

## Honor System

***This document does not, and shall not be interpreted to limit the authority of the President of the College.***

### SECTION 1: BACKGROUND

Among the most significant traditions of the College of William and Mary in Virginia is the student-administered honor system. The essence of the honor system is individual responsibility in all matters relating to a student's honor. The evolution of the honor system is best understood in the context of the history of the College itself. The College originally combined the higher school with a grammar school and served almost exclusively the sons of gentlemen of the planter aristocracy, who took special pride in their reputation of men of honor. The students formed a small close knit group, at times numbering fewer than one hundred, and a violation of the College code of discipline was punished by ostracism.

From its earliest days, the College demonstrated a strong interest in the character of its students. In 1736, the College Statutes stated that "special care must be taken of their morals, that none of the Scholars presume to tell a Lie ... or do any Thing else that is contrary to good Manners." The faculty resolved in 1784 that every student should, upon matriculation, pledge to observe all College regulations, "particularly such as require that kind of conduct . . . conducive to the Honor & Prosperity of the University."

In 1788, the Board of Visitors declared that "whereas those, who are generally admitted into the higher schools, are from their years entitled to a certain degree of confidence in their discretion . . . the ordinary strictness of schools may with respect to them be in some measure relaxed."

Nathaniel Beverley Tucker, a Professor of Law, in a 1834 address to students, stated: "It has been the study of its professors to cultivate at the same time the intellect, the principles and the deportment of the student, laboring with equal diligence to infuse the spirit of the scholar and the spirit of the gentleman. He comes to us a gentleman. As such we receive and treat him, and resolutely refuse to know him in any other character. ... His Honor is the only witness to which we appeal."

Because a gentlemen's code of honor characterized early life and conduct at the College, the exact date by which a formal honor system had developed is unknown, although it certainly had emerged by 1779, the year often claimed for the honor system's official establishment, when the College was reorganized under Thomas Jefferson's leadership.

In the last two centuries, the College has grown in size and complexity and the student body is no longer the homogeneous group of young men that characterized the early years of the College. Today, William and Mary is a coeducational university serving thousands of students, undergraduate and graduate, from all parts of the United States and from foreign countries.

In modern times, honor has become a more relative value. It means different things to different people. Although an implicit "gentlemen's code of conduct" existed among a small number of students at the College two centuries ago, the system of honor inherited from the College's earliest days has been transformed into a written Honor Code. The Honor Code today informs all students, regardless of academic status, of the level of honor expected and seeks to promote a university-wide community of trust among scholars.

Like its predecessors, the modern Honor Code still presumes that a student is honorable unless proven otherwise. The Honor Code outlines the conduct that cannot be tolerated within

a community of trust. Prohibited conduct is limited to three specific areas—lying, cheating, and stealing. This restricted definition enables the historical essence of honor to be applied in a practical manner within diverse groups.

Whereas the present Honor Code is of relatively recent origin, the spirit and essence of the Honor System have treaded the years undisturbed and, guarded jealously, have remained intact. It is the responsibility of all students to preserve and maintain this important tradition at the College by adhering to and enforcing the code.

### **Section 1.1 Statement of Purpose**

The Honor System is based upon the premise that a person's honor is his or her most cherished attribute. In a community devoted to learning, a foundation of honor among individuals must exist if that community is to thrive with respect and harmony among its members. An honor system is the ideal mechanism to ensure such a state of affairs. With it the community is afforded a freedom that otherwise would not be available. With this freedom comes each individual's responsibility to conduct himself or herself in such a way that the spirit of mutual trust which sustains the system is not compromised.

Under the Honor Code of the College of William & Mary, it is expected that all students will demonstrate honesty and integrity in their conduct. Acts of intentional lying, cheating, and stealing are deemed reprehensible and cannot be tolerated. A person who has violated the Honor Code must be sanctioned for compromising the community of trust and honor.

Each member of the College community is responsible for upholding and enforcing the Honor Code. The System cannot function unless each member of the College community takes action when he or she believes that any person may have violated the Honor Code. The Code is not to be used, however, as a tool of harassment.

Honor and integrity are fundamental attributes of our community. We are privileged to live with an honor system, created and administered by students, because it inspires us to achieve our maximum potential without interference from others. Dishonest conduct violates the trust that exists at the College. Therefore, it is imperative that we accept no compromise and allow no action by any student to weaken the community of trust.

### **Section 1.2 Agreement of Students**

The Honor Code is an agreement among all students, taking classes at the school (or participating in the educational programs of the College, e.g. study abroad or internship activities), not to lie, cheat, or steal. This agreement is made effective upon matriculation at the College and continues throughout a student's enrollment even though that enrollment may not be continuous.

## **SECTION 2: INFRACTIONS**

Infractions of the Honor Code include (1) lying, (2) cheating, and (3) stealing, under the circumstances described below. Students at the College are responsible for learning the Honor Code and ignorance of its provisions is no excuse for a violation thereof.

1. **Lying** is the expression of a material untruth made with the intent to mislead another or with reckless disregard for the truth of the matter asserted. Lying is a violation of the Honor Code when the material untruth is uttered or presented, verbally, electronically, or in writing, to another member of the College community (student, faculty or staff), to any person while on College property or at activities sponsored by the College or College-affiliated groups, or to any person when the student actively represents himself/herself as a student at the College. An untruth is material when it relates to or affects in a significant way, academic as well as non-academic activities of legitimate concern to the College community. Lying includes, but is not limited to, forgery or the use of false identifications, under the above-described circumstances.

2. **Cheating** is the act of wrongfully using or taking the ideas or work of another in order to gain an unfair advantage. It includes, but is not limited to: (1) the act of plagiarism; (2) the acts of giving unauthorized aid to another student or receiving unauthorized aid from another person on tests, quizzes, assignments or examinations; (3) the acts of using or consulting unauthorized materials or using unauthorized equipment or devices on tests, quizzes, assignments or examinations; (4) the acts of using any material portion of a paper or project to fulfill the requirements of more than one course unless the student has received prior permission to do so; or (5) the acts of intentionally commencing work or failing to terminate work on any examination, test, quiz or assignment according to the time constraints imposed.

The term "assignment" includes any work, required or volunteered, and submitted to a faculty member for review and/or academic credit, or any work, required or volunteered, submitted for publication in a College-sponsored or other publication, or any work, required or volunteered, submitted for use in conjunction with a College-sponsored event or activity. All academic work undertaken by a student must be completed independently unless the faculty member or other responsible authority expressly authorizes collaboration with another.

**Plagiarism** occurs when a student, with intent to deceive or with reckless disregard for proper scholarly procedures, presents any information, ideas, or phrasing of another as if they were his or her own and does not give appropriate credit to the original source. Proper scholarly procedures require that all quoted material be identified by quotation marks, or indentation on the page, and the source of information and ideas, if from another, must be identified and be attributed to that source. Students are responsible for learning proper scholarly procedure. While any amount of improperly unattributed material may be sufficient to find plagiarism, a student may be presumed to have acted with intent to deceive or with reckless disregard for proper scholarly procedures when a significant amount of improperly attributed material is presented as if it were the student's own work. In the absence of proof of the accused's intent, the hearing panel shall determine whether the amount of improperly attributed material is so significant that intent may be presumed.

3. **Stealing** is the intentional taking or appropriating of the property of another without consent or permission and with the intent to keep or use the property without the owner's or the rightful possessor's permission. Although the prohibition against stealing includes property of whatever nature, it also covers theft of the academic work product of another.

## SECTION 3: RIGHTS AND DUTIES

### Section 3.1 Rights of the Accused

1. A right to receive written notice of the nature and circumstances of the charge as soon as reasonably practicable after the Chief Justice has received the written accusation from the accuser. If the written accusation fails to fairly apprise the accused of the charge, he or she may request the Chief Justice to provide a more definite statement as to time, place, and any other relevant particulars of the charge.
2. A right to have another willing student, whether or not designated and trained as Student Counsel, act as his or her Student Counsel and to have that Student Counsel participate in the hearing on the Honor Code charge. In the interest of preserving a balanced system of adjudication, and in light of the student-run nature of the proceedings, the accused student may not be represented at the hearing by any counsel who is not a student in the accused's school.
3. A right to have silent (non-participating) counsel, including legal counsel, present to observe the hearing.
4. A right to have a member of the Honor Council appointed as a procedural advisor. The procedural advisor shall not prepare the case of the accused but may serve as a source of information regarding investigation, hearing procedures, and precedent.

5. A right to waive any and all rights the accused possesses and the right to waive any and all time limitations specified in these procedures. Such waivers must be in writing.
6. A right to a fair and impartial Honor Council hearing panel of no less than six members. For good cause shown, including possible bias or interest in the proceeding, members of the Honor Council hearing panel shall be disqualified by the Chief Justice from serving. The accused shall be provided with the names of the members of the hearing panel at least seventy-two hours prior to the hearing. If the accused wishes to have one or more members of the panel disqualified for bias or interest in the case, the accused must move for disqualification.
7. A right to have adequate time, at least seventy-two hours, to prepare for the hearing and a right to have a speedy resolution of the charge.
8. A right to inspect, examine, and make copies of all documentary evidence related to the case not less than seventy-two hours prior to the hearing.
9. A right, at least seventy-two hours prior to the hearing, to receive written notice of the date, time, and location of the hearing.
10. A right not to have honor proceedings scheduled or conducted in conflict with his/her religious practices.
11. A right to a separate hearing on each charge when multiple and unrelated charges have been filed.
12. A right to a separate hearing when two or more persons have been jointly charged with an Honor Code Offense.
13. A right upon request to an open hearing.
14. A right to summon witnesses to appear on his/her behalf. The number of character witnesses, if any, may be limited by the presiding judge.
15. A right to request the sequestration of witnesses, including the accuser. In the event the accuser is sequestered as a witness, the accuser may observe the proceedings after giving testimony but shall not be present when the verdict is delivered.
16. A right to confront and cross-examine all witnesses.
17. A right to present evidence in his or her behalf, including evidence in mitigation of punishment.
18. A right to make an opening statement and closing argument.
19. A right to have the hearing recorded.
20. A right to be convicted only of the specific offense(s) charged, unless a different offense is clearly embraced within the original charge.
21. A right, in the event of acquittal, to have the recording of the proceedings and all documentary evidence destroyed after two weeks of the verdict, except when such evidence might be relevant to another pending charge.
22. A right to be presumed innocent and to be found guilty of an Honor Code offense only if evidence of his or her guilt is proven beyond a reasonable doubt.
23. A right, prior to notification of the verdict and sanction, to attend classes and to participate in any College function, provided, however, that until such time as all charges are resolved, the College reserves the right to withhold academic credit for any courses taken during the term in which the alleged offense occurred and/or to withhold the awarding of an academic degree.
24. When preparing his or her appeal, a right to have access to all evidence, including the recording of the proceedings in the company of one or more Honor Council members.
25. In the event of a closed hearing, a right to have all matters relating to the charge, hearing, verdict, or appeal kept confidential by all parties with knowledge of the circumstances of the charge or the proceedings hereunder, except as limited by applicable law.
26. A right to be sanctioned only one time for the same offense.
27. A right to seek protection from threat, harassment or damage to self or property resulting from participation in the hearing.

### **Section 3.2 Duties of the Accused**

1. To cooperate reasonably with the Honor Council during the investigation and hearing, including a duty to ensure a timely resolution of the charge.
2. To answer fully and honestly all relevant questions of the investigators, the Honor Council hearing panel, and the accused's Student Counsel, unless the answers might, directly or indirectly, tend to incriminate the accused and the accused asserts his/her rights under the Fifth Amendment to the U.S. Constitution.

### **Section 3.3 Rights and Duties of the Accuser**

1. A right and duty to testify fully and honestly.
2. A right to be present at the hearing, unless properly sequestered as a witness.
3. A right to seek protection from threat, harassment or damage to self or property resulting from participation in the hearing.
4. A duty to preserve the confidentiality of all matters relating to the alleged violation.

### **Section 3.4 Rights and Duties of Witnesses**

1. A right to seek protection from threat, harassment, or damage to self or property resulting from participation in the hearing.
2. A duty to cooperate in the investigation and to appear before the Honor Council and answer all questions fully and truthfully, except when the answers to any questions would tend, directly or indirectly, to incriminate the witness and the witness asserts his/her rights under the Fifth Amendment to the U.S. Constitution. Lying during the investigation or the hearing is a violation of the Honor Code. Failure to cooperate or to answer questions, except under a valid claim of privilege, shall constitute a violation of the College's Code of Conduct.
3. A duty to maintain the confidentiality of the investigation and the hearing.

### **Section 3.5 Rights and Duties of the Council**

1. A right to seek protection from threat, harassment or damage to self or property resulting from participation in the hearing.
2. A right, in cases in which the accused student chooses to have legal counsel present, to allow its own counsel, including the College's legal counsel, to be present. The council also has the right to be informed of the accused's choice (regarding the presence of counsel) at least forty-eight hours prior to the hearing.
3. A duty to maintain confidentiality.
4. A duty to treat every participant in the hearing fairly and equitably.

## **SECTION 4: ADMINISTRATION**

### **Section 4.1 Separate Jurisdictions**

Students administer the Honor Code through a Council of Chairs and a system of six Honor Councils constituted in each of the major academic units of the College: (1) the undergraduate student body, the graduate schools of (2) Arts and Sciences, (3) Business, (4) Education, (5) Law, and (6) Marine Science. Students will be selected for the respective Honor Councils in the manner determined by the student governing bodies of each unit: (1) the Undergraduate Honor Council, (2) Graduate Student Association in Arts and Sciences, (3) the MBA Association in conjunction with the MAC Council in the Graduate School of Business, (4) the Graduate Students in Education Association in the Graduate School of Education, (5) the Student Bar Association in the Law School, and (6) the VIMS Graduate Student Association in the School of Marine Science.

### **Section 4.2 Selection of Honor Council Members**

The student governing bodies of the respective academic units shall determine the manner of selecting their Honor Council members, procedures for removal of Honor Council members, and qualifications for membership on their Councils.

### **Section 4.3 Jurisdiction**

When a student is accused of violating the Honor Code, the Honor Council for the academic unit in which the accused student is enrolled as a degree candidate shall hear and determine the case according to these procedures. An accused student who is not enrolled as a degree candidate in any specific academic unit shall be subject to the jurisdiction of the undergraduate Honor Council. An accused student enrolled as a joint degree candidate, shall be subject to the jurisdiction of the Honor Council in which the accuser is enrolled, if the accuser and accused are enrolled in the same academic unit. If the accused joint degree student and the accuser are not enrolled in the same academic unit, the accused student enrolled as a joint degree candidate may elect to be tried before the Honor Council of either of the academic programs in which he or she is enrolled.

### **Section 4.4 Council of Chairs**

A separate Council of Chairs, consisting of the Chief Justice of each of the six Honor Councils, will be responsible for the oversight and management of the Honor System. The Council of Chairs will monitor the work of the various Councils to ensure that they function as a unified system. Among its specific duties, the Council of Chairs, in conjunction with the Office of the Dean of Students, will educate the student bodies regarding Honor Code standards and procedures, will coordinate the training of Honor Council members, investigators and Student Counsel, and will be responsible for ensuring that each student, upon matriculation at the College executes a pledge to abide by and uphold the Honor System.

## **SECTION 5: POLICIES AND PROCEDURES FOR CODE ENFORCEMENT**

### **Section 5.1 Preliminary Matters**

Each of the six Honor Councils may develop and implement procedural rules supplementing the administration of this Code. Such rules and procedures must be consistent with the other provisions of this Code as well as the Constitutions of their respective student governing bodies, and, therefore must be submitted to the Council of Chairs for approval.

In addition to specific procedures, each school may adopt non-binding commentary to explain portions of the Code. Such commentary should be developed in accordance with procedures determined by each school's student governing body. This commentary must also be submitted to the Council of Chairs for approval as consistent with this Code.

### **Section 5.2 Reporting A Breach of Honor**

The basis of an honor system is each student's acceptance of the responsibility to act honorably and to uphold this code of honorable conduct. Students must also reject dishonorable conduct in others. Accordingly, if an honor system is to be effective, students and all College community members must report suspected violations of the Honor Code by students.

When any member of the College community believes in good faith that an Honor Code violation may have occurred, he or she shall act in accordance with the following procedures: (1) make a good faith and diligent attempt personally to confront the student involved, inform the student of the nature of the alleged violation, and request an explanation; (2) if the explanation is satisfactory, forget the matter; (3) if the explanation is unsatisfactory or if no explanation is received, personally accuse the student of a violation of the Honor Code and offer that student the option of, within twenty-four hours, resigning from the College or reporting himself or herself to the Chief Justice of the Honor Council with jurisdiction over the matter; (4) within twenty-four hours after the personal accusation, whether the accused student has reported to the Honor Council or resigned from the College, notify the Chief Justice and reduce the charge to writing and submit the written charge to the Chief Justice of the Honor Council with jurisdiction over the matter; (5) following an unsuccessful, good faith and diligent effort personally to confront the accused, promptly notify the Chief Justice of the accusation, and within twenty-four hours, deliver a written accusation of the alleged honor violation to the Chief Justice of the Honor Council with jurisdiction over the accused student.

The respective Honor Councils have no jurisdiction over alleged Honor Code violations until a personal accusation or a good faith and diligent attempt to make a personal accusation has been made, and a written charge has been filed with the Chief Justice in accordance with these procedures.

If an accused student chooses to resign from the College, the Office of the Dean of Students shall direct that the student's official records, including his or her transcript shall carry the designation "Resigned under suspicion of violation of the Honor Code." The student may meet with the Vice President for Student Affairs to discuss the issue. If a student chooses to resign from the College, the student must certify in writing that he or she will never seek readmission or re-enroll to the program of study in which he or she was enrolled at the time of the alleged offense. If the accused reports to the Chief Justice within twenty-four hours, the Chief Justice shall, upon receipt of the accuser's written accusation, immediately provide to the accused the following information: (1) a copy of the written accusation, (2) a copy of the Honor Code, (3) a list of all students trained as Student Counsel, who may, if selected by the accused, serve as the accused's Student Counsel, and an explanation that the accused is free to select any student as his or her Student Counsel. The Chief Justice shall then commence an investigation in accordance with these procedures. The accused student's decision to report himself or herself to the Chief Justice, rather than resign from the College, does not imply guilt. Rather, by reporting to the Chief Justice, the accused demonstrates his or her willingness to cooperate with the honor system.

If an accused student fails to resign and fails to report to the Chief Justice within twenty-four hours following a personal accusation, the Chief Justice shall proceed with the investigation in accordance with these procedures and shall attempt to contact the accused and provide the accused with the information previously described.

The respective Chief Justices shall immediately report all allegations of suspected Honor Code violations to the Office of the Dean of Students.

### **Section 5.3 Determining Jurisdiction**

Before commencing an investigation, the Council must first determine whether the asserted conduct falls within the jurisdiction of the Honor Code.

Any alleged violations determined to be trivial shall be dismissed. A "trivial" violation of the Honor Code is one with no possible consequence to a matter of legitimate concern of the academic community, or one with no tendency to undermine trust within the community.

Any honor violation alleged to have been committed more than 4 months before the confrontation of the accused shall be dismissed unless (1) good cause for the delay has been shown and (2) it is still feasible to hold a fair trial, considering the impact of the delay on the integrity of the evidence and its availability to the accused. In determining jurisdiction, the council shall consider the effects that a lapse of time may have on the ability of the respective parties to proceed in an unprejudiced manner. This shall be determined at the same time as triviality.

In the event the conduct which gives rise to the Honor Code charge is also alleged to violate the College's code of conduct, only one proceeding shall occur. The Vice President for Student Affairs will determine in which forum, the Judicial System or the Honor System, the charges would be most appropriately adjudicated. The decision of the Vice President for Student Affairs shall be final and may not be appealed.

### **Section 5.4 Investigations Of Alleged Honor Code Violations**

Upon receipt of (1) a timely written accusation of violation of the Honor Code following a proper personal accusation or (2) a diligent, good faith effort to make a personal accusation, the Chief Justice shall appoint an investigating committee of at least 2 people from among the membership of the Honor Council with jurisdiction over the matter. The investigators shall

(1) collect, preserve, and present evidence, and (2) prepare a written report detailing all facts and evidence discovered in the investigation. In the event sufficient numbers of Honor Council members are unavailable to serve as investigators, the Chief Justice may appoint one or more members from the general student body of the academic unit having jurisdiction.

The investigators shall meet with the accused, the accuser, and all material witnesses. They shall seek to gather all relevant evidence and shall prepare a written report detailing all facts and evidence discovered during their investigation. The written report shall not contain their opinions on ultimate issues of guilt or innocence, or of witness credibility or reliability of evidence. Both the accused and the accuser shall have the option of submitting a written statement to be included in the investigators' report.

The investigation and written report shall be completed within seven working days of the Chief Justice's receipt of the written accusation. If the investigators are unable to complete the investigation and report within this seven working day period, they may request a reasonable extension from the Chief Justice. If such an extension is granted, the Chief Justice shall promptly inform all concerned parties of the new deadline for completion of the investigation.

#### **Section 5.5 Sufficient Evidence Hearing**

Upon completion of the investigation and written report, the Council shall convene a three-person panel to determine whether there is sufficient evidence to proceed with a hearing. The sufficient evidence panel does not consider the guilt or innocence of the accused, but does consider the quality of evidence offered in support of the accusation. "Sufficient evidence," (1) supports and accusation, and in doing so, (2) presents a question that warrants a hearing. If the panel determines that there is insufficient evidence, the charge will be dismissed and no further proceedings will occur. If at least two-thirds of the members of the panel determine that sufficient evidence exists, the matter will proceed to a hearing before the Honor Council.

The Chief Justice shall then provide the accused with a brief written statement of the panel's determination and a copy of the Investigators' written report detailing the facts and evidence gathered to this point.

The decision of the Panel on whether there is sufficient evidence to proceed with a hearing is final and no appeal may be taken.

#### **Section 5.6 Hearings on Honor Code Offenses**

As soon as possible following the sufficient evidence determination, the Chief Justice shall meet with the accused and his or her Student Counsel, if the accused has chosen one, and, if not previously provided, shall provide the following: (1) a copy of this Honor Code; (2) a copy of the written accusation; (3) written notice of the date, time and location of the hearing; (4) copies of all documentary evidence and a written summary of the substance of non-documentary evidence gathered by the investigating committee; and (5) an explanation of the standards and procedures that will be followed at the hearing.

Hearings on allegations of Honor Code offenses shall be held as soon as reasonably possible, but in no event less than seventy-two hours before or more than two weeks after the determination of sufficient evidence, unless the Chief Justice extends the time for good cause. Hearings shall not be conducted in conflict with the religious practices of the accused or the other parties involved in the process and shall, to the extent feasible be scheduled to accommodate the schedules of the accused, the accuser and other material witnesses.

Hearings shall be conducted in a fair and equitable manner so as to provide fundamental fairness to the accused and all other interested parties, including the accuser. Formal rules of evidence shall not apply in Honor Code proceedings. Relevant hearsay evidence with adequate indications of reliability may be considered. Relevant documentary and tangible evidence may be considered if adequately authenticated with indications of reliability.

Hearings shall be conducted before a panel of six Honor Council justices, appointed by the Chief Justice of the Honor Council with jurisdiction over the matter. All six members of the panel shall be selected from the membership of the Honor Council having jurisdiction. The Chief Justice shall, where possible, serve as the presiding judge, and shall rule on all procedural and evidentiary issues incident to the hearing. If, due to bias or other conflict, the Chief Justice is unable to serve as presiding judge, the Chief Justice shall appoint a member of the Honor Council, who is not one of the six justices on the hearing panel, to serve as presiding judge. The Chief Justice shall appoint one member of the panel as secretary, who shall keep an accurate record of the proceedings for purposes of deliberations on the verdict and/or sentence, and for student appeals if the tape recording is incomplete. If sufficient numbers of Honor Council members are unavailable in a particular case, the Chief Justice may appoint one or more students from the general student body of that academic unit. The Chief Justice shall make reasonable efforts to summon the attendance of material witnesses for and against the accused. No Honor Council member who has served on the investigating or Sufficient Evidence Panel may be appointed to the hearing panel.

Honor Code hearings shall be closed to the public, unless the accused asserts his or her right to request an open hearing. In the event the accused does not request an open hearing, the only persons present at the hearing shall be the members of the Honor Council involved in the hearing, the accused, the accused's counsel as allowed by the other provisions of this Code, one advisor or observer chosen by the accused, and witnesses.

If, after having received adequate notice of the date, time and location of the hearing, the accused student refuses to appear or otherwise makes him or herself unavailable for trial without demonstrating to the Chief Justice good cause for postponement, the accused shall have waived his/her right to appear. Under such circumstances, the Honor Council may hold the trial in the absence of the accused, and his or her absence shall not constitute grounds for appeal of the hearing panel's verdict and recommended sanction. The Chief Justice shall appoint one member of the Honor Council with jurisdiction, not including any member serving as an investigator or Sufficient Evidence Panel-member, to represent the interests of the accused if it becomes necessary to hold a hearing in the absence of the accused.

### **Section 5.7 Conduct of the Hearing**

1. The presiding judge shall remind all participants that the proceedings are confidential, unless the accused has requested an open hearing.
2. The presiding judge shall ascertain that the proceedings are being recorded.
3. The presiding judge shall read the written charge and instruct the hearing panel members that the accused is presumed to be innocent and must be found "not guilty" unless his or her guilt is established beyond a reasonable doubt.
4. The presiding judge shall admonish all witnesses that they are bound to testify fully and truthfully, and shall secure from each witness an affirmation that he or she will so testify.
5. The Investigators shall be permitted to present the evidence.
6. The accused and/or his or her Student Counsel shall be permitted to present their case.
7. Upon completion of presentation of evidence, the presiding judge shall instruct the six hearing panel members as to the relevant code section(s) and shall remind the panel that the accused is to be found "not-guilty" unless five of the six panel members determine that the accused is guilty beyond a reasonable doubt. The presiding judge shall explain to the hearing panel that reasonable doubt is doubt which an ordinary student might entertain, not imagined doubt or doubt which a student might create in order to avoid the unpleasant duty of finding guilt. The hearing panel shall then promptly convene in private to determine the guilt or innocence of the accused. The presiding judge shall not be present for, or in any way participate in, the panel's deliberations. No recording or record of the panel's deliberations may be made. The accused shall be found "not guilty" of the charge unless at least five of the six members of the hearing panel find that the accused's guilt of the charge is supported beyond a reasonable

- doubt. When the panel has made its determination, the presiding judge shall immediately inform the accused of the verdict.
8. If the accused is found "guilty" of the charge, the hearing panel shall reconvene to determine the appropriate recommended sanction. The sanction hearing shall be held as soon as possible following a determination of guilt. Ordinarily, the sanction hearing shall be held within two full working days of the determination of guilt. With the permission of the accused, the hearing may be postponed by the presiding judge in the interest of fairness. In no case, however, shall the sanction hearing be postponed more than seven days after the date of the determination of guilt.
  9. A separate sanction hearing is provided to allow the accused to argue without equivocation, if he or she desires, for no sanction or for mitigation. The sanction hearing is not intended to be a forum for the reassessment of the guilt or innocence of the accused. The sanction hearing is to be used solely as a means to determine the appropriate sanction, if any. The presiding judge should limit the introduction of evidence relating to guilt or innocence, unless introduced to show state of mind or some other legitimate purpose related to sanction.
  10. After all evidence has been presented, the panel shall convene in private to deliberate over the sanction. No other person shall be present while the panel deliberates, and the deliberation shall not be recorded.

When determining the sanction, the hearing panel may consider the accused's prior record of Honor Code and/or conduct violations, which will be supplied to the panel in a sealed envelope by the Office of the Dean of Students. The envelope containing the accused's prior record may not be opened by the hearing panel unless a determination of guilt has first been made. The sanction to be imposed must be agreed to by at least four of the six panel members.

11. At the conclusion of the deliberations, the presiding judge shall inform the accused of the sanction imposed. The verdict and sanction imposed shall be reduced to writing by the presiding judge and a copy shall be given to the accused. The written verdict shall contain a certification by the presiding judge that at least five members of the panel agreed to a finding of guilt and that at least four members of the panel agreed to the sanction imposed. A copy of the written verdict and sanction, together with the recording of the proceedings and all documentary evidence, shall be transmitted to the Office of the Dean of Students no later than the end of the next full working day. Unless the accused consents to the presence of other persons at the time the verdict is delivered, only the accused, his or her Student Counsel, his or her spouse and parents, and one advisor or observer chosen by the accused may be present.

## SECTION 6: SANCTIONS

In cases of an Honor Code violation, after it has heard testimony concerning sanction, the hearing panel shall begin its deliberations concerning sanction by determining whether separation from the College; suspension, or contingent or permanent dismissal; is the appropriate sanction. Alternative sanctions may be imposed, when, in the judgment of the hearing panel, because of the nature and circumstances of the offense and/or the circumstances of the accused, one or more of the following lesser sanctions are appropriate:

1. Written or oral warning.
2. Recommendation that the student receive a specific grade, including a failing grade, in an assignment or a course, provided, however, that the Honor Council's recommendation is not binding on the faculty.
3. Task/service participation.
4. Restitution.
5. Loss of privileges.
6. Probation with or without specific conditions.
7. Probation with or without specific conditions and with loss of privileges.
8. Other reasonably constructed sanctions.

\* See Section VI, Sanctions, of the Administration of Student Life Policies section of the Student Handbook for definitions.

All sanctions imposed by the hearing panel must be accompanied by a written finding that explains why the panel determined such a sanction to be appropriate.

## **SECTION 7: POST-VERDICT REVIEW AND APPEAL**

Upon receipt of an Honor Council's written finding of guilt, the Dean of Students, in consultation with the Dean of the school with jurisdiction, shall immediately conduct a post-verdict review of the case, including a review of the recording of the hearing and all documentary and tangible evidence. If the Dean of Students concludes that the verdict and/or sanction was based in whole or in part on the accused's race, gender, age, sexual orientation, handicap, religion, or national origin, or that a material procedural error occurred that may have significantly prejudiced the accused, the verdict may be set aside. If the verdict is set aside because in the Dean's opinion it was based on discriminatory factors or set aside for procedural error, the accused may be re-tried for the offense. If the verdict is sustained, the Dean of Students shall also review the sanction imposed by the Honor Council. The Dean of Students may reduce or modify the sanction upon finding that the sanction imposed is not authorized by the Honor Code. No modification or reduction of sanction shall be made without the written consent of the accused. The Dean of Students shall complete this review within two full working days of receipt of the Honor Panel's written verdict, unless granted an extension for good cause by the Vice President for Student Affairs.

Within five working days of receipt of the written decision of the Dean of Students confirming the verdict and sanction of an Honor Council, the accused may appeal the verdict and or the sanction, including a sanction modified by the Dean of the Students with the consent of the accused, to the Appeals Committee by filing a written notice of appeal and with the Vice President for Student Affairs. The written notice of appeal shall specify the grounds for appeal and shall be limited to the following:

1. The verdict and/or sanction was based in whole or in part on the accused's race, gender, age, sexual orientation, religion, handicap, or national origin;
2. Material procedural error occurred, which significantly prejudiced the accused;
3. The verdict is not supported beyond a reasonable doubt;
4. The sanction imposed is unauthorized or is unduly harsh, given the circumstances of the offense and/or the circumstances of the accused;
5. New or exculpatory evidence has been discovered which is not merely corroborative, and which could not have been discovered by the accused in the exercise of due diligence, and which, at another hearing on the matter, would likely produce a different result.

Upon receipt of the notice of appeal, the Vice President for Student Affairs shall appoint from the membership of the Appeals Committee a four person appeals panel, composed of one administrator, one faculty member, and two students from the academic unit of the Honor Council which heard the case, who shall not be a member of that academic unit's Honor Council. Should temporary Appeals Committee members be required, the Vice President for Student Affairs is empowered to make the necessary appointment(s). The appeals panel shall review the appeal and any and all records of the case which it deems advisable, and, within one work week from the time appeal was filed, report its decision to the appellant unless the Vice President for Student Affairs, for good cause, decides to extend the time period. Ordinarily this period will not extend beyond two work weeks (beyond two weeks).

The appeals panel may determine either: (1) the appeal is without merit; or (2) the verdict and/or the sanction should be reviewed. If the panel decides that the appeal is without merit, the decision of the Honor Council, as affirmed or modified by the Dean of Students, is final. If the panel decides that the verdict and/or sanction should be reviewed, the Office of the Provost

shall review the record of the case, including the recording of the proceedings and all documentary and tangible evidence, and shall, within one work week, render a final decision. If the Office of the Provost concludes that the verdict has not been established beyond a reasonable doubt, that verdict shall be set aside and no further proceedings may occur. If the Office of the Provost concludes that the verdict or sanction was based in whole or in part on the accused's race, gender, age, sexual orientation, religion, handicap or national origin, or that material procedural error occurred which significantly prejudiced the accused, or that new material, exculpatory evidence has been discovered which, at another hearing, might produce a different result, the Office of the Provost may order the Honor Council to conduct a new hearing with a different council membership. If the Office of the Provost concludes that the sanction imposed is not authorized or is not supported by the circumstances of the case and/or the circumstances of the accused, the Provost may lessen the sanction as appropriate. The action of the Office of the Provost on appeal is final and no further proceedings or appeal shall occur.

### **SECTION 8: AMENDMENTS**

Amendments to this Honor Code may be proposed to the Council of Chairs by any William and Mary student. Such amendments shall become effective when approved by all schools, and approved by the President of the College. The manner by which each school approves amendments shall be determined by their respective student governing bodies.

### **SECTION 9: PUBLIC NOTICE**

At the beginning of each semester, the Chief Justices of the respective Honor Councils shall compile a brief summary of the cases, charges, verdicts and sanctions for all Honor Code hearings conducted the previous semester. The compilations shall be sent to the editors of the Flat Hat, the William and Mary News, and other campus publications selected by the Council of Chairs, together with a request that the compilations be printed or broadcast in a conspicuous yet tasteful manner. The compilations shall contain no names or other identifying student information.