

WILLIAM & MARY LAW SCHOOL HONOR COUNCIL SANCTIONS GUIDE

The William & Mary Law School Honor Council Sanctions Guide (“the Guide”) is based on an examination of past Honor Code violation cases and a survey of other sanctions guides implemented by similar institutions of higher education. The purpose of the Guide is to provide guidelines for future Hearing Panels when determining the appropriate sanction during the sanctioning phase of a Hearing. The Guide is intended to cover all violations of the Honor Code. Hearing Panels are encouraged to find the most appropriate sanction for each violation, but are not directly bound by the sanctions listed below, except that they must at provide at least one Primary Sanction. Additionally, the Guide may be used as a resource for students accused of an Honor Code violation. The Honor Council strives for consistency in imposing sanctions, but Hearing Panels decide cases on an individual basis and retain discretion to deviate from the Guide. It is important to note that while this Guide is consistent with the Honor Code, it is not a replacement of the Honor Code. Hearing Panels must always ensure that decisions are appropriate under and consistent with the Honor Code and the Student Handbook.

MITIGATING AND AGGRAVATING FACTORS FOR A HEARING PANEL TO CONSIDER

When determining what type of sanction is appropriate, it is advised that a Hearing Panel bear in mind the following:

1. Did the Respondent admit to the wrongdoing prior to the Honor Code investigation?
2. Contrition: Did the Respondent confess to the wrongdoing upon being made aware of the Honor Code investigation? At what stage? Did the Respondent demonstrate insight into actions resulting in the violation? Did the Respondent apologize? Was it genuine or out of self-interest?
3. Nature of the Conduct: Was the conduct intended to gain an unfair advantage over other students? Was it reckless or negligent?
4. How much harm did the conduct cause?
5. How much harm did the conduct have the potential to cause?
6. Who was harmed?
7. What was the harm to the community? What sanction is necessary to be congruent with community environment, standards, and expectations surrounding the Honor Code?
8. Was the violation directly conflicting with the professional standards expected of lawyers?
9. Has the Respondent been found responsible of prior violations of the Honor Code?
10. Whether and how the Respondent’s personal life at the time of the violation contributed to the Respondent’s decision-making or clouded any thought process.
11. Considerations of the Respondent’s language or culture and its effect on the Respondent’s understanding of the Honor Code.
12. Did Respondent make any attempt to cover up the violation or ask or direct other parties to keep it in confidence?
13. The Respondent’s lack of professionalism and cooperation during the investigation and Honor Council proceedings. The Honor Code requires all students to participate fully in Honor Council proceedings, so cooperation is not a mitigating factor, but the expectation. Lack of cooperation, however, may be considered an aggravating factor. (Note: a Respondent who, pursuant to § II(L)(1) of the Law School Honor Council Bylaws, validly invokes his or her Fifth Amendment

right against self-incrimination does not qualify as uncooperative; as such, asserting the right will not be considered an aggravating factor.)

The Hearing Panel may place greater or lesser weight on any of the above factors as the Hearing Panel sees fit. Note that this list is not exhaustive, and each Panel is encouraged to take an all-encompassing approach when discerning which sanction(s) to give.

PRIMARY SANCTIONS

During the sanctioning phase, the Hearing Panel must select at least one Primary Sanction for the Respondent. Primary Sanctions are those handed down by official action of the College of William & Mary. Below are the possible Primary Sanctions and situations in which they might be appropriate. These are just guidelines, and a Panel is not required to assign a sanction just because particular conditions are met, *but a Panel must at least require an official Warning regardless of the offense.*

1. **Warning**: A Hearing Panel might require the College to give a warning to the Respondent, to be kept in the Respondent's student record in accordance with College policies, when: (1) Respondent violated the Honor Code on assignments of at least minimal importance to the overall course grade (*i.e.*, 5% or less of the final course grade); (2) Respondent's deviations from professor or Joint Journal Competition instructions were minor or without intent; or (3) Respondent's violation was otherwise minor, or without intent to deceive or gain an advantage. Future violations may result in more severe sanctions. A warning is not noted on a student's transcript.

2. **Probation**: Continued enrollment but under stated conditions. Probation constitutes a warning that further misconduct or violation of College regulations during the period of probation will be referred to the appropriate committee or administrative office and will most likely result in the student's separation from the College. Probation is not noted on the student's transcript.

3. **Withholding of Degree**: The Law School Registrar only issues degrees in May, September, and December each year. The Registrar will not hold a diploma beyond approximately two weeks post-graduation, and Honor Council proceedings involving a graduating student may not be resolved until after the Registrar's deadline. As a result, the student must re-apply to receive the diploma at the next appropriate date of administration. For example, a J.D. student graduating in May would have to wait until the Law School's summer conferral (September 1) to receive the degree. (Note: a graduating LL.M. student would receive his or her diploma based on the undergraduate College's conferral dates.)

4. **Deferred Suspension**: Deferred disciplinary suspension is issued either for violations serious enough to warrant suspension, but where the specific circumstances of the case mitigate the offense, or for repeated offenses of a less serious nature. Deferred Suspension is a designated period of time during which a student is given the opportunity to demonstrate the ability to abide by the community's expectations of behavior articulated in the Student Handbook. A student on Deferred Suspension status is considered not in good standing and cannot represent the university as an official delegate or representative, hold an office (elected or appointed) in university groups of any kind (however, they may continue to serve on a journal), or participate in university-sponsored travel or study abroad/study away. If the student is found responsible for violating any additional university code or regulation during the period of Deferred Suspension, the Director of Student Conduct (or designee) can issue an immediate suspension from the university, and the student can be subject to additional sanctions for the subsequent violation(s). Deferred suspension is noted on the student's transcript but is removed once the sanction period has been completed.

5. **Suspension/Indefinite Suspension**: A Hearing Panel might recommend suspension of the Respondent for a definite period, or indefinite period with opportunity to reapply, when: (1) Respondent commits extensive violations on an assignment worth at least 20 percent of the course grade and with insufficient reasons for not following proper instructions; or (2) Respondent acts in a way that exhibits lack of respect for his or her classmates, professors, or staff, the integrity of the process, or the university's community of trust to a *significant* degree. During this suspension, Respondent is not eligible to participate in any university-sponsored or university-related activities. The Respondent is further not permitted on campus without prior written consent from the Director of Student Conduct. Upon completion of a definite period of suspension, the Respondent is eligible for readmission provided there is no other encumbrance on their return. For indefinite suspension, the Respondent must petition for reinstatement after satisfying the Panel's conditions for reinstatement and showing by their actions that they are entitled to reinstatement. For both types of suspension, the sanction is noted on the student's transcript but is removed once the period of suspension has been completed. A record of suspension will remain on the student's permanent record, and the student will not receive academic credit or restitution of tuition/living expenses for the time of suspension.

6. **Permanent Dismissal**: A Hearing Panel might recommend permanent dismissal without future readmission when: (1) Respondent has violated the Honor Code on a previous occasion; (2) Respondent violates the Honor Code in an egregious manner, such as tampering with his or her transcript, such that it shocks the conscience of the Panel; or (3) the aggravating factors show Respondent's lack of respect for his or her classmates, professors, or staff, the integrity of the process, or the University's community of trust to an *extreme* degree. A Respondent receiving this sanction must leave the campus and is not eligible to participate in classes or any university-sponsored or university-related activities. Dismissal is permanently noted on the Respondent's transcript, and the student will not receive academic credit or restitution of tuition/living expenses for the time of dismissal.

SECONDARY SANCTIONS

During the sanctioning phase, Secondary Sanctions are available in addition Primary Sanctions. Listed below are a number of sanctions and potential situations in which they might be appropriate. This list is not exhaustive, and a Hearing Panel is not limited to these options. A Panel is free to use its judgment and creativity if it decides an alternative sanction is more appropriate based on the particular facts of a case.

1. **Community Service:** In situations where a Panel believes Respondent has significantly deprived the Law School's community of trust, or has harmed a specific sector of the Law School, sanction of an appropriate amount of hours of community service to the College or the relevant sector would be appropriate. The Office of Community Engagement and Scholarship may be asked to select, verify, and evaluate this sanction. This sanction should not exceed 40 hours.

2. **Letter of Apology:** A Panel may require the Respondent to write a letter of apology or offer a personal apology to a wronged or disrespected party—for example, to a professor or another student—if it believes such an apology would be helpful in rehabilitating the student and/or the Law School's community of trust.

3. **Educational Requirements:** In situations where the Respondent has plagiarized by way of disregard for proper scholarly procedure, redoing the assignment or completing an alternative assignment that provides instruction as to proper scholarly procedure would be an appropriate sanction. The Panel might also consider requiring Respondent to complete educational exercises in plagiarism, time management, study skills, or the like. This assignment could be completed under the supervision of the Associate Dean of Students and Director of Student Conduct, or a designated supervisor.

4. **Recommended Counseling/Meetings with Dean of Students:** In situations where personal factors played a role in the violation, it may be appropriate to suggest that a student receive counseling for a specific issue of concern. A counseling sanction is non-mandatory, but can be used to determine whether a student fulfills the terms of an indefinite suspension. Likewise, the Panel may require or recommend that a student meet with a staff member in the Dean of Students office to discuss academic, social, or other progress at the Law School. Goals for the meeting(s) may be suggested by the Panel.

5. **Loss of Privileges:** If a Hearing Panel finds that the Respondent has abused a specific law school or University privilege, the Panel may consider denial of such a privilege (*e.g.*, access to library study rooms; checkout privileges; social function participation), or recommend removal of the student from participation in specific activities (*e.g.*, participation on a competition team) for a defined period of time. This sanction might also be considered for misconduct at law school social functions or off-campus events. For graduating 3Ls, prohibiting participation in commencement exercises or related activities may be appropriate. Such sanctions should not restrict privileges that are considered necessary to attending law school (*e.g.*, library access; use of mental health services).

6. **Removal from Respondent's Journal:** A Hearing Panel can require that the Respondent not be given a position on, or be removed from, the Respondent's journal when: (1) the violation occurred as part of competing in the Joint Journal Competition, (2) the violation occurred as part of a journal assignment or responsibility, or (3) the totality of the circumstances suggests Respondent is not deserving of a journal position.

7. **Restitution:** In situations where the Respondent has damaged property, caused the loss of property, or caused an injury to another person, a Hearing Panel should consider restitution as an appropriate sanction.

8. **Grade Adjustment:** A Hearing Panel should always recommend a grade adjustment (*e.g.*, F on an assignment and/or F in the course) on any relevant assignment or course to the professor of said course. Such a recommendation is not binding on faculty, so the professor has discretion whether to follow the Panel's recommendation.