

THE HONOR CODE OF CONDUCT

Barry University School of Law

Effective April 11, 2008

Law Students are preparing to enter a profession that requires the highest trust, honor and irreproachable conduct and they shall, while in Law School, conduct themselves in a manner that reflects these high standards and conforms to the ethical requirements governing the legal profession.

This Honor Code sets forth the system by which Barry University School of Law regulates the standards of honesty and fairness within the School of Law. The foundation for this system is self-regulation. This principle of self-regulation demands the cooperation of every person in the law school community. Every member of the student body must be committed to the highest standards of conduct. This commitment establishes the foundation for a community of professionals who interact with trust and cooperation and thereby enhance the character and integrity of the school and the legal profession.

The following pledge is to be signed by each student as they enter the School of Law:

In registering as a student at Barry University School of Law, I agree to abide by and support the Honor Code in all areas of Law School activity, including my academic work, any statement made to fellow students, members of the Faculty or Administration, and any dealings with the property of Barry University or that of my fellow students.

It shall not be a defense to any alleged violation of this Honor Code that the accused did not know or understand that his conduct would violate this Code. However, nothing in the foregoing statement shall preclude the accused from disputing "intent" as defined herein with documentary, testimonial or other evidence.

SECTION I: DEFINITIONS

- A. "Academic matter" is any matter arising out of a student's admission, enrollment, attendance, matriculation in or graduation from this Law School, including but not limited to all examinations, including practice examinations, any law school competition, any Trial Team, Moot Court or Law Review competition, any outside writing competition, any written work which is a condition of membership in any Law School organization, and any other activity which in any manner affects or results in a law school grade or is in satisfaction of any other requirement for graduation.
- B. "Academic record" means law school grade point average, any grade in any law school course, membership in any academic organization such as Trial

Team, Law Review or Moot Court, LSAT score, or any work or activity which is a requirement for graduation.

- C. “Accused” is any student who is the subject of a hearing on an Honor Code violation or against whom an Honor Code complaint has been filed.
- D. “Code” means this student Honor Code of Conduct for Barry University School of Law.
- E. “Communication device” is any electronic device designed to be capable of using the internet or communicating with any person, location or entity in any way, or storing, recording or transmitting any textual materials, scanned materials, electronic data, photographs, video, audio or student notes in any form or format.
- F. “Complaint” is a written charge alleging a violation of the Honor Code. A Complaint shall be filed against “John Doe” or “Jane Doe” if the name of the alleged violator is not known. Any such Complaint shall also be sufficient to trigger all investigative provisions of this Code. Additionally, any faculty member filing a Complaint shall have the right following any finding of probable cause by the Investigator, to advise the Prosecutor, Senior Associate Dean and/or the Dean of the sanction(s) the faculty member deems appropriate. At all times after the Complaint is filed, and upon request by the faculty member to any of these individuals, the faculty member has the right to be kept advised of the status of the proceedings.
- G. “Dean” as used herein means the Dean of Barry University School of Law, or any person serving as interim or acting Dean or an official designee appointed by the Dean, or the interim or acting Dean.
- H. “Faculty member” includes any full-time, visiting or adjunct professor, instructor, or other person with primary responsibility for an academic course or any other academic or competition endeavor or task to be performed by any student.
- I. “Fellow student advisor” means any one student currently enrolled at the Law School who is engaged by the accused to assist in defending any charges of Honor Code violations in any way.
- J. “Honor Code Complaint Form” is the official form used to make a charge of an Honor Code violation. Honor Code Complaint Forms are available from the Registrar and on the Law School’s web page.
- K. “Honor Code Court” means a “Court” composed of three members of the student body, all of whom shall have completed their first year of Law

School, and two members of the full-time Faculty. Additionally, two alternate members shall be selected for each Hearing to serve as alternate jurors, both of whom shall be students, as provided by Section I (N).

- L. “Honor Code Court Chair” means the Senior Associate Dean who shall preside over the Honor Code Court but shall not vote.
- M. “Honor Code Court Faculty Member Selection” shall be by appointment by the Dean in consultation with the Faculty. Each faculty member selected shall serve for a period of one academic year, including its next following summer session. The Dean shall appoint alternate Faculty members for the purpose of filling any temporary vacancies that may occur on the Court. The Dean, the Senior Associate Dean, the Investigator and the Prosecutor are ineligible for appointment as members or alternate members of the Court.
- N. “Honor Code Court Student Member Selection” shall be made as follows: At the start of each academic year, the President of the Student Bar Association shall submit to the Senior Associate Dean a list of names comprised of one representative from each student organization sanctioned as a member of the Student Bar Association. For each Honor Code hearing that is held, the Senior Associate Dean shall randomly select five names from this list to serve on the Court, three as jurors and two as alternate jurors. No student who is on academic probation is eligible for selection as a member of the Court.
- O. “Intent” or “intentionally” is an element of conduct that is satisfied if the student understood the nature of his conduct.
- P. “Investigator” means any full-time faculty member appointed by the Dean in consultation with the faculty. The Investigator’s term shall be for one academic year, beginning with the start of the Fall semester, and extending until the conclusion of the next following summer session. This appointment shall be announced no later than the first scheduled faculty meeting in April preceding the appointment year. The Investigator will be any full-time faculty member other than the Dean or the Senior Associate Dean.
- Q. “Prosecutor” means any full-time Faculty member, appointed by the Dean, in consultation with the Faculty. The Prosecutor’s term will be for one year, beginning with the start of the Fall semester, and extending until the conclusion of the next following summer sessions. This appointment shall be announced no later than the first scheduled Faculty meeting in April preceding the appointment term. The Faculty member so selected shall be someone other than the Dean, the Senior Associate Dean, or the immediate past Investigator.

If the Prosecutor has personal knowledge of any alleged violation(s) reported to him such that the Prosecutor may be a material witness, or if the Prosecutor is otherwise unable to discharge her/his responsibilities under this Code, the Prosecutor shall be disqualified, and the Dean shall appoint a temporary prosecutor to prosecute the alleged violation(s).

- R. "Senior Associate Dean" means the Senior Associate Dean for Academic Affairs of Barry University School of Law, any person serving as interim or acting Associate Dean, or, if there is no Associate Dean or the Associate Dean is not available, then a designee selected by the Dean.
- S. "Signed statement of guilt" means a written statement, prepared by the Prosecutor and signed by an "accused," containing (1) the matters to which the accused is pleading guilty, (2) the Honor Code sections that have been violated, and (3) a statement in substantially the following wording that "I (the accused) understand that the recommendation of the Prosecutor is not binding on the Dean in determining the sanction(s) to be imposed against me; that any sanctions imposed by the Dean may be less than, equal to, or greater than those recommended by the Prosecutor, up to and including expulsion; and that the decision by the Dean in this regard is final in all respects. My guilty plea herein is completely knowing and voluntary, and not the subject of any promises, written or verbal, other than may have been made by the Prosecutor in regard to his recommendation as to sanctions."
- T. "Statement of charges" shall be prepared by the Investigator and shall include (1) the name(s) of the accused, (2) an attached copy of the Complaint, (3) the specific transaction(s) or occurrence(s) for which the Investigator finds that probable cause exists to believe the Honor Code has been violated by the accused, and (4) for each such transaction or occurrence, a statement of the particular Honor Code section(s) that the Investigator finds have been violated.
- U. "Statement of no violations" shall be prepared by the Investigator, and shall include (1) the name(s) of the accused, (2) an attached copy of the Complaint, and (3) a statement that the Investigator finds that no probable cause exists to believe that the Honor Code has been violated by the accused.
- V. "Student" means any person enrolled or matriculated as either a full or part-time student of the School of Law at any time relevant to an action under this Code.
- W. "Student Bar President" means the duly elected President of the Student Bar Association or any person serving as interim or acting Student Bar President.

- X. “Student Bar Vice-President” means the duly elected Vice-President of the Student Bar Association or any person serving as interim or acting Student Bar Vice-President.
- Y. “Unauthorized source” means any source or textual material, notes, or method of any kind that is not specifically approved or allowed by the faculty member to be used in completing the examination, project, paper or other assigned work.
- Z. “Vote” means a simple majority vote unless otherwise specified.
- AA. Unless otherwise specified, for purposes of calculating the date by which any acts required by this Code are to be done, the term “days” as used herein means a day on which the Dean=s office is officially open. An “early start” program shall be deemed for all purposes of this Code to be part of the Fall semester immediately following it.
- BB. Any use of grammatical gender references shall be interpreted as applying equally to males and females.
- CC. Unless otherwise specified in this Honor Code, no stated deadline is “jurisdictional”. “Jurisdictional” means that the failure to observe the deadline will waive either the relief sought or the right to take the action(s) described.
- DD. Notwithstanding any other provisions in this Honor Code, the Dean or Senior Associate Dean may appoint any other faculty member to temporarily discharge any of their duties herein, or those of the Investigator or Prosecutor, except for the duties of the Dean in determining and imposing any sanctions against an accused.

SECTION II: CONDUCT INCOMPATIBLE WITH PROFESSIONAL STANDARDS

- A. It is a violation of this Code for any student to intentionally engage in any conduct, directly or indirectly, which, with respect to any academic matter:
 - 1. gains for that student or any other student an unfair advantage; or,
 - 2. disadvantages unfairly any other student; or,
 - 3. misrepresents a material fact; or,
 - 4. violates the *Florida Rules of Professional Conduct*.

By way of enumeration, but not by way of limitation, the following are examples of conduct that violate the Honor Code:

B. With respect to any academic matter:

1. possessing or appropriating or attempting to possess or appropriate any information or materials the use of which is not authorized by the Instructor;
2. committing, intentionally aiding or intentionally abetting in the unauthorized giving or receiving of aid or assistance; or requesting unauthorized assistance;
3. consulting or using any "unauthorized source(s)," or, with respect to any competition, any sources prohibited by the rules of the competition involved;
4. owning, possessing or using a teacher's manual without the express written consent of the faculty member;
5. engaging in plagiarism, defined as the unauthorized appropriation or insufficient acknowledgment of or citation to the ideas, sources or work of another in any submitted draft or final work, that is both material to the assigned task and intended to convince a faculty member that the student is the true author. Proof of intent to convince the faculty member may be based solely on the submitted work, but is subject to rebuttal by the accused both to the faculty member and in any subsequent Honor Code proceeding.
6. taking or destroying or attempting to take or destroy the academic materials of another student without the other student's consent.
7. removing or withholding Law Library materials from the Library without authorization; hiding or obscuring such materials in the library or elsewhere; destroying or mutilating such materials; or controlling or attempting to control the use of Library resources so as to disadvantage other students.
8. committing unprofessional conduct in a clinical program, including but not limited to any act or omission which violates the Florida Rules of Professional Conduct or, if the clinical program is conducted outside the State of Florida, the rules of professional conduct for the state in which the clinical program is being conducted.

- C. With respect to examinations:
1. supplying or attempting to supply to another student, during an examination, any unauthorized source(s);
 2. working on an examination other than during the authorized time period or in a room other than the one authorized for the taking of the examination;
 3. copying, in any form, in whole or in part, questions on a controlled distribution exam, or, copying or using from any other student or unauthorized source, in any form, in whole or in part, answers to any in-class or take-home examination;
 4. making any comment regarding an exam which is being given at more than one time;
 5. taking an examination in the place of another student or satisfying any other class requirement imposed on another student.
 6. identifying oneself on an exam or paper that is designated by the professor to be anonymous.
 7. in regard to ExamSoft,
 - a. leaving campus before uploading examination answers. If exam answers are not uploaded before leaving campus, the student will receive an F for the course. ExamSoft sends two notices confirming successful uploads. The first confirmation arrives when rebooting the laptop after uploading your answers. The second confirmation is e-mailed to the student's Barry e-mail address. The second e-mail should arrive within five or ten minutes after uploading the exam.
 - b. leaving campus without receiving confirmation that his/her exam answers have been successfully uploaded. If technical problems are encountered, or if the student fails to receive confirmation after ten minutes, a student shall immediately see a member of the Library and Information Services Staff. They will retrieve the locked exam.
 - c. answering portions of the examination out of order so as to gain access to his computer or unauthorized sources which would be otherwise unavailable. This includes, but is not limited to, the following scenario. An examination as

presented begins with multiple choice questions and then chronologically proceeds to short answer or essay questions. The student uses Examsoft to answer the short answer or essay questions first, uploads his answers, and then proceeds to answer the multiple choice questions with his computer available to him to use “unauthorized sources.”

8. at any time from the scheduled starting time of a student’s examination, and until the student concludes the examination and turns in all test materials, having or placing in the examination building or otherwise possessing “unauthorized sources,” cell phones or “communication devices,” aside from his own personal laptop computer (if otherwise allowed to be used) and then failing to store any of these items at the front of the examination room throughout the student’s taking of the examination. This shall include, but not be limited to, having any such items or materials located, whether or not hidden, anywhere in the examination building.
9. during the time provided or allowed for any student to take any examination on campus, leaving the building in which the examination is to be taken, except after receiving specific permission from the proctor or faculty member to do so, and then signing out and indicating the reason for leaving the building.
10. while still on the premises of the Law School during or following the taking of an examination, failing or refusing to immediately allow inspection or testing of any materials, papers, “communication devices” or cell phones that a student is believed to have taken into an examination room, after being requested to do so by any faculty member, proctor, or member of the Law School administration or Registrar’s office; provided that, such request must have been made only to investigate a possible violation of any portion of Section II (C) herein and such inspection or testing shall not in any event take any time longer than is reasonably necessary to complete the investigation.
11. upon concluding an exam, failing to place in the student’s exam envelope(s) and thereby turn in (1) all examination questions or materials, (2) all student notes and scrap paper generated or produced during the exam, and (3) except in fully open book and/or fully open notes examinations, all written or published materials of any kind brought into the examination room, all without having made any copies thereof in any form or format, unless the student has received express permission from the professor in charge of the course to do so.

D. With respect to attendance:

1. submitting false information regarding class attendance, including written or oral communications;
2. certifying class attendance that is not in accordance with the professor's published policy;
3. signing an attendance/roll sheet for another student.
4. signing an attendance/roll sheet, and then, without the permission of the faculty member, leaving and missing all or a substantial portion of the class.

E. With respect to employment:

1. misrepresenting or having misrepresented his academic record, application, background or resume in any material respect to this Law School, any other educational institution, internship, externship, potential employer, or actual employer;
2. failing to appear for a scheduled legal employment interview, arranged by or through an employee of the Law School, whether held on or off campus, without providing adequate notice of cancellation according to the requirements of the scheduled interview.
3. misrepresenting the extent to which one is or has been employed.

F. With respect to matters specifically related to this Code:

1. Any failure to submit a completed "Honor Code Complaint Form" to the office of the Senior Associate Dean within five days following the date on which a student, based on personal observation, obtained information sufficient to form a reasonable likelihood in the mind of the student that an Honor Code violation has occurred.
2. No student shall induce a person to violate this Code.
3. Notwithstanding any other provisions in this Code, it is a violation of this Code for any student to fail to fully cooperate in an Honor Code investigation or to fail to testify at or fail to bring requested items or materials to a hearing of the Honor Court when so requested by that Court, the Prosecutor or the accused, except that this subsection shall not apply to the accused or to those who cannot comply with the

request for good cause shown. Any request to testify before the Court must be made in writing using the Notice to Attend Hearing form available in the Registrar's office.

4. submitting an Honor Code Complaint that is materially false, or, not based on personal observation sufficient to form a reasonable suspicion that an Honor Code violation has been committed by the person or persons complained against.
5. for an accused or his fellow student advisor, whether directly or through the attorney for the accused, to discuss with or take a statement in any form from any potential witness or witness, regarding a Complaint or its investigation, without first informing the potential witness or witness that his participating in any such discussion(s) or giving any statement(s) is strictly voluntary.
6. to directly or indirectly retaliate or threaten retaliation, in any form or by any method, against anyone who has submitted an Honor Code complaint.

SECTION III: SANCTIONS

- A. Each failure to meet a responsibility set forth as part of the Barry University School of Law Honor Code shall constitute a separate violation of this Code. For each violation of this Code, a student is subject to discipline under this Code. Such discipline may include, but is not limited to, one or more of the following sanctions:
 1. verbal admonition;
 2. written admonition;
 3. verbal reprimand;
 4. written reprimand;
 5. exclusion or suspension from one or more functions, benefits and privileges of the School of Law;
 6. removal from any student governmental office or position in any Law School sponsored activity or organization or from any other University sponsored position of trust, responsibility or interest;
 7. prohibited or restricted use of Law School facilities or services;

8. monetary or other restitution, written or verbal apology, or designated community service;
 9. for misconduct related to course work sanctions may include but are not limited to:
 - a. change of grade in a course;
 - b. involuntary withdrawal with prejudice from any course or seminar;
 - c. withdrawal of academic credit in a course;
 - d. receiving no credit for an academic work product, with or without an opportunity to redo the product.
 10. probation;
 11. suspension from the School of Law;
 12. expulsion from the School of Law;
 13. financial penalty as stated in Section III (G) herein.
 14. any other reasonable penalty as deemed appropriate.
- B. The above identified sanctions may be imposed concurrently, with the exception of the sanctions of probation, suspension and expulsion which shall not be imposed concurrently.
- C. For any student found guilty after a Hearing before the Honor Court of any provision of Section II (B)(5), or Section II (C) except for (2), (4), (6), (8) (9), (10) and (11), the sanction imposed shall be expulsion from the Law School, subject only to a lesser punishment being recommended by the Dean for extraordinary cause shown. Should the Dean make such a recommendation, he shall report it to the faculty at the next regularly scheduled faculty meeting. The faculty shall consider the recommendation and by secret majority vote decide whether to either impose the specific sanction(s) recommended by the Dean without alteration or expel the accused(s).
- D. All sanctions imposed against a student for any Honor Code violation(s) shall be reflected wherever appropriate in his permanent Law School records,

unless the Dean for good cause shown finds that such would be inappropriate.

- E. Any sanctions imposed in regard to this Code, or any withdrawals from Barry University School of Law while facing recommended sanctions, along with a brief description of the alleged underlying event(s), shall be publicly announced in the beginning of the issue of Moot Points next following imposition of the sanctions; and, additionally, any sanctions or withdrawals from Barry University School of Law while facing recommended sanctions may be publicly announced in any other manner as determined by the Dean. However, in no event shall the name of the accused be stated in any such announcement(s).
- F. In determining what sanctions are to be imposed against an accused under this Code, the Senior Associate Dean and the Dean shall be entitled to consider an accused's entire history at the Law School, including but not limited to any prior history of Honor Code violations.
- G. Any student who in any semester or summer session pleads guilty to an Honor Code violation, or is found guilty after a Hearing before the Honor Court, may lose between 25% and 100% of all scholarship monies otherwise due or to be available to him from the Law School from the date of pleading or the date of the Hearing, and until the student graduates. The Dean shall determine the amount to be lost. In no event, however, shall any student receive any scholarship monies who has been expelled or while he is suspended.

SECTION IV: PROCEDURE FOR ACTIONS

- A. REPORTING OF VIOLATION(S)
 - 1. Alleged violations of the Code are to be set forth in writing or electronically transmitted using an Honor Code Complaint Form. The Complaint shall be given or provided to the Senior Associate Dean, who shall keep a log identifying all Complaints by (1) number, (2) date filed, (3) name of complainant(s) and name of accused(s), if known, (4) a brief description of the violation(s) complained of, and (5) the Final Decision(s) rendered. Upon request of any faculty member, this log shall be produced at any regularly scheduled faculty meeting.
 - 2. An Honor Code violation may be reported by any student, faculty member, administrator, staff member or proctor of Barry University School of Law.

B. STATUTE OF LIMITATIONS

1. The Senior Associate Dean shall not initiate proceedings on an alleged exam violation that occurred more than 180 days prior to the report of the alleged violation or on any other type of violation that occurred more than one year prior to the report of the alleged violation. These deadlines are jurisdictional.

C. ACTION ON REPORT OF VIOLATION(S)

1. Upon receipt of a Complaint alleging violation(s) of the Code, the Senior Associate Dean shall conduct and complete an Initial Review within ten days.

D. CONDUCT OF INITIAL REVIEW

1. The purpose of the Initial Review is to determine:
 - a. if the alleged conduct is a violation of the Honor Code and
 - b. if the offense is, on its face, minor in nature.
2. If the Senior Associate Dean determines that the alleged conduct is not a violation of the Honor Code, the Dean and the Registrar shall be so notified.
3. If the Senior Associate Dean determines that the alleged conduct, if proven, is a violation of the Honor Code, and that the offense warrants punishment of less than suspension or expulsion, the Senior Associate Dean may make informal but final disposition of the case, impose such lesser punishment as he or she deems appropriate, and notify the Registrar thereof. In making this determination, the Senior Associate Dean shall be limited to speaking with the person who filed the Honor Code Complaint and the accused. In the case of the latter, the Senior Associate Dean shall first provide the accused, in writing, notice of the rights and procedures found in Section IV(E)(2). Alternatively, at his election, the Senior Associate Dean may refer any matter to the Investigator even if the alleged conduct, if proven, warrants punishment of less than suspension or expulsion.
4. If the accused does not agree with the disposition by the Senior Associate Dean the accused may within seven days request of the Senior Associate Dean, in writing, a referral to the Honor Court, in which case the Investigator shall be notified, and the matter shall proceed to the

Initial Investigation as outlined in Section IV (E). If the Initial Investigation has already been completed by the Investigator, the matter shall be returned to the Prosecutor who shall notice it for Honor Court hearing in accordance with Section IV (F). In any event, should the accused make such a request, any sanction ultimately imposed may be less than, equal to, or greater than that initially imposed by the Senior Associate Dean. The seven-day deadline stated herein is jurisdictional.

5. If the Senior Associate Dean determines that the alleged conduct, if proven, is a violation of the Honor Code, and that the offense would warrant punishment of suspension or greater, the Senior Associate Dean shall refer the matter to the Investigator who shall conduct an Initial Investigation as outlined in Section IV (E).

E. CONDUCT OF INITIAL INVESTIGATION

1. In conducting the Initial Investigation, the Investigator, after consultation with the Prosecutor, shall obtain statements from persons involved, including recorded or written statements, and collect physical or electronic evidence as is deemed warranted.
2. The Investigator shall not question the accused or otherwise discuss the circumstances of the alleged violation(s) with the accused without first informing the accused, in writing, of the charges, including the time and place of the alleged violation(s); that the accused has the right to remain silent; that any statement made by him/her may be used against him/her in any proceedings; that the accused has the right to a fellow student advisor or attorney in all phases of the proceedings or Hearing; and that the Investigator will conduct a prompt investigation into the alleged violation(s). Nothing in this paragraph shall prevent the accused from giving a voluntary statement after notification of the above procedures. No potential witness or witness, regarding a Complaint or its investigation, shall be required to discuss with, or give a statement in any form to, the accused, his fellow student advisor or attorney. Participating in any such discussion(s) or statements shall be strictly voluntary, and the accused, his fellow student advisor and his attorney shall so inform all potential witnesses or witnesses prior to commencing any discussion or taking any statement.
3. The Investigator shall, within 15 days of receiving the Complaint, conclude his investigation, and forward to the Prosecutor (1) the complete investigation file, (2) a "statement of charges" for all violations of the Honor Code for which the Investigator finds probable cause, and (3) if the Investigator finds no probable cause for any violations, a

“statement of no violations.” The Prosecutor shall not meet with the accused, his fellow student advisor or his attorney until after he has received and reviewed these materials. The Prosecutor may (1) refuse to fully prosecute all of the violations stated in the “statement of charges,” or (2) prosecute at all following a “statement of no violations,” only for good cause shown in writing and approved by the Senior Associate Dean, within ten days of the Prosecutor’s receipt thereof from the Investigator. If the final determination is that there are no Honor Code violations, the Senior Associate Dean and the Dean shall be so notified. In this event, no record of the Complaint shall be entered in the permanent Law School records of the accused, excepting the log described in Section IV (A).

4. If the Prosecutor determines after receiving the materials described in Section IV (E)(3) that the Honor Code violation, if proven at a Hearing, does not warrant a sanction of suspension or expulsion, the Complaint and the investigation file shall be returned to the Senior Associate Dean, who shall proceed pursuant to Section IV (D)(3) and (4).
5. If the Prosecutor determines after receiving the materials described in Section IV (E)(3) that the Honor Code violations, if proven at a Hearing, warrants sanctions other than an admonition or reprimand, the Prosecutor shall, within ten days of having received the Complaint and investigation file:
 - a. Meet with the accused to request a plea of guilty to the commission of the Honor Code violation(s) as listed in the statement of charges, and, discuss what recommendation as to sanctions should be made by the Prosecutor to the Dean. If the accused pleads guilty as described herein, the Prosecutor shall within five days of this meeting, submit to the Dean, with a copy to the Senior Associate Dean, (1) the investigation file, (2) the statement of charges, (3) a “signed statement of guilt” by the accused, and (4) the Prosecutor’s recommendation as to sanctions to be imposed.
 - b. The recommendation by the Prosecutor as to sanctions is not binding on the Dean. The Dean, upon receipt of the items and recommendation above, shall within ten days (1) fully consider the matter and determine what sanctions are to be imposed, and (2) give notice thereof to the accused by two of the following three methods – personal service, overnight mail and U.S. mail, return receipt requested, at the most current address the accused has on file in the Registrar’s office. Effecting service by any method above shall constitute valid service. Proof of service shall be made by return receipt or by

an affidavit of mailing or personal service. Any such receipt or affidavit shall be retained and made a part of the accused's permanent Law School records. Any sanctions imposed by the Dean may be less than, equal to, or greater than those recommended by the Prosecutor, up to and including expulsion. Subject to the provisions of Section III (C), the decision by the Dean as to what sanctions will be imposed shall be final in all respects.

- c. If a "signed statement of guilt" has not been obtained, or the accused has failed or refused to meet with the Prosecutor as described in (a) above, the Prosecutor shall schedule a full hearing of the matter before the Honor Code Court, to occur within 20 days.
- d. The Prosecutor shall not have the power to plea bargain in any way as to any charges listed in the Statement of Charges, other than to agree to make any recommendation described in Section IV (E) (5)(a). However, if the accused agrees to plead guilty pursuant to Section IV (E)(5)(a), the Prosecutor shall additionally have the discretion to accept a plea of guilty to one or more of the charges in the Statement of Charges in satisfaction of all the charges listed therein.
- e. Should the Dean impose a penalty against an accused more severe than that which the Prosecutor has recommended, an accused may withdraw his or her guilty plea and proceed to an Honor Code Hearing, provided that he or she so notifies the Dean in writing within seven days of the date upon which the Dean mailed notice of the punishment to the accused. In that event, neither the fact of the withdrawn guilty plea nor any statements made by the accused in connection with the withdrawn guilty plea may be used or introduced at any Honor Code Court Hearing unless the accused testifies to the contrary.
- f. No statement of intent to withdraw from this Law School by any student, while that student is the subject of a pending Honor Code Complaint, shall be effective until the Honor Code Prosecutor receives in writing the completed and signed form for withdrawal required by the Registrar's office.
- g. The Prosecutor shall have the power to conduct any investigation he or she deems necessary in addition to that done by the Investigator.

- h. Any student may, at his or her election, consult with the Dean of Students regarding his or her rights or liabilities under the Honor Code. In that event, all communications on that subject by and between such student and the Dean of Students shall be privileged and shall not be disclosed to the Dean, the Senior Associate Dean, the Honor Code Investigator, the Honor Code Prosecutor or any member of the Honor Code Court, unless the accused otherwise waives this privilege.

F. HONOR CODE COURT HEARING PROCEDURE

1. If an Honor Code Court hearing is to be held, the accused shall be so notified in writing, and the notice shall include the following information as set forth below:
 - a. A description of the alleged violation(s);
 - b. A statement of the date, time and place of the alleged violation(s);
 - c. A statement that probable cause to submit the matter to a full hearing before the Court exists;
 - d. A statement of the date, time and place of the hearing;
 - e. A statement that the Initial Investigation and the determination of probable cause have been completed;
 - f. The names of witnesses who are likely to be called to testify against the accused;
 - g. A copy of the Initial Investigation file;
 - h. A copy of this Code.
2. Service shall be attempted upon the accused by at least two of the following three methods – personal service, overnight mail and U.S. mail, return receipt requested, at the most current address the accused has on file in the Registrar’s office. Effecting service by any one method above shall constitute valid service. Proof of service shall be made by return receipt or by an affidavit of mailing or personal service. Any such receipt or affidavit shall be retained and made a part of the accused’s permanent Law School records. Notice

properly mailed shall be presumed to have been received three (3) days after mailing.

3. Subject to the provisions stated in this section, the hearing shall commence no sooner than 15 calendar days and no later than 30 calendar days after the earlier of the date of personal service or date of mailing.
5. After service is effected, either the Prosecutor or the accused may make a written request to the Honor Code Court Chair that the scheduled date for the commencement of the hearing be rescheduled to a date certain. The Chair shall grant the request only upon a showing of good cause and shall promptly notify both parties of the rescheduled date for commencement of the hearing. The Chair shall not reschedule the hearing to commence later than 20 calendar days from the date originally set for the Hearing.
6. Should any juror(s) be successfully challenged for cause, the alternate jurors, in alphabetical order of their last names, shall take their places on the jury as may be required. Should there be no successful challenges for cause, the alternate jurors shall attend the entire Hearing until the end of closing argument, when they shall be discharged. No alternate juror who is not a part of the jury shall participate in deliberations.

G. RIGHTS OF THE ACCUSED UPON HEARING

The accused at any Hearing shall have the right to:

1. be present at the hearing with a fellow student advisor or attorney who shall assist him in any or all phases of the Hearing, as desired. The accused is liable for all costs and expenses, incurred by the accused in connection with any Honor Code proceeding, and the accused will not be reimbursed by the School of Law for any costs or expenses of any kind incurred as a result of an action under this Code;
2. have the full membership of the Court present;
3. challenge for cause any member of the Court;
4. hear and examine evidence presented to the Court;
5. cross-examine witnesses testifying at the hearing;

6. present evidence;
7. present an opening statement and closing argument;
8. compel student, Law School administration and faculty witnesses to attend, testify before the Court and/or produce evidence, pursuant to the Notice to Attend Hearing form described in Section II (F)(3); provided that, no witness shall be barred from testifying or producing evidence in the absence of any such Notice.;
9. be informed in writing of the findings of the Court and any sanctions recommended;
10. request sequestration of witnesses.

H. RIGHTS OF THE PROSECUTOR

The Prosecutor at any Hearing shall have the right to:

1. have the full membership of the Court present;
2. be present at the hearing and call witnesses and present evidence against the accused;
3. cross-examine witnesses called by the accused;
4. make opening statement and initial and rebuttal closing arguments;
5. challenge any member of the Court for cause;
6. accept a “signed statement of guilt” from the accused, and immediately use the procedure found in Section IV(F)(3);
7. compel student, Law School administration and faculty witnesses to attend, testify before the Court and/or produce evidence, pursuant to the Notice to Attend Hearing form provided that, no witness shall be barred from testifying or producing evidence in the absence of any such Notice;
8. be informed in writing of the findings of the Court and any sanctions imposed;
9. request sequestration of witnesses, other than the accused.

I. CONDUCT OF HEARING GENERALLY

1. The Court Chair (hereinafter the "Chair") may upon timely request issue Notices to Attend Hearing, to compel attendance of witnesses and/or production of evidence at any hearing.
2. No party may call the Prosecutor or any member of the Court to testify, and the Prosecutor may not call the accused to testify as a witness.
3. The principles of evidence shall be relaxed to aid in a fair resolution of the case. All relevant evidence offered at the Hearing shall be admitted unless its probative value is determined by the Chair to be substantially outweighed by a potential for unfair prejudice, confusion of issues, undue delay or undue presentation of cumulative proof.
4. Any member of the Court has the power to question witnesses at any time.
5. The Chair must rule on any procedural or evidentiary matters raised prior to or during the hearing. The Chair's ruling on procedural and evidentiary matters is final, subject only to review by the Dean to determine whether the ruling was an abuse of discretion. If the accused has been found guilty and the Dean finds an abuse of discretion, the Dean may reverse or remand for a new hearing. If the accused has been found not guilty as to all charges in accordance with Section IV (I) (10) below there shall be no further review.
6. The Committee shall cause an audio recording to be made of each hearing. An accused or the Law School may cause a stenographic record to be created at its or his own expense.
7. The Prosecutor has the burden of proving that the accused has violated the Code by a clear and convincing standard.
8. After the close of the hearing, the Court shall sit in executive session to deliberate upon the evidence presented, and shall continue deliberating until a decision is reached by simple majority vote.
9. The Court shall prepare written findings, including findings of fact, conclusions of law, and the numerical vote of the Court regarding the guilt or innocence of the accused.
10. A verdict of not guilty will not be subject to review. If the Court finds the accused guilty, they shall also prepare a recommendation as to

sanction(s) to be imposed on the accused. These recommendations shall be forwarded to the Dean and the Chair within three calendar days of the Hearing.

11. The Chair shall serve notice to the accused of the decision of the Court within five calendar days of the Hearing. Notification shall be made as provided in Section IV (F)(2) above, and shall include those matters stated in Section IV (I)(9) and (10).

J. REVIEW BY THE DEAN

The Dean shall review all findings forwarded by the Court, including the recommendations for sanctions.

1. Unless the accused has failed to personally appear and attend the Hearing, the accused may contest the findings of fact, conclusions of law, and/or the recommended sanctions, only by hand-delivering his written objections to the Dean's office within 15 calendar days of the Hearing. This deadline is jurisdictional.
2. The Dean may, in his discretion, permit the accused, with or without his student advisor or attorney, to appear in person to be heard in regard to the Dean's review herein, providing that the Prosecutor shall also be present at such time. The Dean shall not be required to permit any such personal appearance.
3. The Dean may remand the recommendations and findings of fact to the Court in order to seek clarity.
4. Within 20 days of the Hearing, the Dean shall, subject to Section III (C), accept, reject, or modify the recommended sanctions of the Court and shall impose such sanctions as are deemed appropriate.
5. The Dean's action is final, subject solely to the provisions of Section III (C).
6. Other than as specified in this Honor Code, there is no right of appeal to any other person, office, or agency within Barry University or Barry University School of Law.

K. CONFIDENTIALITY OF PROCEEDINGS

1. At the preference of the accused, a Hearing may be held in public or in private. If the accused fails to express a preference, the Hearing shall be held in private.
2. All proceedings under the Code shall be conducted in a manner reasonably calculated to ensure confidentiality.

L. RECORDS OF PROCEEDINGS

Prior to issuance of a Final Decision on the charges by the Dean or the Associate Dean, the Chair of the Honor Code Court and the Prosecutor shall maintain files of all written papers submitted and all written notices, orders, reports and decisions made in connection with a disciplinary proceeding. The stenographic record, if transcribed and filed either by the Law School or the accused, and audio recording of formal hearings of the Honor Court shall be retained as part of the files. After issuance of a Final Decision, the files shall be consolidated, and retained by the School of Law in the office of the Senior Associate Dean for at least four (4) years. The files of a disciplinary proceeding shall be confidential except insofar as disclosure is required by law, made by the Dean pursuant to any Final Decision, made by the Dean or Registrar to bar examiners, licensing or certification authorities, prospective employers, or educational institutions relative to an application of the student, or made after a written waiver of confidentiality signed by the student.

M. FORMS, NOTICES TO APPEAR, ETC.

The Prosecutor, Investigator, Honor Court, Senior Associate Dean and/or Dean may at any time devise and create such forms and documents as are necessary to expedite proceedings under this Honor Code. Said forms shall be retained in a central location in the Registrar's Office and Senior Associate Dean for Academic Affairs Office (unless otherwise designated) for use in Honor Code proceedings and activities, and shall be made available to all parties in an Honor Code proceeding.

SECTION V: MISCELLANEOUS

- A. This Code may be amended at any time by an affirmative vote of the majority of the Faculty of the Law School who are present at a special or general meeting.
- B. Any changes to this Code, whether by deletion, addition or modification, shall become effective on the date of adoption by the Law School Faculty.

- C. Upon revision of this Code, whether by deletion, addition or modification, a copy of the revised Code shall be sent by e-mail to the student body, faculty and staff; provided that, the failure of any such student to receive the revised Code shall not in any respect affect the student's rights and obligations thereunder.
- D. The Dean or Senior Associate Dean shall, at the first regularly scheduled faculty meeting of each academic year, report to the faculty on those Complaints filed in the previous academic year, and the specific outcomes on each.
- E. The Dean or Senior Associate Dean shall, in the first issue of Moot Points at the start of each academic year, report to the students in itemized but nameless fashion as to each Honor Code Complaint filed during the previous academic year, and the results and sanction, if any, thereof.

SECTION VI: Notice

- A. Changes to this Honor Code of Conduct will be communicated to students by publication in Moot Points.
- B. Students are responsible for checking their Bucmail Accounts daily so they may be kept informed of all announcements, etc.