

# SOUTHWESTERN

## LAW SCHOOL Los Angeles, CA

### Honor Code Committee Policies and Procedures

#### Faculty policy.

**Revision history:** Formerly a part of the annually revised Student Handbook; established as a standalone policy in August 2022; name changed from “Student Conduct Policy and By-Laws of the Honor Code Committee (HCC)” to “Honor Code Committee Policies and Procedures” in June 2025; substantively revised in June 2025.

**Related policies:** Student Honor Code; Policy Statement on Student Academic Work-Product Originality; Code of Student Professionalism and Conduct; Sexual Misconduct Policy; Policy to Prevent Discrimination, Harassment, and Retaliation.

**Scheduled Review Date:** March 2026 (Student Services Office)

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**A. Background**

Students enrolled at Southwestern Law School are subject to the ethical requirements governing the legal profession and Southwestern's policies and procedures, including the Student Honor Code (Honor Code) and the Code of Student Professionalism and Conduct (Conduct Code). Some situations may involve conduct that implicates both codes. If a matter involves conduct covered by both codes, Southwestern may choose to proceed under either or both codes.

The policies and procedures for the administration of Honor Code and serious Conduct Code violations by the Honor Code Committee (HCC) or the Student Services Office (SSO) are set out in these Honor Code Committee Policies and Procedures (Policy). This Policy provides an educational and non-adversarial process designed to resolve matters. It is not designed to be a legal or judicial process.

Student academic discipline matters typically will be handled by the HCC or the SSO. However, the ultimate decision in any disciplinary matter is not delegable. Whenever the law school administration determines that a student's continued enrollment in the law school would not be in the institution's best interests or that the student is not a person of the character or integrity to be qualified for admission into the legal profession, Southwestern may terminate the student's enrollment or refuse to award a degree. In those cases, the Registrar will enter the notation "Disciplinary Expulsion" on the student's transcript. The policies and procedures in this Policy do not apply to such determinations. Rather, those matters will be dealt with expeditiously and with procedures that provide notice and an opportunity to respond.

## **B. SSO Procedures**

### **1. Petition or potential serious Conduct Code violation review**

Upon receiving notice or a petition of a potential Honor Code violation (see Section C(3)(b) for more on petitions) or a potential serious Conduct Code violation, the SSO will investigate the allegations, including speaking with the student whose conduct is at issue, to determine whether the matter should be referred to the HCC or resolved by the SSO.

If the student admits responsibility for the alleged violation, the SSO will determine appropriate sanctions and notify the student.

If the student agrees to the proposed sanctions, the SSO will prepare a written resolution for the student to review and sign. If the student believes the sanction(s) are inappropriate or excessive, they may appeal to the Dean within five calendar days of receiving SSO's notification.

The Dean may impose, modify, or vacate any sanction recommended by SSO, but the Dean cannot increase the severity of a recommended sanction. The Dean will provide a written decision of the review to the student and the Associate Dean for Student Services, typically within 10 business days of receiving the student's review request. The Dean has discretion to expand the time within which the decision is issued; in those cases, the Dean will notify the student and the SSO of the new anticipated decision date. In case of conflict or other exigency, the Dean may refer the matter to a Vice Dean or, if the Vice Deans have a conflict, to another member of the full-time faculty not on the HCC (Dean's Designee). The decision of the Dean or Dean's Designee on sanctions will be final and will not be subject to further review.

If violation is serious (e.g., suspension), the SSO may refer the sanction decision to the HCC. Because the student has admitted responsibility, any referral to the HCC will be limited to determining appropriate sanctions. In these cases, the HCC Chair may adopt streamlined procedures for considering and determining sanctions, in lieu of a full HCC Proceeding process (see Section D below). The student may not appeal SSO's decision to refer the sanction determination to the HCC.

### **2. Considerations for referring matters to the HCC**

The following non-exhaustive list of considerations will guide the SSO in determining whether a petition or potential serious Conduct Code violation should be referred to the HCC.

**a. *Nature and severity of the allegation(s)***

- **Academic integrity:** Does the issue involve plagiarism, cheating, falsification of records, or unauthorized collaboration? Does the alleged conduct substantially undermine academic integrity or the fairness of the academic process?
- **Behavioral misconduct:** Does the matter involve dishonesty, theft, or a violation of community standards? Is the alleged misconduct best addressed under the Code of Student Professionalism and Conduct?
- **Severity:** Do the allegations involve a minor infraction that could be handled informally, or does the alleged conduct significantly undermine ethical or academic standards?

**b. *Intent and context***

- **Accidental vs. intentional:** Was the act deliberate or reckless, or was the act likely the result of a misunderstanding or negligence? Did the student attempt to conceal or misrepresent their actions?
- **First-time vs. repeated offense:** Is this a first offense, or does a pattern of misconduct exist? Has the student previously been warned or sanctioned for similar behavior?
- **Extenuating circumstances:** Did mitigating factors (e.g., personal crises, cultural misunderstandings, etc.) influence the student's actions? Did the student demonstrate remorse or take corrective action?

**c. *Southwestern policies and precedents***

- **Honor Code guidelines:** Does the allegation align with what Southwestern considers an Honor Code violation?
- **Consistency in handling cases:** Have similar incidents been referred to HCC? Would referring or not referring the matter create an inconsistency in enforcement?

**d. *Potential for educational resolution***

Could the issue be resolved through an educational intervention (e.g., a warning, remedial training, a meeting with the professor, etc.)? Is there evidence that an educational intervention would prevent future misconduct? Does the student's response to the allegation suggest a commitment to ethical behavior moving forward?

**e. *Impact on the community***

Did the act negatively affect other students, faculty, or Southwestern's integrity? Does the conduct undermine trust within Southwestern's academic community? Would referring the case to the HCC reinforce Southwestern's commitment to academic integrity and ethical conduct?

If an allegation involves a serious violation of academic or ethical integrity, intentional misconduct, a pattern of repeated offenses, or significant harm to the community, the SSO generally should refer the matter to the HCC. Allegations of behavioral misconduct would generally be handled by the Associate Dean for Student Services under the Conduct Code unless the misconduct is serious and may warrant enhanced sanctions (see Sections VIII(B) and IX(A)(4) of the Conduct Code). Serious violations of the Conduct Code may be treated as violations of the Honor Code, and the SSO may refer these to the HCC (SSO Conduct Code referral). The SSO should document its rationale for referral or non-referral to ensure transparency and consistency in decision-making. If the matter is referred to HCC, the SSO will inform the student of this step.

**C. Purpose, Composition, Procedures, and Training of the HCC**

**1. Purpose**

The HCC's purpose is to determine whether it is highly probable that (i) a violation of the Honor Code has occurred and, if so, the appropriate sanction to apply, or (ii) a violation of the Conduct Code has occurred concerning serious matters referred to the HCC by the SSO under Conduct Code (see Conduct Code Sections VIII(B) and IX(A)(4)) and, if so, the appropriate sanction to apply. See Section D(5)(d) for an explanation of the clear and convincing evidence standard used in this Policy.

If another policy has a specific procedure (such as the Sexual Misconduct Policy or the Policy to Prevent Discrimination, Harassment, and Retaliation), then this Policy will not apply.

**2. Composition**

The HCC will consist of six faculty members and five student members. If possible, at least one student member must be from a residential J.D. program, and at least one student member must be from the Online J.D. Program.

The Dean will appoint the faculty members. Faculty members will serve for one calendar year. Faculty members may be reappointed, without limit.

Student members will ordinarily serve for their remaining law school enrollment unless they step down from service for any reason, recuse themselves, or are removed for cause. Vacancies in the student membership will be filled through an annual application process open to all students and administered by the SSO. The SSO will refer completed applications to the HCC for review. Each new student member must be approved by a majority vote of the faculty members; the vote may be taken during a meeting or via email.

The Chair of the HCC will be a faculty member elected annually by a simple majority of HCC members present at the meeting where the election is held, provided that at least half of the faculty members and half of the existing student members are present.

### **3. HCC procedures**

#### **a. *Meetings and quorums***

The HCC Chair or the Associate Dean for Student Services will call HCC meetings as circumstances require.

During periods when the HCC membership is fully constituted, a quorum of the HCC will be 6, including at least one faculty member. During the months of May through October (generally), when the HCC membership has been reduced due to student graduation and summer unavailability, and until full membership can be established, a quorum will consist of 5, including at least one faculty member. Except for the process to approve new student members, no vote will be taken unless a quorum is present.

#### **b. *Petitions***

Faculty, staff, and students can notify the SSO of possible violations of the Honor Code. The SSO will investigate the allegations in the petition for potential referral to the HCC (see Section D below).

#### **c. *Voting***

All motions, except for the determination of an Honor Code or Conduct Code violation (see Section D(6)(a) below for these special voting requirements), will be decided by a majority vote.

### **4. Training**

All HCC members must complete annual training before participating in proceedings or decision-making under this Policy to determine whether a violation of the Honor Code or Conduct Code has occurred. This training will be designed to ensure HCC members understand their responsibilities and the principles of fairness, impartiality, and due process.

At a minimum, training will cover the following matters:

- a. The provisions and underlying principles of the Honor Code and Conduct Code.
- b. The rights of students involved in proceedings under this Policy.
- c. The procedures for investigating and determining alleged violations under this Policy.
- d. Confidentiality requirements and ethical obligations.
- e. The importance of avoiding bias and conflicts of interest.
- f. The potential consequences of Honor Code violations.
- g. The clear and convincing standard.

Additional training may be required at the discretion of Southwestern to address updates to policies, procedures, or legal considerations. Failure to complete the required training may result in removal from the HCC.

## **D. HCC Administration of Student Disciplinary Matters**

### **1. Jurisdiction and preliminary matters**

#### **a. *Petition or referral examination***

The HCC will first consider whether a petition or SSO Conduct Code referral states facts that, if substantiated, would be a basis for disciplinary action under the Honor Code. The HCC will consider information already obtained on the matter by the SSO. The petition or SSO Conduct Code referral and all matters referred to therein will remain confidential (see Section G below regarding confidentiality). If the HCC determines that no further action is warranted, it will notify the SSO of that determination, and no notation of the petition or SSO Conduct Code referral will be placed on the student's records. The HCC may also return the matter to the Associate Dean for Students Services for an informal resolution instead of referring the matter to the Examiner.

If, after examining the statements in the petition or SSO Conduct Code referral and information obtained from the SSO, the HCC has reason to believe a disciplinary violation has occurred under the Honor Code or the Conduct Code that is appropriate for HCC to handle, the Chair of the HCC will notify the Dean of that determination.

**b. Examiner**

After the HCC Chair has notified the Dean that HCC has reason to believe a disciplinary violation has occurred under the Honor Code or the Conduct Code that is appropriate for HCC to handle, the Dean will appoint a faculty member of the HCC to act as the Examiner in the matter. The Dean reserves the right to appoint another person, including a person who is not a full-time employee of Southwestern, as Examiner. If the Dean appoints a person who is not a full-time employee of Southwestern, the Dean will enter into an agreement with that individual, indicating that the individual will abide by the relevant Southwestern policies and procedures. The Dean also reserves the right to appoint multiple Examiners to a matter. The Examiner may be assisted by others in work under this Policy.

The Examiner will investigate the charges as they deem appropriate, including without limitation (i) consulting with individuals within or outside Southwestern and (ii) reviewing any materials provided by the SSO, and will determine whether a factual basis exists to support the petition or SSO Conduct Code referral and potential disciplinary action. If so, the Examiner will prepare a written Notice of Disciplinary Action (Notice) stating the allegations and the Honor Code or Conduct Code provisions upon which the charges are based, a summary of the information gathered, and a reference to this Policy. The Examiner will cause the Notice to be served upon the student in person, via Southwestern email, by first-class mail, or via a reliable delivery service (e.g., FedEx) to the student's address or email as shown in law school records. Within 10 calendar days after service of the Notice, the student may email a written response to the Examiner. If the student does not reply to the Examiner, all allegations contained in the Notice will be deemed denied.

If the Examiner determines that the facts will not provide a basis for disciplinary action, the Examiner will communicate this determination to the Review Meeting and Informal Resolution Officer (Officer) (see Section D(1)(c) for appointment of the Officer), and both will discuss the merits of the Examiner's position. If the Officer concurs with the Examiner, the Examiner will send the recommendation to dismiss the matter to the Dean. If the Officer disagrees with the Examiner's position, the Examiner will communicate both opinions to the Dean. In case of conflict or other exigency, the Dean may refer the matter to a Vice Dean or, if the Vice Deans have a conflict, to another member of the full-time faculty not on the HCC (Dean's Designee) to handle the Dean's role under this provision.



After receiving a referral under this section of the Policy, the Dean or Dean's Designee will decide whether to dismiss or proceed with the matter. If the Dean or Dean's Designee decides to proceed with the matter, the Examiner will prepare a Notice as set forth above.

**c. *Review meeting and informal resolution officer***

After the HCC Chair has notified the Dean that HCC has reason to believe a disciplinary violation has occurred under the Honor Code or the Conduct Code that is appropriate for HCC to handle, the Dean will appoint a faculty member of the HCC as the Review Meeting and Informal Resolution Officer. This Officer will be responsible for deciding matters raised at the Review Meeting (see Section D(3) below) and facilitating and determining the informal resolution of the disciplinary matter. All informal resolutions are subject to the Dean's approval.

The Dean reserves the right to appoint another person, including a person who is not a full-time employee of Southwestern, as the Officer. If the Dean appoints a person who is not a full-time employee of Southwestern, the Dean will enter into an agreement with that individual, indicating that the individual will abide by the relevant Southwestern policies and procedures.

**d. *Stale matters***

If the HCC determines that too much time has elapsed, without justifiable cause, between the alleged violation and the date the petition was filed or the matter was first brought to SSO, the HCC may dismiss the matter. In determining staleness, the HCC may consider any relevant factors, including whether witnesses and relevant information is still available and whether memories may have faded too much.

**e. *Student's right to counsel***

After the student has received a Notice (see Section D(1)(b) for information on the Notice), the student has the right to be represented at all stages under this Policy by counsel or another advisor of their choosing, other than employees and trustees of Southwestern. In the alternative, the student may act as their own counsel. See Sections D(5)(f) and D(5)(g) for more information regarding the participation of an attorney or other advisor at the HCC Proceeding.

**f. *Student rights and privileges during proceedings under this Policy***

During proceedings under this Policy, the student will have the same rights and privileges as before the initiation of proceedings. However, in exceptional circumstances, if the safety and well-being of Southwestern—

its students, faculty, and staff—so require, the Associate Dean for Student Services, Vice Dean, or Dean may exclude the student from Southwestern and events sponsored by Southwestern until proceedings are completed.

For SSO Conduct Code referrals, the Associate Dean for Student Services may determine that interim actions instituted under the Conduct Code will remain in effect during the processes set forth in this Policy. In addition, the Associate Dean for Student Services may institute interim actions under this Policy following the processes related to interim actions in the Conduct Code.

## **2. Witnesses and other information**

### ***a. Access to witnesses and other information by the student***

The student has the right to review the information that will be considered in the HCC Proceeding. This information includes names of witnesses, written statements or reports, documentary or digital information, and other material relevant to the alleged violation.

Upon request, Southwestern will provide reasonable access to such materials before the HCC Proceeding, subject to confidentiality limitations (see Subsection 2(e)).

Southwestern has a continuing obligation to provide the student with access to any exculpatory evidence about which it is aware and which it possesses or controls.

### ***b. Limitations***

The process in this Policy is administrative and educational in nature and does not provide for formal legal discovery mechanisms such as depositions, interrogatories, or compelled production of evidence.

### ***c. Student submission of witnesses and other information***

The student may submit relevant information in their defense, including written statements or reports, documentary or digital information, and other material.

The student may provide the names of witnesses with a summary of their expected testimony. The Officer will determine the relevance and whether to allow those witnesses and other information (see Section D(3) below regarding Review Meeting).

**d. *Southwestern discretion***

Southwestern reserves the right to determine which witnesses and what information is relevant and may exclude witnesses or information deemed cumulative, unreliable, or outside the scope of the Honor Code or Conduct Code violation under review.

While students may suggest additional witnesses or information for review, Southwestern is not obligated to collect or consider materials that are deemed unnecessary for resolving the matter. See Section D(3) below.

**e. *Confidentiality and privacy considerations***

To protect the integrity of the process, access to certain investigative records may be limited (e.g., redacted, etc.) in accordance with Southwestern policies and applicable privacy laws, such as FERPA.

Witnesses and complainants may be permitted to provide statements in a manner that maintains their privacy while ensuring the accused student has an opportunity to respond to the substance of the allegations.

**3. *HCC Proceeding Review Meeting (Review Meeting)***

If Examiner or student wishes to present witness testimony, written statements or reports, any documentary or digital information, or other material at the HCC Proceeding, they must first request a Review Meeting with the Officer. The Officer will provide all parties with at least 10 calendar days' notice of the scheduled Review Meeting, provided that this notice cannot be provided before student's time to respond to the Notice set forth in Section D(1)(b) above has expired.

**a. *Pre-Review Meeting submissions***

To ensure fairness and adequate preparation, Southwestern requires full disclosure of names of witnesses, written statements or reports, any documentary or digital information, and other material in advance of the Review Meeting. The Examiner and student (or any representative acting on the student's behalf) must disclose the following in writing to the other party as soon as possible, and no later than 5 calendar days before the Review Meeting:

- The names, addresses, email addresses, and telephone numbers of all potential witnesses;
- Copies of all documents or other material intended for use at the HCC Proceeding;
- A summary of expected testimony for each witness;
- Any witness statements;

- A written explanation of the relevance and necessity of the requested witness, document, written statement, or other material; and
- Any procedural or other concerns, including objections to documents, written statements, or other material or witness participation.

***b. Scope and purpose of the Review Meeting***

The Review Meeting serves to:

- Ensure all parties understand the allegations, the HCC Proceeding process, and their rights;
- Review and resolve any disputes over witness participation or admissibility of evidence.
- Establish a timeline and format for the upcoming HCC Proceeding, including procedures for questioning witnesses and presenting evidence.
- Address any logistical concerns, such as accommodations or conflicts of interest.

The Officer will determine whether to allow the requested witnesses or other information in accordance with Subsection 3(c) below.

***c. Officer discretion***

The Officer will determine what witnesses and other information is relevant and allowed and will not be bound by formal rules of evidence, except for rules related to attorney-client privilege. The Officer has broad discretion to determine what is allowed based on principles of fairness and educational goals. Except upon a showing of good cause, no undisclosed witness may speak, nor any undisclosed documents be introduced, in the HCC Proceeding. Witnesses may speak in person, through written statements, or remotely. The Officer will decide what information can be introduced at the HCC Proceeding guided by the following non-exhaustive list of factors:

- Witness testimony and other information must be directly related to the alleged violation (irrelevant and tangential information may be excluded to maintain focus on the key issues);
- Reliability and credibility of the information (e.g., the Officer may consider the source of the information and whether it appears credible);
- Authenticity (the Officer may require proof that the information has not been altered or misrepresented);
- Information that includes sensitive or protected information (e.g. an education record protected by FERPA) may be restricted or redacted;

- The Officer may exclude information that the Officer thinks is overly inflammatory, misleading, or likely to cause unfair bias;
- Redundancy (if multiple submissions provide the same information, the Officer may exclude repetitive submissions); and
- Whether the information was unlawfully obtained.

#### **4. Informal resolution**

##### **a. *Mandatory informal resolution conference***

Within 10 calendar days after the Review Meeting concludes, a mandatory informal resolution conference will be held. The informal resolution conference will be conducted by the Officer. The Examiner, student, and student's counsel, if any, will attend the informal resolution conference.

##### **b. *Informal resolution policy***

It is Southwestern's policy to encourage reasonable informal resolution of student disciplinary matters. Nothing in this Policy will preclude the informal resolution of a matter, provided that the Officer, Examiner, and student (and student's counsel) agree to such a resolution. An agreement to resolve the dispute informally may be reached at any point in the disciplinary process as described in this Policy, provided that once an HCC Proceeding is convened, a majority of the HCC Proceeding Committee must agree to any informal resolution. Any proposed informal resolution remains subject to the Dean's approval.

#### **5. HCC Proceeding**

##### **a. *HCC Proceeding Committee***

If informal resolution efforts at the mandatory informal resolution conference or otherwise are unsuccessful, the Officer will notify the HCC Chair. To the extent circumstances permit, within 5 calendar days after mandatory informal resolution efforts end, the HCC Chair will appoint an HCC Proceeding Committee comprised of three faculty members and two student members of the HCC. The HCC Chair may serve on the HCC Proceeding Committee. The Examiner and the Officer may not serve on the HCC Proceeding Committee. A faculty member of the HCC Proceeding Committee will be selected as its Chair by a majority vote of the HCC Proceeding Committee members. If necessary, the Dean has discretion to appoint additional members to the HCC who can then be appointed to the HCC Proceeding Committee.

##### **b. *Challenges***

The student may request to disqualify a member of the HCC Proceeding Committee if there are substantial reasons to believe that the member cannot be impartial in reviewing the matter. A lack of impartiality may

exist if the member has a personal, academic, or professional relationship with the student or others involved that could reasonably be expected to affect their judgment; if the member has previously expressed a bias regarding the alleged violation or the student; or if the member has a direct personal interest in the outcome of the proceeding.

The fact that a student alleged to have committed an Honor Code violation was previously in a class with a member of the HCC Proceeding Committee, without more, is not sufficient to establish a lack of impartiality. Similarly, routine familiarity among the student and members of the HCC Proceeding Committee in the academic community does not, on its own, constitute a basis for disqualification.

If a challenge to a member's participation is raised, the remaining members of the HCC Proceeding Committee will determine whether disqualification is warranted by majority vote. If a member is disqualified, the HCC Chair will appoint an alternate to sit on the HCC Proceeding Committee. If the HCC Chair is disqualified, the Dean will appoint an alternate to sit on the HCC Proceeding Committee.

The student has the right to remove one member of the HCC Proceeding Committee as a peremptory challenge, without offering any reasons. In the case of the peremptory removal of a faculty or student member, the HCC Chair will delegate an alternate. If the HCC Chair is the subject of the peremptory challenge, the Dean will appoint an alternate to sit on the HCC Proceeding Committee. Notwithstanding anything herein to the contrary, the student will have the option to strike all student members of the HCC Proceeding Committee and proceed to a proceeding before a panel of three faculty members, without any student representation on the panel.

If the challenges result in fewer than three faculty members from HCC who can serve on the HCC Proceeding Committee, the HCC Chair or Dean may appoint full-time faculty outside the HCC to serve on the HCC Proceeding Committee.

**c. *Commencing the HCC Proceeding***

The HCC Proceeding will commence no later than 20 calendar days after the appointment of the HCC Proceeding Committee is finalized, to the extent circumstances permit. The HCC Proceeding will be closed unless the student requests otherwise, and, in such case, the proceeding will be open only to other members of the Southwestern community. The proceeding may occur in person or virtually. If the student is in the Online

J.D. Program, the proceeding must occur virtually unless the student requests to proceed in person. Otherwise, the HCC Proceeding Committee Chair will decide the modality after conferring with the student and the Examiner.

**d. *Examiner's role in HCC Proceeding***

The Examiner will have the burden of going forward and the burden of proof at the HCC Proceeding. The standard of proof that will be used in the HCC Proceeding is "clear and convincing evidence" (i.e., the evidence is highly probable and substantially more likely to be true than untrue). Except for rules related to attorney-client privilege, the rules of evidence may be referred to as guidelines but will not be determinative of admissibility. The HCC Proceeding Committee Chair will decide any disputes about whether witnesses and other information will be allowed and will exclude any information introduced in violation of Subsection 3(c) above or contrary to the Officer's decisions made at the Review Meeting. All witnesses will speak under oath. The Examiner will be the first to present witnesses and information at the HCC Proceeding and the student will be given an opportunity to ask questions and otherwise respond as the witnesses and information are presented by the Examiner.

**e. *Record of proceedings***

Unless otherwise stipulated by the parties, an audio recording of the proceedings will be kept. If the proceeding is conducted over Zoom, the HCC Proceeding Committee Chair may authorize use of the transcript function. The Associate Dean for Student Services will maintain the recordings and any transcripts of the proceedings for ten years. The Associate Dean for Student Services will provide the audio recording or transcript to the student or another only when required by law.

**f. *Student's rights***

At the HCC Proceeding, the student will have the right to present information, to question witnesses, to speak on their own behalf, or to refrain from speaking. No inference adverse to the student may be drawn from the student's decision not to speak.

A student may be accompanied by an advisor of their choice, including an attorney, at any HCC Proceeding conducted under this Policy. The student may choose to present their own case or have their advisor or attorney present it on their behalf, subject to the limitations outlined in this Policy.

If a student intends to have an attorney present, they must notify the HCC Proceeding Committee Chair in writing via Southwestern email at least

five business days before the HCC Proceeding. Southwestern will not provide or compensate an attorney for the student.

If the student has other witnesses or information to present after the Examiner has finished their presentation of witnesses and other information (see Subsection 5(d) above), they will have an opportunity to present their other witnesses or information at the HCC Proceeding.

***g. Role and limitations of an attorney or other advisor***

If a student elects to have an attorney or other advisor present their case, the attorney's or advisor's role is subject to the following conditions:

- The attorney or advisor may present relevant information and question witnesses on behalf of the student.
- The attorney or advisor must conduct themselves professionally and in accordance with this Policy.
- The attorney or advisor may not engage in disruptive behavior, disrespectful conduct, or any actions that delay or interfere with the proceedings.
- Any attorney or advisor attending the HCC Proceeding must comply with the policies and procedures of this Policy, including: (i) signing an acknowledgment form confirming they have read and understand this Policy; and (ii) respecting the educational nature of the proceedings, which are not legal trials but institutional processes designed to uphold academic integrity.

If an attorney or other advisor fails to comply with this Policy, the HCC Proceeding Committee Chair may take appropriate action, including requiring the attorney or advisor to leave the HCC Proceeding. If the attorney or advisor is removed, the HCC Committee will continue, and the student will be responsible for presenting their case.

***h. Conduct of HCC Proceeding***

The Examiner will have the right to question all witnesses and examine any other information presented by the student. The HCC Proceeding Committee Chair may question witnesses and request the production of further witnesses or documents by either party. At the conclusion of the presentation of witnesses and other information, each side may make a closing presentation.



## **6. Deliberation**

### **a. *Determination of Honor Code or Conduct Code violations***

Upon conclusion of the HCC Proceeding, the HCC Proceeding Committee will retire and deliberate. All members of the committee must be present during all deliberations. Four of the five members must be convinced by clear and convincing evidence that a violation of the Honor Code or Conduct Code has occurred to sustain the charges against the student. If the student has decided to proceed with only faculty members on the HCC Proceeding Committee, then two of the three faculty members must be convinced by clear and convincing evidence that a violation of the Honor Code or Conduct Code has occurred to sustain the charges against the student. If the charges are not sustained, there will be no disciplinary action or no notation of the matter in the student's records, and the HCC Proceeding Committee Chair will notify the student of the results. The HCC Proceeding Committee Chair will notify the student of the results by providing the notice to the student in person, via Zoom meeting, via Southwestern email, by first-class mail, or via a reliable delivery service (e.g., FedEx) to the student's address or email as shown in law school records. See Section E(2) for a discussion of a matter summary that will be maintained in a confidential file in the SSO.

### **b. *Sanction recommendations***

If the HCC Proceeding Committee finds that an Honor Code or Conduct Code violation has occurred, the recommendation of the HCC Proceeding Committee members as to sanction(s) will be recorded. The decision on sanction(s) can be made by a majority vote of the HCC Proceeding Committee. Possible sanctions recommended will be those contained in the Honor Code or Conduct Code.

### **c. *Mitigating and aggravating factors***

In determining the sanction(s), the HCC Proceeding Committee may consider mitigating and aggravating factors. A non-exhaustive list of factors that may be considered include the following:

- **Pre-referral admission.** When a student voluntarily admits misconduct before learning that someone has referred the matter or is about to refer the matter, the HCC Proceeding Committee may consider the admission as a mitigating factor. A student who has the courage and integrity to come forth with a good-faith admission has reaffirmed a personal commitment to honor. Any

student interested in making such an admission should contact the Associate Dean for Student Affairs or the Examiner.

- **Other admissions.** Even an admission made after a referral may have some mitigating value. This type of admission shows acknowledgment of the inappropriate nature of the student's conduct. However, a post-referral admission is not as strong a mitigating factor as a pre-referral admission.
- **Cooperation.** The HCC Proceeding Committee may consider how cooperative, or uncooperative, the student was during the process, including whether the student responded timely to inquiries and requests for meetings, provided requested information, and dealt honestly and civilly with the HCC Proceeding Committee and others involved with the process.
- **Intent.** Conduct falls on an intent continuum that ranges from malicious, willful, intentional, reckless, and grossly negligent conduct on the more serious end, to merely negligent, careless, and accidental conduct on the less serious end. Where conduct falls on this continuum may be considered when determining sanctions. Conduct that is malicious, willful, intentional, reckless, or grossly negligent may justify a more serious sanction. Less intentional conduct may be a mitigating factor.
- **Degree of harm or seriousness of offense.** The degree of harm to others and the seriousness of the conduct are relevant factors in determining sanctions.
- **Prior violations.** Prior violations of the Honor Code or the Conduct Code may be considered as aggravating factors.
- **Nexus to professional standards.** The nexus between the student's conduct and the question of character and fitness of the student to practice law is a relevant factor in determining sanctions.
- **Willingness to make restitution.** A student's willingness to make restitution may be considered as a mitigating factor in appropriate cases. Restitution refers to compensation for loss, damage, or

injury; compensation may take the form of appropriate service and/or monetary or material replacement.

- **Discriminatory motive.** If a student, in engaging in conduct prohibited under the Conduct Code or Honor Code, is also found to have intentionally directed the conduct toward a person or group because of the race, color, religion, age, national origin, ancestry, disability, gender, sexual orientation, marital, or parental status of the targeted person or group, that discriminatory motive may be an aggravating factor in determining sanctions.

## **7. Final opinion and notice**

### **a. Opinion**

If the HCC Proceeding Committee finds that an Honor Code violation has occurred, the HCC Proceeding Committee Chair will prepare a written opinion stating the findings of the committee. Dissenting opinions may also be prepared and appended. The record of the HCC Proceeding Committee's sanction recommendations will appear at the conclusion of the majority opinion.

### **b. Notice**

The HCC Proceeding Committee Chair will promptly notify the Examiner, the student, and the Dean of the HCC Proceeding Committee's findings, as well as its opinion and sanction recommendations. The HCC Proceeding Committee Chair (i) will cause this notification to be served upon the student in person, via Southwestern email, by first-class mail, or via a reliable delivery service (e.g., FedEx) to the student's address or email as shown in law school records, and (ii) will email this notification to the Examiner and the Dean.

## **8. Review by Dean**

### **a. Request for review**

A student found to have engaged in misconduct may request that the Dean review the decision of the HCC Proceeding Committee. The request for review should be in writing and should be delivered to the Dean within ten calendar days after the HCC Proceeding Committee's decision is delivered to the student. The Dean, at the student's request, has the authority to extend this deadline. The Dean has the discretion to review any decision or sanction but is not required to do so.

In case of conflict or other exigency, the Dean may refer the matter to a Vice Dean or, if the Vice Deans have a conflict, to another member of the full-time faculty not on the HCC or HCC Proceeding Committee (Dean's Designee).

***b. Grounds for review***

The student's request for review will state the reasons for review. A review will be granted by the Dean or Dean's Designee only on one or more of the following grounds:

- The HCC Proceeding Committee failed to follow this Policy.
- The imposed sanction(s) is inappropriate or excessive.
- There is new information about the potential bias of one or more members of the HCC Proceeding Committee that was not reasonably available when the student had an opportunity to challenge the members of the HCC Proceeding Committee (see Section D(5)(b) above).
- There is new information that was not reasonably available at the time of the HCC Proceeding and would have resulted in a different decision by the HCC Proceeding Committee.

***c. Dean's decision***

The Dean or Dean's Designee may decide to:

- Uphold the HCC Proceeding Committee's decision;
- Direct the HCC Proceeding Committee to conduct a completely new proceeding with proper procedures or with biased members replaced by alternates;
- Direct the HCC Proceeding Committee to conduct a further proceeding on particular issues;
- Impose, modify, or vacate any sanction recommended by the HCC Proceeding Committee, but the Dean or Dean's Designee cannot increase the severity of a recommended sanction;
- Modify or reverse the HCC Proceeding Committee's decision, but only if the Dean or Dean's Designee determines that the HCC Proceeding Committee's finding is clearly erroneous.

The Dean or Dean's Designee will provide a written decision of the review to the student, the HCC Proceeding Committee, the HCC Chair, and the Associate Dean for Student Services within 10 calendar days of receiving the student's review request. The Dean or Dean's Designee has discretion to expand the time within which the decision is issued; in those cases, the

Dean or Dean's Designee will notify the student and the SSO of the new anticipated decision date. Unless the Dean or Dean's Designee has directed the HCC Proceeding Committee to conduct further work, the decision of the Dean or Dean's Designee will be final and not subject to further review.

## **E. Records and Record-Keeping**

### **1. Decision, violation substantiated**

If a violation is substantiated or if the student acknowledges the violation, the decision will be placed in the student's file in the Registrar's Office. In addition, the SSO will maintain a confidential file with relevant materials and information.

### **2. Decision, violation not substantiated**

If the HCC Proceeding Committee determines that the student did not violate the Honor Code or Conduct Code or that a violation cannot be substantiated, the HCC Proceeding Committee Chair will prepare a summary of the matter. That summary will be maintained in a confidential file in the SSO. Information in the file will be used only to respond to specific inquiries from the student whose conduct was at issue or from a board of bar examiners or similar organization to which the student has applied.

### **3. Report to bar examiners**

Southwestern will report a finding of an Honor Code violation or violation of the Conduct Code handled under this Policy to any board of bar examiners or similar organization to which the student applies. Students should be aware that most bar applications will require the student to report any sanctions imposed on the student by an educational institution, regardless of whether the sanctions were for conduct suggesting unfitness for legal practice.

## **F. Annual Reporting**

Each August, the Associate Dean for Student Services will compile (i) a list of all referrals to the HCC that did not settle and in which decisions were issued during the immediate past academic year (June to May), and (ii) a list of all referrals to the HCC or SSO that settled and resulted in sanctions against a student during the immediate past academic year (June to May). These lists should not contain names of students but should list the type of referral and any sanction issued. The Dean will share the lists during an executive session of the September or October faculty meeting. Every three years, the Associate Dean for Student Services will publish to the student body and faculty the results of each HCC case that did not settle and each HCC or SSO case that was settled with sanctions, with names and other identifying information redacted.

**G. Confidentiality**

Southwestern considers referrals and procedures under this Policy to be confidential and may be disclosed only as required by law or as set forth in this Policy. All participants should respect the confidentiality of this information and disclose it only to those who have a legitimate need to know.

**H. Policy Revisions**

Southwestern reserves the right to revise this Policy at any time and for any reason. Revisions may be enforced on 15 days' notice to the student body. Notice may be made via the student listserv or in another manner deemed by the Dean to reach most students. The version of this Policy that applies in any case is the version posted when the SSO submits a petition or SSO Conduct Code referral to the HCC, unless the student opts to use the most current version of the Policy, if different.