

POLICY TITLE: <i>Policy of The Honor Council</i>	APPROVAL DATE: <i>January 9, 2020 (by COM Council)</i>
RESPONSIBLE DEPARTMENT: <i>Office of the Senior Associate Dean for Educational Affairs and Office of Student Affairs</i>	APPLIES TO: <i>All Students</i>

## GENERAL PROFESSIONAL STANDARDS: POLICY OF THE HONOR COUNCIL

### I. THE HONOR COUNCIL

The Student Code of Conduct (“SCOC”) of the University of Cincinnati (“University”) identifies those behaviors considered unacceptable and not permitted for all University students, including students of the University of Cincinnati’s College of Medicine (“COM”). Students in the COM are expected to abide by both the SCOC and the COM’s Medical Student Honor Code. Accordingly, COM students must maintain an exceptional level of professionalism in keeping with the unique nature of the practice of medicine and the exigencies of the clinical setting. The Honor Council will serve as the COM’s primary committee for review of misconduct by medical students.<sup>1</sup> It will promote overall high standards of professional behavior by medical students. The Dean of the COM, or designee, reserves the right to transfer misconduct matters to the University’s Office of Student Conduct and Community Standards when appropriate.

The SCOC may be found online: [http://www.uc.edu/conduct/Code\\_of\\_Conduct.html](http://www.uc.edu/conduct/Code_of_Conduct.html). The Medical Student Honor Code may be found online in the COM’s Medical Student Handbook. All time limits/deadlines in this Policy refer to University business days. All written notices to students are sent via email to their UC student email address.

#### A. JURISDICTION AND RESPONSIBILITIES

The responsibilities of the Honor Council are as follows:

1. Engage with COM administration, faculty, and student leadership to promote activities that heighten the awareness and commitment to ethical behavior by medical students.
2. Consult with COM medical students, faculty, committees, and administrative staff to clarify ethical issues, as well as the professional behavior and conduct expectations of medical students.
3. Conduct periodic review of this Policy and recommend changes to COM leadership for approval.
4. Require first-year medical students to sign an electronic acknowledgment of receipt and understanding of the Medical School Honor Code and the SCOC.
5. Host an educational session for medical students at least once a year.

<sup>1</sup> Some misconduct, including some professionalism concerns, may be addressed by other reviewing bodies within the University and the COM (e.g., Performance and Advancement Assessment Committee, Grade Appeal Committee, etc.) and, therefore, be governed by other policies and procedures found in the University of Cincinnati’s College of Medicine Student Handbook and/or other University policies and procedures, including but not limited to the SCOC.

6. Receive reports of alleged medical student misconduct from the co-chairs of the Honor Council and the Associate Dean for Student Affairs (“ADSA”).
7. Meet as necessary to investigate reports of alleged medical student misconduct.
8. Hear and recommend sanction(s), if any, in cases of alleged medical student misconduct brought before it. If the Honor Council determines, during its investigation and/or deliberations, that the alleged misconduct may be criminal in nature or a Title IX violation, it will refer the case to the ADSA who is to contact the appropriate University offices or outside authorities.

## B. STRUCTURE OF THE HONOR COUNCIL

The Honor Council will consist of the following members as set forth below. The Honor Council will be co-chaired by a faculty member and a senior medical student. All Honor Council appointments are subject to approval by the Dean of the COM. Overall responsibility for the ongoing functioning of the Honor Council is with the co-chairs.

### 1. Students

A total of eight (8) medical students, two (2) from each academic year, shall serve on the Honor Council. One (1) student from each class will be appointed as the class representative to the Honor Council, and the other as an alternate representative. The class representatives will have voting rights, while alternate representatives will vote only in the event that a class representative is not available. When a class representative is not available, the alternate for their academic year will serve as a voting member in their absence. In the event that both representatives from a specific class are not available, the most senior alternate representative from another class who is available will serve as a voting member. If none of the alternate representatives are available, the Senior Associate Dean for Educational Affairs (“SADEA”) will appoint a temporary student representative to serve as a voting member for the duration of the specific matter.

One (1) class representative is selected annually from among the voting M3 and M4 representatives by majority vote of the Honor Council to serve as the student co-chair. The student co-chair is a voting member during Honor Council hearings.

Four (4) student members will be required for quorum at all Honor Council proceedings.

Student representatives will be appointed by their Medical Student Association (“MSA”) class officers. Students may nominate themselves, nominate each other, or be nominated by their class officers. All nominations should be directed to the ADSA. If a nominee is not in good academic or professional standing, as defined by the Performance Standards and Procedures for Performance and Advancement Committees, the ADSA will remove the student’s name from the list of eligible candidates. Once the ADSA has compiled the list of eligible student candidates, the ADSA will provide the list to the class officers.

The class officers will conduct interviews of all candidates from the list and make the appointments for the Honor Council class and alternate representatives as outlined above. The M1 representatives will be appointed before January 31. Appointees will serve for four (4) academic years on the Honor Council, provided that they remain in good academic and professional standing. Failure to remain in good academic and professional standing will result in removal from the Honor Council by the ADSA. A student representative may also be removed from the Honor Council by the ADSA for failure to abide by the terms of this Policy. In the event that a class representative is unable to continue their duties, their alternate will become the class representative. The current MSA class officers will convene to select a new alternate representative who will be reviewed and confirmed by the ADSA.

## 2. Faculty

Recommendations for voting and alternate faculty representatives will be solicited from the faculty. Faculty representatives to the Honor Council are appointed by the SADEA. Eight (8) full-time faculty members, along with one (1) faculty co-chair, will serve on the Honor Council. The SADEA will appoint four (4) of the eight (8) faculty members to serve as representatives with voting rights. The SADEA will appoint each of the other four (4) faculty members to serve as an alternate representative for one (1) of the voting faculty representatives. There should always be at least one (1) basic scientist serving as a voting faculty representative. Alternate representatives will vote only in the event that their voting faculty representative is not available. In the event that both the voting and their alternate faculty representative are not available, the SADEA will select one of the other alternate representatives to serve as a voting member. If none of the alternate representatives are available, the SADEA will appoint a temporary faculty representative to serve as a voting member for the duration of the specific matter.

Four (4) faculty members will be required for quorum at all Honor Council proceedings. The faculty co-chair does not vote, except in the case of a tie. Faculty members will be appointed for a three (3) year term with the option for reappointment. New faculty representatives will be appointed as needed by the SADEA. An Honor Council faculty representative may be removed for misconduct and/or failure to abide by the terms of this Policy, in the sole discretion of the SADEA.

## 3. Recusal

An Honor Council member shall recuse themselves from an Honor Council hearing when involvement or interest in the individual(s) or subject matter under review might reasonably pose questions regarding their impartiality. Conflicts of interest occur when an Honor Council member is unable to make an objective determination based on the information obtained and presented at an Honor Council hearing due to direct or indirect personal, professional, educational, or financial interest. With regard to faculty members, some examples of a conflict of interest that would necessitate recusal include, but are not limited to: having administered a failing grade to the accused student in the past, serving as the faculty member for the class/course/rotation in which the accused student took action that resulted in the misconduct report, or being the supervisor in a lab, research project, etc. in which the accused student took action that resulted in the misconduct report. With regard to students, some examples of a conflict of interest that would necessitate recusal include, but are not limited to: the accused student is a friend, roommate, relative, significant other, or someone with whom the student has had a past conflict.

Any Honor Council member who believes they have a conflict of interest must inform the faculty co-chair in writing of their recusal as soon as the conflict of interest becomes known or evident. If a Honor Council member is unsure if a conflict of interest exists, they must provide all relevant information to the faculty co-chair who will make a determination regarding the existence of a conflict of interest and, subsequently, the need for recusal, if any.

If an Honor Council member recuses themselves, an alternate representative will be chosen according to the process described in Section I(B)(1) for student representatives, or Section I(B)(2) for faculty representatives.

## 4. Executive Secretary

The assistant to the ADSA will serve as the Honor Council's Executive Secretary (ex-officio), who will assist the co-chairs of the Honor Council as needed. The Executive Secretary does not have voting rights on the Honor Council.

## C. ACTIONS OF THE HONOR COUNCIL

Members of the Honor Council will not discuss or share the deliberations and actions of the Honor Council, except as

required by applicable University policies and the law. Any breach of this requirement may subject the Honor Council member(s) to disciplinary action and/or removal from the Honor Council.

1. When the Honor Council votes on sanction recommendation(s) after a hearing, the following specifications apply:
  - a. A quorum of eight (8) voting members must be present, four (4) of whom must be student members, and four (4) of whom must be faculty members. Among the student members, at least one (1) must be an M3 or M4 student. The faculty co-chair must also be present. If the faculty co-chair is not available, the SADEA may appoint a temporary faculty co-chair to serve for the duration of the specific matter.
  - b. A simple majority vote is sufficient for any sanction recommendation other than dismissal. In the event of a tie vote, the faculty co-chair will vote.
  - c. A two-thirds majority vote is required for a recommendation of dismissal.
2. The Honor Council may recommend to the Dean for consideration any of the following sanctions:
  - a. Professional or educational counseling;
  - b. Placed on a "Professionalism Warning," to be monitored by the student's PAC;
  - c. Written reprimand;
  - d. Statement in the MSPE;
  - e. Change of grade; or
  - f. Dismissal from the College of Medicine.

If the Honor Council recommends a written reprimand or a change of grade, a statement in the student's MSPE should also be recommended, unless the Honor Council specifically states that it does not recommend a statement in the student's MSPE *and* provides an explanation for its exclusion. The draft language of the MSPE statement should be included in the Honor Council's report. As with all other sanction recommendations in this policy, the Dean will make the final determination regarding whether a statement will be made in the MSPE.

## **II. THE MANAGEMENT OF STUDENT MISCONDUCT**

### **A. CATEGORIES OF MISCONDUCT**

1. Non-Academic Misconduct
  - a. Criminal Misconduct

These offenses are defined by the SCOC. Examples include, but are not limited to: theft, destruction of property, trespassing, disturbing the peace, etc. Instances of student misconduct resulting in alleged criminal conduct or investigation must be reported to the ADSA. It is the responsibility of the student to self-report all criminal investigations, arrests, convictions, and guilty pleas for any offense other than minor traffic violations, to the ADSA as soon as possible after the occurrence and no later than seven (7) days after the occurrence. The reporting requirement includes DUI, DWI, OR OMVI (driving under the influence) offenses, any instance where the student is called into court as a criminal defendant, or any instance where the student is named a defendant in a criminal lawsuit.

b. other Non-Academic Misconduct

Other non-academic misconduct includes unprofessional behavior that occurs at any time or place that is in conflict with the behaviors outlined in the Medical Student Honor Code and/or any other non-academic misconduct as provided for in the SCOC. Examples include, but are not limited to: inappropriate professional behavior, substance abuse, misuse of resources, breaches of patient confidentiality, failure to divulge or misrepresentation of information as requested on medical school applications, financial aid, and other required forms or communications, etc.

2. Academic Misconduct

Academic misconduct includes, but is not limited to, acts of cheating, plagiarism, falsification, and forgery as defined by the SCOC. These acts originate within a required or elective course and its related activities, or within activities undertaken to meet the administrative or curricular requirements for matriculation and potential licensure.

All reports of misconduct should be directed to the ADSA, who will share with the Honor Council co-chairs as appropriate.

B. REPORTING AN INCIDENT

1. Decision to Report

The observer of alleged medical student misconduct may want to clarify their perceptions personally through discussion with the medical student involved. If satisfied that no further action is warranted, no report need be filed. However, if for any reason the observer decides not to proceed with personal contact, or if the matter remains unresolved after discussion, a written report may be filed in any one of three routes described below.

University employees are required to abide by all other reporting requirements set forth by applicable law and/or University policy.

2. Reporting Procedures

Any of the following three routes may be used to file a written report of medical student misconduct:

- a. An observer of medical student misconduct may file a report directly with any member of the Honor Council, including the co-chairs, who will then forward this report to the ADSA.
- b. An observer of medical student misconduct may make a report to a faculty member. When the report is made, the faculty member alone, or through an appropriate departmental representative (course director, department chair, departmental committee), must forward the report to the ADSA.
- c. An observer of medical student misconduct may make a report to the ADSA.

When making a report of medical student misconduct, some information is required in order to thoroughly assess the report. Therefore, a report of medical student misconduct should include at least the following:

- a. Date of the report
- b. Name(s) of individual(s) involved
- c. Location/activity/setting of incident

- d. Date and time of incident
- e. Description of incident
- f. Name(s) of witness(es)
- g. Name(s) and phone number(s) of person(s) submitting report. Anonymous reports are permitted, but may limit the Honor Council's ability to investigate the matter.

In the event an initial report of medical student misconduct does not contain sufficient information to proceed with an investigation, the ADSA or the Honor Council co-chairs may contact the individual who submitted the report to gain the necessary information.

### C. PROCEDURES UPON RECEIPT OF A REPORT OF MISCONDUCT

#### 1. Interim Measures for Non-Academic Misconduct, Including Criminal Misconduct

When the COM receives a report that a medical student has been accused of or implicated in non-academic misconduct, including criminal misconduct, the Dean or designee may impose interim measures (e.g., removal from coursework, mandatory leave of absence pending further investigation, etc.) to protect the rights and ensure the safety of students, staff, faculty, patients, and the University community.

#### 2. Reports of Misconduct

Upon receipt of a report of medical student misconduct, the Honor Council co-chairs, in consultation with the ADSA, will determine a course of action, including but not limited to proceeding to an Honor Council hearing, not proceeding to an Honor Council hearing, or referring the report to another appropriate group (i.e., PAC, Title IX, etc.). If the Honor Council co-chairs disagree about the appropriate course of action, the SADEA will make the final determination. The co-chairs and ADSA may decide to meet with the accused student to discuss the issue and gain more information.

#### 3. Decision to Proceed or Not Proceed with Hearing

If the Honor Council co-chairs decide to proceed with an Honor Council hearing, then the accused student(s) named in the report will be notified. The individual who submitted the report may be notified of the decision regarding whether a hearing is or is not convened.

#### 4. Preparation for Hearing

Prior to the hearing, the Honor Council co-chairs will carry out the following as appropriate:

- a. Notify the accused student and the charging party that a hearing will be held. The ADSA will inform the SADEA. The co-chairs will set a date for the Honor Council to hear the case. The date should usually be within sixty (60) days of receipt of the report.
- b. Inform the accused student of the names of the Honor Council hearing members. If the accused student believes any Honor Council member may be biased, the accused student may object in writing, detailing the basis of the objection, to the faculty co-chair within two (2) days after receiving the names of the Honor Council members. The student or faculty member at issue may not object to the accused student's request. If the faculty co-chair determines that an Honor Council member may be biased based on the accused student's request, the student or faculty member at issue must recuse themselves. If the faculty co-chair determines that the accused student's request is not substantiated, the Honor Council member will not be required to recuse themselves. If an Honor

Council member does recuse themselves, an alternate member will be chosen according to the process described in Section I(B)(1) for student representatives, or Section I(B)(2) for faculty representatives.

- c. Determine investigation teams, if necessary, to request additional information, documentation, and investigation. Written and/or oral reports may also be requested. Departments, the Dean's Office, or any individuals with information pertinent to the case may be asked to report on the matter or to serve as witnesses.
- d. Identify and arrange for witnesses to appear at the hearing.
- e. Receive and add to the agenda the names of witnesses and documents that either party wishes to present at the hearing.
- f. Explain the nature of a closed hearing to the hearing participants. All hearings will be closed, meaning they may only be attended by the Honor Council and its advisor, the party bringing the charges and their advisor, and the accused student and their advisor. Witnesses will be present at a closed hearing only during the times of their own participation. They may also be asked to return to the hearing if further questioning is required. Should an accused student not wish to appear before the Honor Council, their hearing will still proceed without them.
- g. Prepare and distribute the hearing agenda and materials to the Honor Council members, the charging party, and the accused student.

Above all, the co-chairs are to conduct the hearing to ensure that the proceedings are fair and impartial, that relevant information is presented, and that thorough study is given to all recommendations.

#### D. HEARING PROCEDURE

The Honor Council may proceed through the disciplinary process outlined below regardless of any action by other authorities (e.g., police) under the laws of any jurisdiction. If an accused student withdraws from the University and/or the COM during a disciplinary proceeding and is later readmitted to the University and/or the COM, the disciplinary procedure may be reopened.

1. The purposes of the Honor Council hearing are:
  - a. To determine if the accused student committed the alleged misconduct, to establish its degree of severity, and explore extenuating circumstances; and
  - b. To determine what response is appropriate and to make well-reasoned sanction recommendation(s), if any, to the Dean.
2. The general procedure of a Honor Council hearing is as follows:
  - a. The hearing, except for the Honor Council deliberations, will be recorded by a court reporter. The final transcript of the hearing, along with other evidence from the hearing, will be kept by the COM's Office of Student Affairs in accordance with the University's records retention policies. All present in any capacity during the hearing will be informed of its confidential nature.
  - b. The role of the faculty co-chair is to conduct the hearing according to this Policy and vote in the event of a tie.
  - c. All participating, voting members of the Honor Council and the faculty co-chair must be present for the entirety

of the hearing.

- d. The Honor Council members and their advisor, the charging party and their advisor, and the accused student and their advisor may be present throughout the entire hearing.
- e. The Honor Council members (excluding the Executive Secretary) may question anyone appearing before the Honor Council. An advisor may not address the Honor Council or question any of the witnesses, but may confer with their respective party.
- f. Each witness will be present only during their testimony and/or period of questioning.
- g. The charging party, as well as their witnesses, will be heard first.
- h. The accused student, as well as their witnesses, will be heard second.
- i. The charging party and the accused student will have the opportunity to summarize their positions prior to the close of the hearing. Each closing statement shall not exceed ten (10) minutes.
- j. Deliberations will follow and are closed to all but Honor Council voting members, the faculty co-chair, and the Honor Council's advisor. Deliberations will not be recorded.
- k. The Honor Council's decision will be based upon consideration of the weight of the evidence.
- l. Any record of the accused student's past misconduct will be available for the Honor Council to consider in recommending the sanction(s), if any. If the ADSA is aware of prior misconduct, they will share this information with the Honor Council.
- m. The Honor Council co-chairs will prepare a written report in a timely manner following the hearing and will provide it to the ADSA. The report should contain the Honor Council's decision regarding whether the accused student committed misconduct, the justifications for its determination, copies of all written materials provided at the Honor Council's hearing, and the specific sanction recommendation(s), if any.

#### **E. HONOR COUNCIL RECOMMENDATION AND NOTICE OF RIGHT TO APPEAL**

The ADSA will then inform the accused student of the Honor Council's report and recommendation(s) and their right to appeal. The accused student may choose not to appeal. If the accused student does not appeal, the ADSA will forward the Honor Council's report and recommendation(s) to the Dean. The Dean will review the Honor Council's report and recommendation(s) and will make a final determination regarding the accused student's alleged misconduct and sanction(s), if any. The Dean's final determination and imposition of sanction(s), if any, may differ from that of the Honor Council. The Dean will communicate this decision in writing to the accused student without unnecessary delay. The accused student will have no further rights of appeal.

If the accused student appeals, the ADSA will forward the Honor Council's report and recommendation(s) to the SADEA who will notify the Judiciary Appeal Board ("JAB"). The SADEA will also provide a copy of the Honor Council's report and recommendation(s) to the Dean for informational purposes.

### **III. APPEAL PROCESS**

#### **A. NOTICE AND APPEAL SUBMITTAL**



To appeal, the accused student must submit their request for appeal and all supporting documentation in writing to the SADEA within ten (10) days of receiving the Honor Council's report and recommendation(s). The accused student's supporting appeal documentation must specify the grounds for appeal (see below). If the accused student does not timely submit their appeal documentation and specify the grounds for appeal therein, the Honor Council's report and recommendation(s) will be sent to the Dean for final determination.

Grounds for appeal:

- Discovery of new information not available at the time of the Honor Council hearing - the accused student believes there is new, clear and convincing evidence that would affect the decision rendered.
- Procedural error - the accused student believes a substantial error was made in the Honor Council procedures as outlined in this document, which resulted in a fundamental change in the outcome.
- Harshness of sanction - the accused student believes the recommended sanction(s) are not commensurate with the violation.

#### B. STRUCTURE OF THE JUDICIARY APPEAL BOARD (JAB)

The JAB shall consist of three (3) faculty members and two (2) senior (M3 or M4) medical students appointed by the SADEA. One (1) of the three (3) faculty members will be designated as chair. None of the JAB members may be Honor Council or PAC members. All JAB members have one vote, including the designated chair. All JAB decisions are made by majority vote.

The SADEA shall inform the accused student of the JAB appointments. The accused student may object in writing within two (2) days to the appointment of any JAB member who the accused student believes may be biased. The SADEA will review the accused student's request and make a determination as to whether the objection is valid and a replacement is warranted.

#### C. APPEAL

The SADEA will provide the JAB with the Honor Council's report and recommendation(s) and the appeal documentation provided by the accused student. In most cases, the JAB's review will be limited to those records. The JAB will meet within a reasonable time period, generally within thirty (30) days, after the SADEA receives the accused student's appeal documentation. During its meeting, the JAB will review the appeal record and make a determination regarding the Honor Council's report and recommendation(s). The JAB may make new recommendations that differ from those made by the Honor Council. Following the JAB's meeting, the chair of the JAB will prepare a written report that states the reason(s) for the JAB's finding(s) and that recommends appropriate action when the JAB's recommendation differs from that of the Honor Council. The JAB may only make the sanction recommendation(s) set forth in Section I(C)(2). The JAB's report and recommendation(s) should be provided to the Dean of the COM, with a copy to the SADEA and the accused student, in a timely manner following the JAB's meeting.

#### D. ACTION BY THE DEAN

The Dean will review the Honor Council's report and recommendation(s) and the JAB's report and recommendation(s), and will make a final determination regarding the accused student's alleged misconduct and sanction(s), if any. The Dean's final determination and imposition of sanction(s), if any, may differ from that of the recommendation(s) of the Honor Council and/or the JAB. The Dean will communicate this decision in writing to the accused student without unnecessary delay. The accused student will have no further right of appeal.