

THE HONOR CODE OF CONDUCT

Barry University School of Law

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.

SECTION I: DEFINITIONS

- A. "Code" means this student Honor Code of Conduct for Barry University School of Law.
- B. "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.
- C. "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, then a designee selected by the Dean.
- D. "Vote" means a simple majority vote unless otherwise specified.
- E. "Student Bar President" means the duly elected President of the Student Bar Association or any person serving as interim or acting Student Bar President.

- F. "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.
- G. "Academic matter" means all examinations, including practice examinations, any law school competition, any Moot Court or Law Review 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.
- H. "Academic record" means law school grade point average, any grade in any law school course, membership in any academic organization such as Law Review or Moot Court, LSAT score, or any work or activity which is a requirement for graduation.
- I. "Intent" is an element of conduct that is satisfied if the student knows or should have known of the likely consequences of his/her conduct.
- J. Unless otherwise specified, for purposes of calculating the date by which any acts required by this Code are to be done, the term "day" as used herein means a day on which the Dean's office is officially open.
- K. "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.
- L. "Honor Code Committee" means a Committee composed of two members of the student body, both of whom shall have completed their first year of Law School, who shall serve for a period of one year, from May 15 through May 14 of the following year, and two members of the full-time Faculty who shall serve staggered two year terms with each term beginning on May 15 of the year of appointment and ending on May 14 two years following the appointment.
- M. "Honor Code Committee Faculty Member Selection" shall be by appointment by the Dean in consultation with the Faculty. The Dean shall appoint alternate Faculty members for the purpose of filling any temporary vacancies that may occur on the Committee. The Dean, the Senior Associate Dean for Academic Affairs, and the Prosecutor are ineligible for appointment as members or alternate members of the Committee.
- N. "Honor Code Committee Student Member Selection" shall be appointed by the President of the Student Bar Association. At the same time that the Student Members are selected, first, second and third alternate Student

Members shall be selected for the purpose of filling any temporary vacancy that may occur on the Committee. No student who is on academic probation is eligible for selection as a member or alternate member of the Committee.

- O. "Honor Code Committee Chair" means the Senior Associate Dean for Academic Affairs, who shall preside over the Honor Code Committee, but shall not vote.
- P. "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.
- Q. "Prosecutor" means any full-time Faculty member appointed by the Dean, in consultation with the Faculty. The Prosecutor's term will be for two years, from May 15 of the appointment year. This appointment shall be announced no later than the first scheduled Faculty meeting in April preceding the appointment year. The appointments of the Prosecutor and the Investigator shall overlap one year. The Faculty member so selected shall be someone other than the Dean, the Senior Associate Dean, or a member or alternate member of the Honor Code Committee, the immediate past Prosecutor or the immediate past Investigator.

If the Prosecutor has personal knowledge of any alleged violation(s) reported to her/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 investigate and prosecute the alleged violation(s).

- R. "Complaint" is a written charge alleging a violation of the Honor Code.
- S. "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.
- T. Any use of grammatical gender references shall be interpreted as applying equally to males and females.
- U. "Investigator" means any full-time faculty member appointed by the Dean in consultation with the faculty. The Investigator's term shall be for two years, from May 15 of the appointment year. This appointment shall be announced no later than the first scheduled faculty meeting in April preceding the appointment year. The appointments of the Prosecutor and the Investigator shall overlap one year. The Investigator will be any full-time faculty member other than the Dean, the Senior Associate Dean, a current member or alternate member of the Honor Code Committee, the immediate past Prosecutor or the immediate past Investigator.

SECTION II: CONDUCT INCOMPATIBLE WITH PROFESSIONAL STANDARDS

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

- A. It is a violation of this Code for any student to engage in any conduct which, with respect to any academic matter:
 - 1. is intended to gain for that student or any other student an unfair advantage;
 - 2. is intended to disadvantage unfairly any other student;
 - 3. is an intentional misrepresentation of fact

- B. With respect to examinations:
 - 1. possession or appropriating or attempting to possess or appropriate any information or materials the use of which is not authorized by the Instructor;
 - 2. supplying or attempting to supply to another student, during an examination, any information or materials the use of which is not authorized by the Instructor;
 - 3. 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;
 - 4. copying, in any form, questions on a controlled distribution exam;
 - 5. unauthorized giving or receiving of aid or assistance;
 - 6. any comment or discussion regarding an exam which is being given at more than one time;
 - 7. taking an examination in the place of another student or satisfying any other class requirement imposed on another student.
 - 8. identifying oneself on an anonymous exam or paper.
 - 9. In regards to ExamSoft: It is now an honor code violation to leave 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.

A student cannot leave 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, immediately see a member of the Library and Information Services Staff. They will retrieve the locked exam.

- C. With respect to assignments, projects, examinations, papers or competition:
 - 1. consulting or using any sources, animate or inanimate, specifically prohibited by the Instructor or by the rules of the competition;
 - 2. owning, possessing or using a teacher's manual without the express written consent of the Instructor;
 - 3. engaging in plagiarism, defined as the unauthorized appropriation or insufficient acknowledgment of the ideas or written work of another.
- D. With respect to the academic materials of another student, taking or destroying or attempting to take or destroy such materials without the other student's consent.
- E. Notwithstanding the "academic matter" requirement, it is a violation of this Code for any student:
 - 1. to misrepresent his/her academic record to any educational institution, potential employer, or actual employer;
 - 2. to remove or withhold Law Library materials from the Library without authorization; to hide or obscure such materials in the library or elsewhere; to destroy or mutilate such materials; or to control or attempt to control the use of Library resources so as to disadvantage other students.
- F. Unprofessional conduct in a clinical program including 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.

- G. Any conduct which violates the *Florida Rules of Professional Conduct*.
- H. Failing to appear for a scheduled employment interview, whether held on or off campus, without providing adequate notice of cancellation according to the requirements of the scheduled interview.
- I. Any intentional failure to report a suspected violation of this Code.
- J. No student shall improperly induce a person to violate this Code.
- K. Notwithstanding the “academic matter” and “intent” requirements, it is a violation of this Code for any student to fail to cooperate in an Honor Code investigation or to fail to testify at a hearing of the Honor Committee when so requested by that Committee, except that this subsection shall not apply to the accused or to those who cannot comply with the request of the Committee for good cause shown. Any request to testify before the Committee must be made in writing using an appropriate Notice to Attend Hearing form.
- L. 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.
- M. Misrepresenting the extent to which one is employed.

SECTIONS 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;
 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. 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.

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 may be given to the Senior Associate Dean for Academic Affairs, to any member of the Honor Code Committee, to any faculty member or administrator. The person receiving a Complaint shall promptly forward the Complaint to the Senior Associate Dean for Academic Affairs.

2. An Honor Code violation may be reported by any student, faculty, administrator, staff or proctor of Barry University School of Law.

B. STATUTE OF LIMITATIONS

1. The Senior Associate Dean for Academic Affairs 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.

C. ACTION ON REPORT OF VIOLATION(S)

1. Upon receipt of a Complaint alleging violation(s) of the Code, the Senior Associate Dean for Academic Affairs shall promptly conduct an Initial Review.

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 for Academic Affairs determines that the alleged conduct is not a violation of the Honor Code, the Dean shall be so notified, and no record of the Complaint shall be entered in the Registrar's files pertaining to the accused.
3. If the Senior Associate Dean for Academic Affairs determines that the alleged conduct is a violation of the Honor Code, and that the offense is minor, the Associate Dean shall make informal but final disposition of the case, which shall not include any disciplinary sanctions other than an oral warning or reprimand of which no record is to be placed in the Registrar's files pertaining to the student.

4. If the accused does not agree with the disposition by the Senior Associate Dean for Academic Affairs the accused may request, in writing, a referral to the Honor Committee 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 Senior Associate Dean determines that the alleged conduct is a violation of the Honor Code, and that the offense is not minor, 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 take statements from persons involved and collect physical evidence as required. Any statement given voluntarily will be admitted at any subsequent hearing.
2. Neither the Investigator nor the Prosecutor shall 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 in all phases of the proceedings; 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.
3. If in the judgment of the Prosecutor, after reviewing the results of the Initial Investigation, there is no Honor Code violation, the Senior Associate Dean for Academic Affairs and the Dean shall be so notified and no record of the complaint shall be entered in the Registrar's files pertaining to the accused.
4. If the Prosecutor determines, after an investigation, that the Honor Code violation is minor, the Complaint and the full written investigation report shall be returned to the Associate Dean who shall proceed pursuant to Section IV, D (3).
5. If, in the judgment of the Prosecutor, the allegation(s) warrant action, the Prosecutor shall:

- a. upon a determination of no violation or a minor violation, submit a written report which shall be returned to the Senior Associate Dean for Academic Affairs pursuant to the procedures outlined in Section IV, E, (4), or
- b. upon a guilty plea of the accused, submit to the Dean, with a copy to the Senior Associate Dean for Academic Affairs, a written summary of the Initial Investigation including the written statement by the accused admitting guilt together with recommendations for sanctions to be imposed. The Dean shall, not later than ten days following receipt of the report and recommendations of the Prosecutor, act on said report and recommendations. A copy of the report and recommendations shall be furnished to the Senior Associate Dean for Academic Affairs. The Dean may require that a record of said action be placed in the Registrar's files pertaining to the student, and that said record shall be made a permanent part of the student's record, or
- c. call for and schedule a full hearing of the matter before the Honor Code Committee.

F. HONOR CODE COMMITTEE HEARING PROCEDURE

- 1. If the Prosecutor determines that sufficient cause exists to refer the matter to the full Committee, 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 sufficiency of cause to submit the matter to a full hearing before the committee exists;
 - d. A statement of the date, time and place of the hearing;
 - e. A statement that the Initial Investigation and the determination of sufficiency of cause have been completed;
 - f. A statement of the date when each of the following occurred:
 - (1) Allegation(s) first reported;

- (2) Prosecutor's determination of sufficiency of cause to recommend a hearing before the full Committee.
 - g. The names of witnesses who are likely to be called to testify against the accused;
 - h. A copy of the Initial Investigation Report;
 - i. A copy of this Code.
2. This notice shall be served upon the accused personally or by certified and first class mail addressed to the accused at his/her current address, or if the address is unknown, then to the last recorded address of the accused as found in the Barry University School of Law administration records. Proof of service shall be made by first class and certified mail with 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 record. 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 10 calendar days and no later than 30 calendar days after service is affected. For purposes of this Code, certified mail service is deemed affected on the date of receipt as indicated by the return receipt and first class mail is presumed to be received on the third business day after mailing.
 4. After service is affected, either the Prosecutor or the accused may make a written request to the Committee 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 30 calendar days after service is affected.

G. RIGHTS OF THE ACCUSED UPON HEARING

The accused shall have the right to:

1. be present at the hearing with a fellow student advisor, if 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 Committee present;
3. challenge for cause any member of the Committee;
4. hear and examine evidence presented to the Committee;
5. cross-examine witnesses testifying at the hearing;
6. present evidence;
7. present an opening statement and closing summation whether personally or through a student advisor;
8. compel witnesses to attend and testify before the Committee;
9. be informed in writing of the findings of the Committee and any sanctions recommended;
10. request sequestration of witnesses.

H. RIGHTS OF THE PROSECUTOR

The Prosecutor shall have the right to:

1. have the full membership of the Committee 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 and closing statements;
5. challenge any member of the Committee for cause;
6. enter into a negotiated settlement with the accused pertaining to any alleged violation(s);
7. compel witnesses, other than the accused, to attend and testify before the Committee;

8. be informed in writing of the findings of the Committee and any sanctions imposed;
9. request sequestration of witnesses, other than the accused.

I. CONDUCT OF HEARING GENERALLY

1. The Committee Chair shall issue subpoenas as required to compel attendance of witnesses and/or production of documentary evidence at any hearing.
2. No party may call the Prosecutor or any member of the Committee to testify, and the Prosecutor may not call the accused to testify as a witness.
3. The rules of evidence shall be relaxed to aid in a fair resolution of the case. All relevant evidence shall be admitted unless its probative value is outweighed by a potential for unfair prejudice, confusion of issues, undue delay or undue presentation of cumulative proof.
4. The Committee has the power to question witnesses at any time.
5. The Committee Chair must rule on any procedural matter 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, there shall be no further review in accordance with 10 below.
6. The Committee shall cause a record to be made on magnetic tape of each hearing.
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 Chair and the Committee 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 Committee shall prepare written findings, including findings of fact and conclusions of law, indicating the vote of the Committee regarding the guilt or innocence of the accused.

10. A verdict of not guilty will not be subject to review. If the Committee 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 for review.
11. The accused shall be notified of the Committee's decision as expeditiously as possible.
 - a. Notification shall be made by first class mail and certified mail with return receipt, postmarked not later than seven days following the hearing.
 - b. Notification shall include the Committee's report to the Dean, complete with findings of fact, conclusions of law and proposed sanctions, if any.

J. REVIEW BY THE DEAN

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

1. The accused may contest the findings of fact, conclusions of law, the proposed sanctions with written objections within seven days of the date of mailing of the notification.
2. The Dean may, in his/her discretion, permit the accused to appear in person, providing that the Prosecutor shall also be present at such time.
3. The Dean may remand the recommendations and findings of fact to the Committee in order to seek clarity.
4. The Dean may accept, reject, or modify the recommended sanctions of the Committee and shall impose such sanctions as are deemed appropriate.
5. The Dean's action is final.
6. There is no right of appeal to any other person, office, or agency within Barry University.

K. CONFIDENTIALITY OF PROCEEDINGS

1. At the preference of the accused, a formal hearing under the Code 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:
 - a. The Dean, at the pre-hearing stage if there is an agreement or following a full hearing, shall specify as a part of the sanctions whether the sanctions and basis for those sanctions shall appear on the accused's permanent academic transcript.
 - b. On motion by either the accused or the Prosecutor and after affording both parties the opportunity to be heard on the motion, the Committee may recommend that an appropriate report of its findings with or without the accused's name, be posted in a public place in the School of Law. This recommendation will be forwarded to the Dean who will have the final authority to implement said recommendation.
3. Sanctions may be placed on the accused's permanent academic transcript.
 - a. In the event the accused and Prosecutor agree upon sanctions prior to an Honor Code Committee hearing, the Dean shall specify whether the sanctions shall appear on the accused's permanent academic transcript.
 - b. In the event an Honor Code Committee hearing is held, the Dean shall specify whether the sanctions shall appear on the accused's permanent academic transcript.
4. Sanctions shall be posted in a public place in the School of Law.
 - a. The notice of sanctions may be posted with or without the accused's name.
 - b. On motion by either the Prosecutor or the accused, at the conclusion of the hearing, or if no hearing is held, at the time sanctions are agreed upon, the Committee may recommend that there be no notice of sanctions. The Dean, in his review of the recommendations, will have the final authority to implement or reject this recommendation.

L. RECORDS OF PROCEEDINGS

The Chair of the Honor Code Committee 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 or tape recording of formal hearings of the Honor Committee 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 (Senior Associate Dean for Academic Affairs Office or as agreed upon in a final resolution of the matter) 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 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, SUBPOENAS, ETC.

The Prosecutor, Honor Committee, 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 (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 convened in a special or general meeting.
- B. This Code will become effective at the time of adoption by the Law School Faculty.

8/09/2006