

VII. RULES OF ACADEMIC RESPONSIBILITY



It is the responsibility of every student at the University of South Carolina School of Law to adhere steadfastly to truthfulness and to avoid dishonesty, fraud, or deceit of any type in connection with any academic program. Any student who violates this rule; that knowingly assists another to violate this rule; that has information sufficient to create a reasonable belief that another has violated the rule, but fails to report the violation; or who refuses to testify as to unprivileged matters before the Academic Responsibility Committee shall be subject to discipline.

A. Explanatory Comments.

1. This Rule is intended to prohibit all forms of academic dishonesty and should be interpreted broadly to carry out that purpose. The following examples illustrate conduct which violates this Rule, but this list is not intended to be an exhaustive compilation of conduct prohibited by the Rule:
 - a. Giving or receiving unauthorized assistance, or attempting to give or receive such assistance in connection with the performance of any academic work;
 - b. Unauthorized use of materials or information of any type or the unauthorized use of any electronic or mechanical device in connection with the completion of any academic work;
 - c. Unauthorized access to the contents of any test or examination or the purchase, sale, or theft of any test or examination prior to its administration;
 - d. Unauthorized use of another person's work without proper acknowledgment of source;
 - e. Intentional misrepresentation by word or action of any situation of fact, or intentional omission of a material fact, so as to mislead any person in connection with any academic work (including, without limitation, the scheduling, completion, performance, or submission of any such work);
 - f. Offering or giving any favor or thing of value for the purpose of influencing improperly a grade or other evaluation of a student in an academic program;

- g. Conduct intended to interfere with an instructor's ability to evaluate accurately a student's competency or performance in an academic program.
- 2. An academic program includes any graduate and undergraduate course, independent study or research for academic credit, laboratory, internship, externship, clinical program, practicum, field placement, competition, or other form of study or work offered in furtherance of the academic mission of the University. Academic work includes any work performed or assigned to be performed in connection with any academic program.
- 3. This Rule applies to all students of the University, whether full-time or part time
- 4. A person's knowledge or intent may be inferred from the circumstances of an alleged violation.
- 5. Whenever a student is uncertain as to whether conduct would violate this Rule, it is the responsibility of the student to seek clarification from the appropriate faculty member or instructor prior to engaging in such conduct.

B. Effective Date.

The Rule of Academic Responsibility as amended on November 5, 1997, shall take effect on December 1, 1997, and shall apply to all conduct occurring on or after that date. Conduct occurring prior to December 1, 1997, shall be governed by the Rule of Academic Responsibility in effect prior to that date.

C. Academic Disciplinary Procedures - General Applicability.

The following procedures govern enforcement of the Rule of Academic Responsibility (the "Rule") at the University of South Carolina-Columbia. Sections 1, 2, 4, 5, and 6 shall apply to all alleged violations of the Rule. Section 3 shall apply unless substitute procedural rules have been adopted by the Faculty of the college or school in which the matter is to be heard and have been approved by the University Academic Responsibility Committee (the "University Committee").

The Faculty of any college or school may from time to time adopt procedural rules different from the procedures set forth in Section 3, to govern the disposition of an alleged rule violation after the matter has been reported to the Appropriate Dean in that college or school and the accused student has not admitted a violation pursuant to Section 2.1. Such substitute rules shall take effect only upon their approval by the University Committee.

Any procedural rules adopted by a college or school in substitution for Section 3 must require that fair and adequate notice of the allegations and of any proceedings be given to the accused student, that the accused student be given a reasonable opportunity to be heard and to present evidence on his or her behalf before an impartial committee, that an adequate record be made of

any proceedings and of the disposition of the matter, and that any finding of a violation be reported to the Office of Student Development

A person alleged to have violated the Rule of Academic Responsibility while a student at the University remains subject to these enforcement procedures even if that person no longer is a student at the University. The term "academic program" as used in these procedures refers to an academic program as defined in the Rule of Academic Responsibility.

Section 1. Report of Alleged Violation.

1.1 Reports by Instructor. Any instructor in an academic program who reasonably believes that a student may have violated the Rule shall report in writing the facts giving rise to that belief to the Appropriate Dean as defined in Section 1.3. Prior to reporting the matter, the instructor may discuss with the student or otherwise investigate the circumstances of the alleged violation.

1.2 Report by Persons Other than Instructor. Any person other than the instructor who reasonably believes that a student may have violated the Rule must report the facts giving rise to that belief to the instructor of the academic program in which the violation allegedly occurred.

Whenever a report is made to an instructor under this subsection, if the instructor believes that the facts as alleged would constitute a violation if proven to be true, the instructor shall report the matter in writing to the Appropriate Dean as defined in Section 1.3. Otherwise the instructor shall notify the person making the report of his or her decision not to pursue the matter, and that person may thereafter report the matter in writing directly to the Appropriate Dean if that person continues to believe that a violation may have occurred.

1.3 Appropriate Dean Defined. The Appropriate Dean for purposes of reporting an alleged violation of the Rule is the Dean of the college or school offering the academic program in which the alleged violation occurred. If the academic program is offered independently of any specific college or school or is offered jointly by more than one college or school, the report should be made to the Office of the Provost, which will then designate the Appropriate Dean and forward the report to that Dean. The fact that a report is made to the incorrect college or school shall not be cause for dismissal of the allegations. Upon discovery of the error, the report should be filed in the correct office. The Dean of any college or school may designate an associate dean or assistant dean to receive reports of alleged violations and to perform any responsibilities of the Dean under these procedures.

Section 2. Disposition of Matter upon Admission of Violation.

2.1 Admission of Violation. An accused student may, at any time, admit a violation of the Rule by providing to the Appropriate Dean a written statement admitting the allegation or allegations. If an investigator has not been appointed under Section 3.1 prior to the Admission of a Violation under this Section, the Appropriate Dean shall promptly appoint an investigator to conduct a sufficient investigation to determine any additional facts relevant to the Admission and to the imposition of an appropriate sanction. If a Presenting Party has not been appointed under Section 3.5 prior to the Admission of a Violation under this Section, the Appropriate Dean shall promptly appoint a

Presenting Party to carry out the responsibilities set forth in Section 2.2 and 3.10. The matter shall thereafter be handled as provided in Section 2.2.

2.2 Consent to Sanction.

- (a) An accused student who admits, under Section 2.1, that a violation has occurred may also consent in writing to a specific sanction recommended by the Presenting Party. The sanction must be one of the sanctions permitted under Section 4 of these Procedures.

The Presenting Party shall then present the student's written Consent to Sanction, along with a report on the relevant circumstances of the violation, to the Appropriate Dean, to a faculty member of the College Committee designated by the Committee to consider the Consent to Sanction, and to the Chair of the School of Law Honor Council. If the Consent to Sanction is approved without modification by each of these persons, the sanction shall be imposed without further proceedings. If any of the persons named does not agree with the sanction proposed, the Consent to Sanction and accompanying Admission of Violation shall be withdrawn and not used against the students in any further proceedings.

- (b) If the accused student admits, under Section 2.1, that a violation has occurred, but there is no agreement between the accused student and the Presenting Party as to a recommended sanction, the Appropriate Dean shall convene the College Committee to hear the matter, not less than 5 days nor more than 15 days later, for the sole purpose of determining the appropriate sanction.
- (c) A hearing held under this Section 2.2 to determine an appropriate sanction, shall be conducted as provided in Section 3.10. The College Committee may consider all relevant evidence or testimony as the College Committee may deem appropriate. No member of the College Committee who considered Consenting to Sanction withdrawn under Section 2.2 shall participate in subsequent proceedings on the same matter.
- (d) At the conclusion of any matter in which a violation is admitted, the Appropriate Dean shall notify the Office of Student Development of the offense and sanction imposed.

Section 3. Disposition of Contested Allegations.

3.1 Appointment of Investigator and Notice to Accused. Upon receiving a written report of an alleged violation of the Rule, the Dean shall investigate the allegations or shall appoint one or more persons not serving on either the College or University Academic Responsibility Committee to investigate the allegations. The Dean shall then promptly notify the accused student of the allegations by letter, delivered personally or by certified mail, return receipt requested, to the last known address of the accused student. The notice also shall inform the student that an investigation is being conducted and that, at the conclusion of that investigation, the allegations may be dismissed or forwarded for further proceedings.

3.2 Conduct of Investigation. The Dean or other person or persons appointed to investigate a report of an alleged violation may interview witnesses, including the accused student, and review any documents or other information that may assist in determining the facts relevant to the alleged violation. An accused student who refuses to answer inquires regarding the matter shall not be subject to further discipline for failure to answer questions regarding the investigation. Finders of fact, however, may draw appropriate inferences from the failure to answer.

3.3 Submission of Investigation Report. When an investigator has been appointed by the Dean, the investigator shall report to the Dean, within ten work days after appointment, unless a reasonable extension of time is granted by the Dean, summarizing the factual findings of the investigation and, with regard to each allegation of violation of the Rule, recommending either that the Dean dismiss the allegation or forward the allegation to the College Committee for hearing. At any time during the investigation, the investigator may present to the Dean additional allegations against the accused student or other persons, based upon information obtained by the investigator. At that time, the Dean shall notify the accused student or students of the nature of the additional alleged violations as provided in subsection 3.1.

If the investigation is conducted by the Dean, the Dean may determine that additional charges are appropriate and shall then notify the accused student or students of the nature of the additional alleged violations as provided in subsection 3.1.

3.4 Action by Dean Upon Receipt of Investigation Report. Upon completion of investigation by the Dean or within a reasonable time following receipt of the investigation report, generally not to exceed one week, the Dean shall take any of the following actions as may be deemed appropriate in the discretion of the Dean:

- (a) Upon determining that there is no reasonable basis to support an allegation of a Rule violation, the Dean may dismiss that allegation. The Dean promptly shall notify the accused student, the party who initially reported the allegation, the instructor in the affected academic program, and the Office of Student Development of the dismissal, and no reference to the dismissed allegation shall be placed in the records of the accused student;
- (b) Upon determining that there is a reasonable basis to support an allegation of a Rule violation, the Dean shall refer the allegation to the College Committee for hearing and disposition, as provided in Section 3.5;
- (c) Upon determining that additional investigation of the original allegations or of additional allegations is needed, the Dean may request further investigation of the matter prior to disposition under either paragraph (a) or (b) above.

3.5 Referral of Allegations to College Committee.

- (a) Upon a decision by the Dean under subsection 3.4(b) to refer a matter for hearing, the investigator or other person appointed by the Dean (the "Presenting Party") shall prepare a Statement of Allegations sufficient to notify the accused student of

the circumstances alleged to constitute a violation of the Rule. The Presenting Party shall provide the Statement of Allegations to the Chair of the College Committee (the "Chair"), along with a list of witnesses likely to be called to testify at the hearing and copies of any documents likely to be produced at the hearing.

- (b) The Presenting Party also shall notify the Office of Student Development or other appropriate university office and request information regarding any prior violation by the accused student of the Rules of Academic Responsibility or prior academic disciplinary rules. The Presenting Party shall maintain the confidentiality of information of prior violations and shall not reveal such information to the College Committee until the sanction phase of a hearing.
- (c) Not less than three work days prior to the Hearing Date set in subsection 3.6, the accused student shall provide to the Chair and to the Presenting Party a list of witnesses likely to be called to testify at the hearing, copies of any additional documents likely to be produced, and notice of the student's intention to have another person selected by the student as an advisor present at the hearing.
- (d) The Chair may delay the hearing or exclude from the hearing any witnesses or documents not identified prior to the hearing as required in the Section 3.5, if the lack of prior notice would unfairly prejudice either party. The Chair, at its discretion, may delay the hearing or refuse to allow the person selected by the student as an advisor to participate actively in the hearing, if the required notice of that person's intended presence is not provided as required in Section 3.5(c).
- (e) No College Committee member shall consider a matter in which that person is unable to serve with impartiality. If an accused student believes that a member of the College Committee should be refused for partiality, the accused student must notify the Appropriate Dean in writing not less than 96 hours prior to the scheduled hearing, showing cause why a member should be removed from consideration of the matter. The decision of the Appropriate Dean shall not be immediately appealable. If a member is removed or unable to serve, the Appropriate Dean may appoint another person as a substitute member of the College Committee.

3.6 Hearing Date. Upon receiving the Statement of Allegations, the Chair shall set a date for a hearing, to be held not less than ten work days nor more than twenty-one work days after notice of the hearing is mailed to the accused student. Notice of the Hearing Date also shall be sent to the instructor in the affected academic program. Upon notice to the accused student and the Presenting Party, the Chair may change the hearing date within the permitted time period, provided there is no objection. The time provisions of this section may be waived by the Chair, with the consent of both the accused student and the Presenting Party.

3.7 Notice to Accused Student. Upon setting a hearing date, the Chair shall deliver to the accused student by first-class mail, return receipt requested, the following information:

- (a) A copy of the Statement of Allegations;
- (b) The Presenting Party's list of possible witnesses and copies of any documents likely to be presented at the hearing;
- (c) Notice of the time and place of the hearing;
- (d) Notice of the duty to provide a list of witnesses and documents to the Chair and the Presenting Party three days prior to the hearing date and of the duty to notify the Chair three days prior to the hearing that the accused student intends to have another person selected by the student as an advisor present at the hearing;
- (e) Notice of the availability of assistance from a Student Advocate provided through the Student Government Association;
- (f) A copy of these Academic Disciplinary Procedures and of the Rule of Academic Responsibility; and
- (e) Specific notice that the hearing is the student's opportunity to defend against the allegations brought and that expulsion or suspension may result from a finding that any violation occurred.

3.8 Attendance at Hearing. All hearings shall be confidential and closed to persons other than the College Committee, the Presenting Party, the instructor in the affected academic program, the witnesses during the time of their testimony, the accused student, and one person selected by the accused student, unless an open hearing is requested in writing by the accused student at least three days prior to the hearing. Nothing in this subsection shall be construed to diminish the Chair's authority to take any necessary measures to maintain order and decorum during a hearing, including the removal of any persons acting in a disruptive manner. The accused student shall attend the hearing. In the event that the accused student does not appear at the appointed time and place for the hearing, and the absence is without excuse, the College Committee may elect to hear the matter in absentia. The instructor in the academic program in which a violation is alleged to have occurred may attend the hearing in its entirety, but shall not participate in the hearing unless called by either side as a witness or otherwise questioned by the College Committee.

3.9 Conduct of Initial Hearing Phase. The hearing shall be conducted in two parts. During the first stage, evidence proving or refuting the occurrence of a violation shall be offered. At the outset of the initial hearing, the Chair shall provide each member of the College Committee with a copy of the Statement of Allegations or shall read the Statement of Allegations in its entirety. The Presenting Party appointed pursuant to Rule 3.1 shall proceed by presenting evidence supporting the allegations set forth in the Statement of Allegations. The Presenting Party may question witnesses and offer other relevant evidence in support of the allegations. The accused student, or his or her advisor, shall have the right to question the witnesses.

At the conclusion of the Presenting Party's case, the accused student, or his or her advisor, may present and question witnesses and offer any other relevant evidence for the purpose of defending

against or mitigating the allegations set forth in the Statement of Allegations. The Present Party shall have the right to question the witnesses.

Formal rules of evidence do not apply and any relevant evidence is admissible, including hearsay, unless excluded by the Chair for good cause. Members of the College Committee also may question any witness presented by the Presenting Party or the accused student

After all evidence has been presented, the Presenting Party may make a closing statement to the College Committee, followed by a closing statement of the accused student. The College Committee shall then deliberate in private until a decision is reached on each allegation. A finding of a violation requires a determination by majority vote of the College Committee that facts sufficient to constitute a violation have been proven by clear and convincing evidence.

If the College Committee determines that a violation has not been adequately proven, the College Committee shall prepare written findings of fact and conclusions dismissing the allegation. The Chair shall send a copy of the findings and conclusions to the accused students and to the Presenting Party. Written notice of the dismissal shall also be sent to the Appropriate Dean, the instructor in the affected academic program, and the University Office of Student Development. If no appeal from the dismissal is filed as provided in Section 5.4 or if the dismissal is upheld on appeal, records referring to the dismissed allegations shall be destroyed and no reference to the dismissed allegation shall appear in the records of the accused student.

3.10 Determination of Sanction. If the College Committee determines that a violation has been adequately proven, the College Committee shall then reconvene to consider evidence in aggravation or mitigation of the offense for the purpose of determining sanction. The Presenting Party shall at this time inform the College Committee as to any prior violations of the Rule by the accused student and shall present other relevant evidence in mitigation or in aggravation of the offense. The accused student may then present relevant evidence in mitigation of the offense and may make a personal statement to the College Committee. The College Committee shall then deliberate in private and agree upon an appropriate sanction by majority vote. The College Committee promptly shall send written findings of fact and conclusions, along with notice of any sanctions imposed, to the accused student, the Appropriate Dean, the Presenting Party, the instructor in the affected academic program, and the University Office of Student Development. The College Committee shall notify the student of the right to appeal the decision on the merits, the sanctions, or both pursuant to these Procedures.

3.11 Record of Hearing. An audio recording or other record of the hearing shall be made and retained in the Office of the Appropriate Dean. However, if an appeal is taken from the decision of the College Committee, the absence of a verbatim record due to failure of the recording equipment or other reason shall not be deemed to prejudice the rights of any party to the appeal if the Chair is able to prepare or have prepared a detailed written summary of the proceedings, certified by the College Committee to be accurate and reasonably complete.

Section 4. Sanction.

The following sanctions may be imposed upon a student found to have violated the Rule of Academic Responsibility:

- (a) Permanent expulsion from the University;
- (b) Definite suspension from the University for a period of not less than one semester;
- (c) Reprimand to be administered orally by the Chair of the College Committee to the student upon the exhaustion of any appeals, with a record of the reprimand to be maintained in the Office of Student Development;
- (d) A Letter of Warning to be recorded in the Office of Student Development (First Offense Only).
- (e) A combination of the above sanctions.

A prior violation will be treated as a significant aggravating factor in determining the appropriate sanction for a subsequent offense.

The sanctions provided for in this Section are intended to be disciplinary, and nothing in these procedures, including the imposition of any sanction, shall be interpreted to limit the academic authority of an instructor to determine an appropriate grade for a student who has violated the Rule. If an instructor determines that, because of academic dishonesty, a student's performance in an academic program merits a grade reduction or a failing grade the instructor's authority to award such an appropriate grade is not limited by the imposition of any sanction under this Section.

It shall be the responsibility of the Appropriate Dean to notify proper University offices of the suspension or expulsion of a student.

Section 5. Appeals.

Whenever a matter has been heard under separate procedural rules adopted by a college or school, the references in this Section to the Presenting Party shall be construed to mean the instructor in the academic program in which the alleged violation occurred or such other person as may be designated by the rules of the college or school to prosecute the matter.

5.1 Grounds for Appeal of Dismissal. Upon a dismissal of an allegation by the College Committee, the Presenting Party may appeal the decision to the University Committee on Academic Responsibility only on the ground that the College Committee erred in its conclusion that the facts as set forth by the College Committee in its written findings did not constitute a violation of the Rule.

5.2 Grounds for Appeal of Finding of Violation. Upon the finding of a violation by the College Committee, the accused student may appeal the decision to the University Committee on any or all of the following grounds:

- (a) that specific procedural rules were not followed, resulting in prejudice to the accused student; or
- (b) that the facts as set forth by the College Committee in its written findings of fact do not establish a violation of the Rule; or
- (c) that there is no evidence in the record to support a finding of fact by the College Committee; or
- (d) that there is specific evidence of improper bias on the part of any member of the College Committee; or
- (e) that there is specific new evidence, which could not reasonably have been discovered prior to the hearing and which likely would have changed the outcome of the hearing.

5.3 Appeal of Sanction. Either the Presenting Party or the accused student or both may appeal the sanction imposed by the College Committee on the ground that the sanction is unjust or inappropriate.

5.4 Notice of Appeal. A party appealing the decision rendered or sanction imposed by a College Committee must notify the Chair of the University Committee on Academic Responsibility in writing not later than 10 work days after the written findings of fact and conclusions are sent to the party appealing. The notice of appeal should set forth the specific ground or grounds of the appeal. Copies of any notice of appeal shall be sent to the Presenting Party or the accused student (whichever did not file the notice of appeal), the Appropriate Dean, the University Office of Student Development, and the instructor in the affected academic program.

5.5 Access to Record. Upon receiving a notice of appeal, the Chair of the University Committee promptly shall request from the Chair of the College Committee a copy of the record of hearing, as prepared pursuant to subsection 3.11. Upon receiving the record, the Chair of the University Committee shall notify the Presenting Party and the accused student of its availability. Both parties shall have 10 work days after notice of the record's availability is sent in which to submit to the Chair of the University Committee any further written argument or information from the record to substantiate or refute the appeal.

5.6 Consideration of Appeal. After receiving the record of hearing and any written materials provided under subsection 5.5, the University Committee shall meet to consider the matter. The University Committee may decide the matter on the written record or may allow the accused student and the Presenting Party to appear before the University Committee upon reasonable notice. The University Committee promptly shall issue a written opinion (i) affirming the decision of the College Committee; (ii) remanding the matter to the College Committee with a clear statement of specific reasons for requiring further consideration of the merits, the sanction, or both; or (iii)

reversing or modifying the decision of the College Committee as to the merits, the sanction, or both. (The University Committee also may, for example, affirm a matter in part, such as by affirming a finding of a violation, and remand in part, such as for reconsideration of sanction.) The Chair of the University Committee shall send copies of the written opinion to the instructor in the affected academic program, and the University Office of Student Development. The Dean shall notify the Chair of the College Committee and, if the matter is remanded, shall instruct the Chair to convene the College Committee for any further proceedings that may be required.

Section 6. Composition of College Committee.

6.1 Composition.

- (a) Each college or school shall create a standing college-level Academic Responsibility Committee or shall designate an existing committee to serve in that capacity. Subject to prior approval of the University Committee or Academic Responsibility, a college or school also may create such other inferior committees or councils, including student councils, as it may find appropriate to consider academic disciplinary matters, provided that both the Presenting Party and the accused student have a right to appeal before the college-level committee, pursuant to rules established by the college.
- (b) The College Committee shall consist of not fewer than three full-time faculty and not fewer than two students. A majority of the College Committee shall be faculty. College Committee members shall be selected in the same manner as faculty and students are selected for other standing committees within the college or school. In cases involving graduate students, the Dean shall appoint graduate students to replace any undergraduate student members of the College Committee for purposes of that matter. For purposes of hearing a matter, a quorum of the College Committee shall be a majority of the College Committee, consisting of not less than 50% of the student members and not less than 50% of the faculty members.

6.2 Public Notification of Disposition. Each College Committee shall prepare a report, not less than annually, summarizing matters that have come before the College Committee and the disposition of each matter. The report shall be published to students and faculty within the college by public posting, distribution, or other appropriate means. The report shall not contain any information that would identify the parties or witnesses to the proceeding

Section 7. Effective Date. The Academic Disciplinary Procedures as amended on November 5, 1997, shall take effect on November 13, 1997, and shall apply to all matters reported on or after November 13, 1997. The amended procedures shall also apply to any matters pending on that date unless, in the opinion of either the Associate Dean for Academic Affairs or the Chair of the Academic Responsibility Committee, the former procedures should apply in a particular case in the interest of fairness or because it would not be feasible to apply the amended procedures to the matter already pending