings with the exception of the formal opinion.
- B. The following records shall be kept permanently by the Honor Court in a convenient location and shall be available to students at reasonable times:
1. Formal opinions of prior cases made in accordance with the Honor Code and Honor Court procedures described in § 2.5.
  2. Advisory opinions issued pursuant to Article 3.

#### **4.2 Destruction of Records upon Motion from the Accused**

Notwithstanding the foregoing, upon a finding that a student did not violate the Honor Code, and upon his or her written request, all records, except a formal opinion, that specifically identify the accused shall be destroyed. Absent a request from the accused, all records concerning an alleged violation, with the exception of the official opinion, shall be maintained by the Honor Court according to their procedures described in 4.1.

#### **4.3 Destruction of Records**

At the beginning of each new term of the Honor Court pursuant to 4.1, the newly elected Chief Justice, together with the outgoing Chief Justice, shall review and destroy all records pursuant to 4.1 in such a manner that the confidentiality of the records is kept.

### **ARTICLE V—CONFLICT OF INTEREST**

#### **5.1 Conflict of Interest**

A conflict of interest is presumed upon any member of the Honor Court if an accused, or any other principal witness in an actionable violation, has substantial dealings with that justice. Substantial dealings are defined as relationships that would tend to bias that justice's opinion either for or against the accused.

#### **5.2 Impact of Conflict of Interest**

Should a justice be found to have a conflict of interest, the Chief Justice shall not involve that justice in any manner in the investigation of a violation. If a Chief Justice is found to have a conflict of interest, the Chief Justice or the Dean shall then delegate the authority of the office to a third-year justice only as it relates to that violation. Should all third-year justices be found to have a conflict of interest, then the Chief Justice or the Dean shall appoint a second-year justice who does not have a conflict of interest.

#### **5.3 Accusal of an Honor Court Justice**

A presumption of a conflict of interest shall attach to every justice of the Honor Court when it appears that any current justice may have committed a violation of the Honor Code. At such time, the Chief Justice shall request that the Court's faculty advisor(s) appoint a panel composed of Cumberland law students to carry out the procedures of the Honor Court as they relate to that particular justice. In such case a faculty advisor shall act as the Chief Justice over the proceedings. The faculty advisor(s) shall appoint eight students, and such

appointment shall be subject only to the students' good standing, possible conflicts of interest, and agreement to serve. Three members of the panel shall serve as the Investigative Panel, and five members of the panel shall serve as the Disciplinary Panel, if necessary. The panel shall be subject to the Honor Court Procedure Guide.

## **Article VI—Amendments to the Procedure Guide**

### **6.1 Amending the Guide**

The Honor Court Procedure Guide may be amended by any term of the Honor Court provided that the proposed amendment is in writing, published to the Honor Court Justices prior to a meeting called for the purpose of amending the procedures, and the proposed amendment receives the approval of 3/5 of all Justices then sitting.

## **CERTIFICATION**

This copy of the Honor Code and Honor Court Procedure Guide is a true and correct copy of each, as adopted by the student body, and as amended by the Honor Court as of the date below.

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THE HONOR CODE  
HONOR COURT PROCEDURE GUIDE

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