
MORITZ COLLEGE OF LAW HONOR CODE

As adopted by the faculty May 17, 1972 and amended December 6, 1972, June 6, 1973, April 26, 1978, April 18, 1990, August 29, 1990, May 7, 2003, and June 2, 2007.]

Preamble: In the interest of promoting adherence to the high standards of both the legal profession and the academic community of the Moritz College of Law, this Honor Code has been adopted.

ARTICLE I: ORGANIZATION

Section A. There is hereby created a council known as the Honor Council (Council). The Council shall be composed of a Chief Justice from the third year class, one designate and one alternate from the third year class, two designates and one alternate from the second year class, and one designate and one alternate from the first year class, plus a Presiding Officer (non-voting) , who shall be a member of the full-time faculty appointed by the Dean. The Honor Council shall sit in a panel consisting of the Presiding Officer, the Chief Justice, and four council members. In addition, there shall be two student prosecutors and two student defense counsel, preferably from the third year class, and one assistant student prosecutor and one student assistant defense counsel, both preferably from the second year class. Additionally, the Dean shall each year appoint a faculty advisor to the prosecution and a faculty advisor to the defense. The faculty advisor may be either a clinical-track or tenure-track faculty member.

Section B. The second and third year members of the Honor Council, the student prosecutors and defense counsel, and the Chief Justice, shall be appointed by the Student Bar Association President and confirmed by the Student Bar Association Senate and shall serve for a full year, beginning on July 1. The first-year member and alternate shall be chosen the following Autumn Semester by the Student Bar Association Senate; such appointment shall be made no later than one month after the beginning of the Autumn Semester. The first year appointee shall serve until the following Autumn Semester. The Presiding Officer, the defense faculty advisor, and the prosecution faculty advisor shall be appointed by the Dean and shall serve a full year beginning with the first day of the Autumn Semester.

Section C. If for any reason the full panel required by Section A cannot be convened, the Student Bar Association President shall appoint a sufficient number of students to fill any positions among the student members of the Council, who shall serve as temporary members for the duration of the proceeding for which they were appointed. Such temporary appointee(s) must be chosen from the academic class represented by the member(s) whose position(s) are being temporarily occupied. The Student Bar Association President shall also have the authority to appoint a temporary prosecutor or defense counsel in the event of disqualification, unavailability, or disability of such person. The Dean may similarly appoint one full-time faculty member to replace the Presiding Officer who, for similar reasons, cannot participate.

Section D. The Honor Council and the Student Bar Association are two separate entities, one in the legislative branch and one in the judicial branch of the school government. As detailed above, the President and Senate of the Student Bar Association do have some appointment powers. Also, under the Student Bar Association Constitution, the Chief Justice must preside over Student Bar Association Senate meetings if a vote to remove the Student Bar Association President is being considered. Aside from these two

specific points of intersection, the two entities are not interrelated. The Honor Council does not report to the Student Bar Association.

ARTICLE II: FUNCTIONS

The Council shall:

1. Provide all first-year students (and all students enrolled in summer program at the Moritz College of Law or enrolled in one of the College's summer programs) with a copy of the Honor Code and acquaint them with its operations. If possible, this is to be done as a part of the first-year orientation process.
2. Maintain at least one current copy of the Honor Code on closed reserve in the Law Library.
3. As hereinafter provided, hear and adjudicate cases of alleged violations of the Honor Code, and recommend sanctions in appropriate cases.
4. Assist the Associate Dean for Academic Affairs in preparing the annual report referred to in Article V, Section T.
5. Assist in educating the student body on typical violations and accompanying sanctions.

ARTICLE III: JURISDICTION

Section A. The Honor Council shall have jurisdiction over any student in the Moritz College of Law.

Student means any person who has enrolled in classes of the College of Law and has not permanently withdrawn, been expelled or completed that person's intended course of study in the College. "Classes of the College of Law" include courses in any programs offered by the College. Nothing in this provision restricts the College of Law or the University from taking appropriate action if misconduct comes to light after the student has permanently withdrawn, been expelled or completed that person's intended course of study in the College.

The Honor Council has jurisdiction over acts committed outside the physical confines of the Law Building, as well as within.

Section B. The Presiding Officer shall resolve all issues of law that arise in Honor Council proceedings and shall prepare a written opinion on all such decisions for eventual review by the Administration Committee. The Presiding Officer shall also rule on the admissibility of evidence and other procedural questions.

ARTICLE IV: VIOLATIONS

Section A. General The student Honor Code is limited to academic misconduct as defined in the substantive provisions below. Allegations of misconduct not involving academic misconduct shall be handled administratively within the College, or in accordance with University procedures outlined in the University Code of Student Conduct.

Section B. Substantive Provisions

1. No student shall cheat in the taking of an examination; cheating includes knowingly receiving or giving any

information to others except as authorized by the instructor, or knowingly taking any advantage not available to the class as a whole which has not been authorized by the instructor or the Associate Dean for Academic Affairs.

2. When the relevant instructor or competition rules prohibit aid or assistance, no student who knows or should know of the prohibition shall knowingly give or receive aid or assistance in any work in:
 - a. Any course, seminar, or other offering of the Moritz College of Law.
 - b. Any application, competition, or other process to gain a position on a journal, a moot court team, or any other team or group sponsored by, reporting to, or representing the College, whether or not for credit or financial compensation, or
 - c. Any intramural or extramural competition of a law-related nature.
3. No student shall plagiarize.
 - a. In any written work assigned for any course or seminar,
 - b. In any work for any intramural or extramural competition of a law-related nature.
 - c. In any journal sponsored by the College, or
 - d. In any written work by the student as part of an application, competition, or other process to gain a position on a journal, a moot court team or any other team or group sponsored by, reporting to, or representing the College, whether or not for credit or financial competition.

Plagiarism means knowingly copying or imitating the ideas or expressions of another and representing them as one's own. Failure to acknowledge or cite a source which is copied or imitated constitutes the representation that the idea of expression is one's own.

4. No student shall knowingly steal, destroy or impede another student's academic work. Impeding another student's work includes, but is not limited to, the theft, concealment, defacement, or mutilation of common academic resources so that access and use by others is impeded.
5. No student shall knowingly influence or attempt to influence any member of the Honor Council as to any matter before the Honor Council, except through official Honor Council proceedings.
6. No Honor Council member shall fail to maintain the confidentiality of all adjudicatory proceedings before the Honor Council or shall discuss any pending case with any person except as necessary to carry out his or her duties as a Council member.
7. No student having knowledge of a violation by another shall fail to report such violation by another as required by Article V., Section C.

Section C. Requirements for Conviction

1. A single act or course of action may violate multiple sections of this Code. In such case, multiple violations may be concurrently charged. Each charged violation must be voted on separately by the Council.
2. Concurrence of a majority of the student members of

the Honor Council sitting at any hearing shall be necessary to find an accused guilty of any specific violation or to recommend a sanction or sanctions. The Presiding Officer shall not be entitled to vote.

ARTICLE V: PROCEDURE FOR HANDLING VIOLATIONS

Section A. All persons shall keep anonymous the name of any person reporting a violation of the Honor Code, unless a hearing is deemed necessary.

Section B. All time limits mentioned herein, for good cause shown in writing, may be extended for a reasonable period by the Presiding Officer. All time periods are meant to expedite the hearing, and are not to be construed as a defense for the accused. Saturdays and Sundays, and holidays recognized by the Moritz College of Law, shall be excluded in determining time limits.

Section C. A student who believes that a violation of the Honor Code has occurred shall promptly report his or her belief and the underlying information to the Associate Dean for Academic Affairs, or, in his/her absence, any member of the full-time faculty of the Moritz College of Law.

Section D. Upon receipt of information regarding an alleged violation by a student, the Associate Dean may informally gather such additional evidence as will facilitate a preliminary determination of how to proceed. If the Associate Dean determines that there is any evidence that a possible violation has occurred, he shall notify a prosecutor and the Presiding Officer of that determination within three days. The Associate Dean, Presiding Officer and an Honor Council Prosecutor shall then consult and determine (by majority vote if necessary) whether the case is appropriate for Administrative Disposition. If the charged offense appears sufficiently serious that suspension or expulsion would be appropriate sanctions in the event of a finding of guilt, the case shall be referred to the Honor Council for hearing.

Section E. Administrative Disposition

1. If it is determined by the Associate Dean, Presiding Officer and Honor Council Prosecutor that the case is appropriate for Administrative Disposition, the Associate Dean shall notify the accused of the accusation and advise the accused of his/her right to representation as provided in this Code. He/she shall further notify the accused of the option of having his/her case heard by the Dean in lieu of Honor Council proceedings. Within five days of such notification, the accused shall decide whether he or she wants the case heard by the Dean or the Honor Council. If the accused fails, without good cause, to make a decision within the five-day period, the case shall be heard by the Honor Council.

2. If the accused chooses to have the case heard by the Dean, and the Dean agrees to accept jurisdiction, the Dean shall, using such reasonable procedure as he/she shall in his/her discretion decide, determine if there has been a violation of the Honor Code, and in the case of a violation, determine an appropriate sanction, as listed in Appendix B, except for suspension or dismissal. Within seven days following his/her decision in the case, the Dean shall submit a report to the Administration Committee, but the Dean's decision is otherwise final.

Section F. Honor Council Proceedings

If it is determined that the case is not appropriate for Administrative Disposition, or if the accused chooses to have his or her case considered by the Honor Council, the Honor Council prosecutor shall conduct a thorough investigation to determine if a prima facie case exists against the accused.

1. If the prosecutor determines that there is no prima facie case that a violation has occurred, the prosecutor shall, within 7 days after receiving notice of the alleged violation, file written findings with the Associate Dean. Said findings must include a summary of all the material evidence discovered during the investigation and a statement of the reasons for deciding not to prosecute.
2. If the prosecutor determines that there is a prima facie case that a violation has occurred, the prosecutor shall request the Presiding Officer to set a time and place for hearing and to convene the Honor Council. The prosecutor shall notify the accused in writing of the specific charge(s) being brought, of the facts underlying the charge(s), and of the request for a hearing. The prosecutors shall at the same time also file a copy of the charges with the Chief Justice.
3. The Presiding Officer shall, within 5 days of receiving the request from the prosecutor, notify the accused of the time and place of the hearing on the charges, the right to representation, and the other rights stated in Section G below. A copy of this notice shall also be provided by the Presiding Officer to the Chief Justice. The Presiding Officer shall also notify the accused of the names of the student defense counsel who will represent the accused. The defense counsel so named will be served with a copy of the notice, and shall represent the accused, unless a written objection to the representation by one or both of the defense counsel is filed by, or on behalf of, the accused. If the accused declines representation by student defense counsel, the accused may be represented by another person of his/her choice. If the accused elects to be represented by someone who is not a law student, the Dean shall be authorized to make reasonable efforts to obtain counsel of comparable experience and expertise to assist the student prosecutor.
4. The hearing date shall be set not earlier than 10 days nor later than 30 days after the date on which the Presiding Officer receives the charges from the prosecutor. The Presiding Officer may postpone the hearing date beyond the 30 day period, but only if:
 - a. Both parties agree in writing that they accept a specific, limited postponement; or
 - b. Upon motion, the accused shows good cause for granting a postponement; or
 - c. Upon motion, the prosecutor shows good cause for granting a postponement, which shall include (but is not limited to) the temporary unavailability of a witness or prosecutor due to an unavoidable conflict.
5. After receiving notification from the Presiding Officer that a hearing date has been set (per 3. above), the Chief Justice will inform the entire Honor Council (including all alternates) of the date, time, and location of the hearing and the offenses charged. All other information, including the identity of the accused, shall be withheld until a determination has been made whether a closed or open hearing will occur per Section I of this Article.

Section G. Rights of the Accused. Unless waived in accordance with Section E above, the accused shall have the following rights upon

receipt of the written charge and during the course of the Honor Council hearing:

1. To representation as outlined in Section F above.
2. To present evidence and subpoena witnesses.
3. To confront and cross-examine witnesses.
4. To decline to testify, and such declination shall not be considered as evidence in support of the charge.
5. To an open or closed hearing.

Section H. Except for information protected by the attorney-client privilege and the privilege against self-incrimination (as defined by Ohio law), the prosecutors and the accused shall make available for examination by one another all information and evidence pertaining to the alleged violation, including the names of witnesses who are expected to testify at the hearing and copies of any written statements made by them, and all other statements and documents which are expected to be introduced at the hearing.

Section I. At least three days prior to any hearing, the accused shall notify the Presiding Officer whether the hearing is to be open or closed. Said notice must be in writing and is binding upon the Presiding Officer. Absent a timely request, the hearing will be closed. Once this notice has been received by the Presiding Officer, or the time to notify the Presiding Officer has passed, the Presiding Officer shall notify the Chief Justice. If an open hearing is requested, all Honor Council members shall be notified by the Chief Justice of the identity of the accused. If a closed hearing is requested, only the council members who will compose the hearing panel will be notified of the accused's identity.

Section J. All hearings shall be recorded on a tape recorder, and, if possible, two separate tape recorders should be obtained. When tape recording equipment can be secured without unreasonable delay, the requirement that hearings be recorded cannot be waived by either party.

Section K. The Presiding Officer may excuse a member from participating in a proceeding, if the member desiring excuse files with the Presiding Officer a written request to be excused and states therein good reason for not participating in the proceeding. The request shall be filed by the member with the Presiding Officer and Chief Justice as soon as possible after receiving notification of identity of the accused under section I.

Section L. A challenge for cause against any Honor Council member may be made by any counsel appearing in a proceeding and must allege grounds that the challenged member cannot act on the case in an impartial manner, or has committed a significant impropriety in regard to the case. Challenge against a student member will be heard and decided by the Presiding Officer.

Challenges against the Presiding Officer will be decided by a majority vote of the student members of the Council. Challenges for cause should be made at the earliest time that the cause becomes known to the counsel making the challenge.

Section M. The burden of proof as to all elements necessary to establish guilt in Honor Council proceedings shall be on the prosecution. The standard of proof shall be clear and convincing evidence.

Section N. Any written document submitted to the Presiding Officer, the Honor Council, the Administration Committee, or the faculty by either the prosecutor or the defense shall also be served upon opposing counsel, who shall be entitled to reply to it in a prompt written response.

Section O. The prosecutor and defense counsel shall be required to seek advice concerning the proper discharge of their functions from

HONOR CODE APPENDIX A

PROCEDURE OF HEARING

1. Convening the Hearing

- a. Type hearing (open or closed)
- b. Who is present
- c. Purpose of hearing (general)
- d. Rules of Evidence
- e. Motions permitted (to be by majority vote of HC)
- f. Challenge for cause

2. P (Prosecutor) state charge and necessary vote

3. A (accused) plea

4. P opening statement

5. A opening statement (can waive at this time)

6. P present case

7. A opening statement if previously waived

8. A present case

9. P closing argument

10. A closing argument

11. Adjourn for deliberation

12. Present verdict

13. P recommend sanctions

14. A recommend sanctions and present mitigation

15. Adjourn

16. Present sanctions

RULES OF EVIDENCE

The Honor Council shall not be bound by the rules of evidence prevailing in the courts of law and equity, but, while excluding irrelevant, immaterial, or unduly repetitious evidence, it shall in finding the facts take into account all reliable, probative and substantial evidence produced at the hearing.

QUESTIONING OF WITNESS

To protect against undue confusion resulting from the testimony of witnesses, the members of the Honor Council sitting in any hearing may ask questions of each witness after counsel may then re-examine the witness. All parties will endeavor to avoid undue repetition, and members of the Honor Council will restrict their questions to the subject matter previously introduced. The order of questioning therefor is:

1. direct
2. cross
3. re-direct
4. re-cross
5. Honor Council
6. re-direct
7. re-cross

HONOR CODE APPENDIX B

SANCTIONS

The following is a list of possible sanctions. These are not exclusive or mandatory, and the Honor Council is not limited to these sanctions. The Honor Council, however, may not make any recommendation with respect to the manner of grading or the individual grade to be given in a specific course, such matters being within the authority of the faculty instructor. If, however, the defendant raises the grade received in a course as relevant to the issue of appropriate Honor Council sanction, this shall constitute a waiver of privacy rights and the Honor Council must inquire into the grade received and the reason therefor.

1. Written or oral warning.
2. Restitution or reimbursement for damages to, or theft or knowing conversion of property.
3. Restriction of privileges and deprivation for eligibility for office.
4. Probation to the Dean's office for a definite period of time. Probation makes the student named ineligible to participate in any major extra-curricular activity or to receive any scholarship, loan, grant in aid, or employment obtained through Student Financial Aids Office or the Moritz College of Law. However, any or all of such ineligibilities may be specifically waived when the sanction is imposed or approved.
5. Disciplinary suspension for one or more semesters.
6. Disciplinary dismissal must be for a period of not less than two full semesters.
7. If the sanction of disciplinary probation, suspension, or dismissal is approved, a notation of the Honor Council proceedings will be placed in the file of the student concerned. The same may be true of written warnings. Unless specifically provided that the notation be retained in the student's file after his graduation, said notation would be removed from the student's file and destroyed upon his graduation. Retention in the student's file after graduation necessitates mention of said notation in the reply to any letter received thereafter asking for recommendation or other information concerning the former student.
8. None, or one, or more sanctions may be imposed for findings of guilt for any one charge. Four Honor Council members must agree on the sanction.
9. The sentencing process must be individualized. Nevertheless, where serious cheating offenses or serious offenses which cause or threaten to cause injury to other individuals or to the College as an institution are charged and proven, normally disciplinary suspension for at least one semester should be the penalty. Pressures from work, either in school or outside, and family obligations as such normally do not constitute extenuating circumstances for violations of the Honor Code.