

Chapter 6 – Student Affairs

6.1 Rules of Discipline

6.1.01 General Expectations

Capital University and the Law School expect of its students loyal cooperation in the development and maintenance of the high standards of ethics and conduct, as well as those of scholarship.

6.1.02 Ethical Obligations

Ethical obligations of law students begin when the application for admissions is submitted. Students are asked several questions that may be relevant to ethical character, including:

Have you ever been apprehended, arrested, cited, or given a ticket for, charged with, or convicted of any crime or offense, including civil or criminal contempt? Answer this question irrespective of whether the incident was a felony or misdemeanor. You need not disclose minor traffic offenses that were not connected with the use, abuse or possession of alcohol, drugs, or other chemicals, or incidents that, in fact, have been officially expunged. Have you ever been court-martialed or charged with fraud? If you answered yes, please provide a written explanation even if the arrest, charge, apprehension, citation, ticket, or conviction was later dismissed, withdrawn, reduced, dropped, or diverted. You need not disclose incidents that occurred prior to the age of 18.

Have you ever been suspended, expelled, discharged, or asked to resign from any school, employment, professional organization, or public office?

Have you ever been in bankruptcy, had a license denied, suspended, or revoked, had a bond canceled, or been declared incompetent by any court?

Applicants for admission are required to answer these questions truthfully and fully. Applicants and law students have a continuing duty to inform the law school of any and all changes to the answers to these questions. The failure of a student to make such a disclosure may result in revocation of admission or disciplinary action by the Law School, or denial of permission to practice law by the state in which the student may seek admission.

6.1.03 Administrative Withdrawal

Because of the ethical obligations imposed on students, the Law School reserves the power to compel the withdrawal of any student whose conduct at any time is not deemed to be satisfactory. Entrance by the student is deemed to be acknowledgment of this power.

6.1.04 Expectation to Know and Follow the Honor Code

These expectations are implemented in part by the Honor Code of Capital University Law School.

All students are expected to know the Honor Code and are bound by it.

6.1.05 Rules of Professional Conduct

However, the Honor Code does not exhaust the Law School's expectations and requirements as to ethical conduct of its students. Students are expected to know the Rules of Professional Conduct, and infringement of these Rules may subject students to administrative discipline apart from Honor Code proceedings.

6.2 Capital University Law School Academic Honor Code

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This Honor Code should be read in its entirety and its provisions taken seriously. Penalties for violation of the Honor Code can be severe, up to and including expulsion. Students are advised to pay particular attention to Section 6.2.4, Students' Rights and Responsibilities, including the right to retain counsel.

6.2.01 Preamble

We, the faculty and students of Capital University Law School, in recognition of our obligations as members of a profession that is responsible for the administration of justice in our society, affirm our belief in the following precepts:

It is essential to the welfare of the legal profession and people whom it serves that the integrity of all of its members be beyond reproach at all times;

There is, beyond purely professional considerations, an overriding moral obligation to conduct the learning process in an ethical fashion;

The success or failure of an Honor Code is dependent on the willingness of those governed by it to enforce it. If the Honor Code is to be effective, each student must make a personal commitment to comply individually with its provisions and must accept the responsibility of assuring compliance by other students. A student's sense of justice and integrity should obligate him or her to report violations of the Honor Code in order to preserve the academic integrity of the Law School.

Relying upon the above precepts, we hereby adopt the following rules and procedures as the Academic Honor Code of Capital University Law School.

6.2.02 Jurisdiction

6.2.2.01 - The Honor Code

The Code shall serve as the basis for determining whether a Code violation has occurred and shall govern alleged violations of the Code. The Code applies to all any act engaged in as a student at Capital University Law School, all graduate programs, and those students enrolled in the Certified Legal Assistant Program. The code has a five year limitation period that begins to run from the date of a student's graduation.

6.2.2.02 - Withdrawal/ Dismissal

The withdrawal of a student from the Law School, or the dismissal of the student for reasons of academic deficiency for other reasons, does not prevent Honor Code proceedings from continuing.

6.2.2.03 - Scope

This Honor Code does not limit the power of the University, the Law School, the Faculty, or the Dean or Dean's delegate to take action that any of them has the power or the duty to take. Specifically this includes but is not limited to:

1. the decision regarding the certification of good moral character of a candidate for the Bar;
2. sanctions imposed on students who are determined to have violated the University or Law School rules, regulations, and policies.

6.2.03 The Honor Committee

6.2.3.01. The Honor Committee is composed of three (3) full-time faculty members chosen by the Law School Faculty or by the Dean or Dean's delegate; the Day Vice-President of the Student Bar Association (hereinafter SBA); the Night Vice-President of the SBA; and two (2) other students selected by the SBA.

6.2.3.02 If a member of the Committee is unable to serve, the faculty replacements may be selected by the Dean or Dean's Delegate, and student replacements may be selected by the SBA.

6.2.3.03 One of the three faculty members, chosen by the Dean or Dean's Delegate, shall serve as the faculty co-chairperson of the Honor Committee. The SBA Day Vice-President shall serve as the student co-chairperson of the Honor Committee. The faculty member shall preside over the hearings. The SBA Day Vice-President shall preside at all other times.

6.2.3.04 The Honor Committee shall designate two members (one faculty member and one student member) as investigators. Neither of the co-chairpersons shall be designated as investigators.

6.2.04 Students - Rights and Responsibilities

6.2.4.01 Student Right to a Statement of the Charges

An accused student has the right to a clear, concise statement in writing of the charges.

6.2.4.02 Student Right to Counsel

An accused student has the right to be represented by counsel or a representative of the student's choice retained by the student at the student's expense. The accused student may be accompanied by an attorney or other representative at the hearing. (The attorney or other representative must not be employed by Capital University.) The attorney or other representative may participate at the hearing subject to the rulings of the panel chair.

6.2.4.03 Student Rights and Responsibilities in the Event of a Hearing.

In the event of a hearing before the committee, an accused student has the right to:

- A. Adequate notice to prepare any defense for the Honor Committee hearing the student wishes to offer;
- B. A personal appearance before the Honor Committee;
- C. Present oral, documentary, or other evidence in the student's behalf;
- D. Make an opening and closing statement to the committee;
- E. Examine and cross examine witnesses;
- F. Seek the assistance of the committee in requesting the presence of witnesses and the production of documents or other evidence;
- G. Make sworn or affirmed statements before the committee;
- H. A presumption of the student's innocence until a majority of the committee is convinced by clear and convincing evidence that the student engaged in the misconduct charged in violation of this code; and
- I. A copy of the committee's decision in writing, timely upon rendition.

6.2.4.04 The student may waive any right conferred by giving notice of such waiver in writing to the committee. The student will waive the rights in 6.2.4.03 if the student fails to appear at the hearing without good cause after being duly served.

6.2.05 Violations

6.2.5.01 Cheating on Exams

- A. No student shall give or receive aid during any examination.
- B. No student shall attempt to give or receive aid during any examination.
- C. Definition:
 - 1. "Aid" means information from any source or help of any nature not specifically permitted by the instructor.
 - 2. "Give or receive" means voluntary transmission or receipt of aid in any manner, and includes (but is not limited to) receipt or aid from persons, notes, books, or objects.

6.2.5.02 Improper Cooperation on Outside Work

- D. No student shall cooperate with another student, or solicit cooperation from or offer cooperation to another student, in the preparation of outside work assigned to both, unless cooperation on that specific assignment has been expressly permitted by the instructor.
- E. No student assigned outside work shall solicit or receive cooperation or assistance in the preparation from persons, sources, or objects (including but not limited to computers), where such cooperation or assistance on the specific assignment has been expressly forbidden by the instructor.
- F. Definitions and Explanations:
 - 1. "Preparation of outside work," as used in this section means work involved in or leading to either:
 - a. The production of any written material required to be produced by the student outside of class, as part of a course, and which is to be submitted to and graded by the instructor; or
 - b. Preparation for any moot court, mock trial, or oral presentation, which is to be conducted as an assigned and graded portion of a course.
 - 2. Preparation includes, but is not limited to the discussion, analysis, or identification of legal issues, format, concepts, sources, and theories pertaining to outside work assigned.
 - 3. "Assigned to both" means that both are required to simultaneously work on the same or opposite sides of the same case or question, or on the same or opposite sides of different but highly similar cases or questions.

G. This section does not apply to:

1. Preparation of ordinary assignments, no matter what research they may require. An assignment is "ordinary" within the meaning of this subsection if it involves neither preparation of a special written project nor preparation for a moot court or mock trial.
2. Such exchange or information as may occur through the observation of the titles of books being read by a student.
3. Such cooperation or attempted cooperation as may occur by the giving, receiving, or soliciting of information as to the location of particular books, sets of books, or types of books.

6.2.5.03 Plagiarism

H. No student shall submit any of the following for credit:

1. work in which a significant portion was prepared by another person,
 2. work copied, in whole or in part, whether word for word or in substance, from the work of another person without clearly identifying it as the work of another with appropriate quotation marks and footnotes or with an appropriate written explanation and attribution.
- I. A student may not offer for credit any work the student has previously or contemporaneously prepared for compensation, offered for credit, or prepared for any other purpose unless the student secures the instructor's written permission in advance of submission.

6.2.5.04 Fraudulent or Deceitful Conduct

No student shall engage in an act, practice or course of conduct, which acts as a fraud or deceit or attempted fraud or deceit on the Law School or any of its faculty members or students.

6.2.5.05 Misappropriation or Destruction of Property

- J. No student shall misappropriate or destroy, or attempt to misappropriate or destroy, the property of the school, the property of another student, or the property of a faculty or staff member.
- K. "Misappropriate" includes the intentional and unauthorized use, taking, keeping, or concealing of property for any period of time. This offense does not include unintentional failure to return properly checked out library materials within the authorized time period.

6.2.5.06 Improper Knowledge of Contents of Examination

- L. No student shall voluntarily acquire any knowledge of the content of a forthcoming examination without authorization from the instructor.
- M. No student who has voluntarily or involuntarily acquired knowledge of the contents of any forthcoming examination without authorization from the instructor shall fail to report this fact to the instructor immediately.
- N. No student who has taken an examination, and who knows that one or more other students are to take the same examination at a later time, shall disclose the contents of said examination, until after all students in the course have taken the examination.

6.2.5.07 Non-Disclosure

No student shall fail to report any violation of the Honor Code, which he or she knows or reasonably believes has occurred. A report to any member of the Honor Committee shall be sufficient compliance with this subsection. See Section 6.2.6.02. Initial Report.

6.2.5.08 Violation of Secrecy

- O. No student who is a member of the Honor Committee or who makes a report to the Honor Committee under section 6.2.6.02 of the Honor Code, or who is called upon to give information to or testify before the Honor Committee shall divulge any information as to any proceedings of either, except as expressly authorized in the Honor Code. This subsection shall be read at the start of every meeting of the Honor Committee.
- P. The secrecy requirement applies to all stages of the proceedings and continues where there is no finding of guilt. After a final finding of guilt and judgment of penalty, the secrecy requirement shall terminate in all causes.

6.2.5.09 Perjury

- Q. No student shall intentionally give false information in any investigation or hearing under the Honor Code.
- R. No student shall make a report under 6.2.6.02 unless the student reasonably believes a violation of the Honor Code may have occurred.

6.2.5.10 Unauthorized Alterations

No student shall make any changes, without authorization from the instructor, in any writing submitted for a grade after the student has turned in the writing.

6.2.5.11 Noncompliance with Examination Time Limits

No student, without authorization from the instructor or proctor, shall continue to write on an in-class examination after the instructor or proctor has indicated that the time for completion has expired.

6.2.5.12 Request to Provide Information

No student shall fail to respond to a request from the Dean or Dean's delegate or the Honor Committee or its Co-Chairpersons to provide information relevant to Honor Code proceedings.

6.2.06 Procedure in Case of Alleged Violation

6.2.6.01 In General

Honor Code proceedings are neither criminal nor quasi-criminal in nature. The committee is not bound by rules of evidence or procedure except as provided in this Code. The goal of the proceedings is to arrive at the truth through a fair and prompt resolution of reported violations.

6.2.6.02 Initial Report

A student, faculty member, administrator, or other person who has reason to believe that a violation has occurred reports such to any member of the Honor Code Committee. A faculty member or administrator should make his or her report in writing. Students may make an initial report in either of two (2) ways:

1. Submission of a written report to an Honor Committee member. The Honor Committee may provide a form on which the report can be submitted.
2. Give an oral report to a member of the Honor Committee. The Honor Committee member to whom an oral report is made should memorialize the report in writing as soon as possible after the report and request that the reporting student sign the report

6.2.6.03 Initial Review

- B. The Committee investigators shall review the matter and conduct a preliminary investigation. They may consult with the alleged violator, any faculty member or administrator in whose course or activity a violation may have occurred, and any other person who might have relevant information to provide.
- C. After the preliminary inquiry, the investigators conclude whether or not it is likely that a violation occurred. If the investigators do not conclude that it is likely that a violation occurred, the matter is terminated. If the investigators conclude that it is likely that a violation occurred, the committee investigators have two (2) options (option A or option B):
 1. OPTION A: In case of less serious violations (those unlikely to be punishable by expulsion or suspension), they may refer the matter to the Dean or Dean's delegate who then conducts an informal hearing to determine the guilt or innocence of the student(s) accused of the violation(s). In deciding whether to pursue this alternative, the investigators primarily shall consider whether the offense is punishable by expulsion or suspension. Other factors to consider

are:

- a) the need for a quick resolution of the problem;
 - b) the need for quietly resolving a matter;
 - c) the potential for unbiased resolution by the Dean or Dean's delegate;
 - d) the inherent complications of a particular alleged violation;
 - e) the difficulties in any given case of the Dean or Dean's delegate needing inordinate amounts of time to resolve a matter;
 - f) the desires of the alleged violator(s); and
 - g) any prevailing exigent circumstances, which normally are limited to the instances such as the pending graduation of the alleged violator(s) or witness(es) and the pendency of examinations or vacation periods.
2. OPTION B: In the case of more serious violations (possibly punishable by expulsion or suspension), the matter ordinarily shall be referred to the Honor Committee. It then will conduct an informal hearing to determine the guilt or innocence of the student(s) accused of the violations.
- D. In determining which option to pursue, the Committee investigators ordinarily shall consult with the Dean or Dean's delegate.
- E. The investigators promptly shall write a concise summary of the statement of the charges which promptly shall be delivered to the student, along with a copy of the Honor Code.
- F. A student may submit six (6) copies of a statement of positions to the Honor Committee investigators within the time established by the investigators. The statement will become part of the record. The statement of position should include:
1. the student's signed response to the statement of charges;
 2. all tangible and documentary evidence;
 3. names of all witnesses, the substance of their testimony or their substantially verbatim statements;
 4. any other relevant evidence or statements the student wishes the Honor Committee to consider.

6.2.6.04 Hearing

The hearing, conducted pursuant to either Option A or Option B, is to be held as promptly as the circumstances allow. The hearing is more analogous to a fact-finding administrative hearing than to a judicial trial.

5. The Dean or Dean's Delegate or the Honor Committee conducting the hearing may consult with the alleged violator(s), the investigators, the faculty member or administrator in whose class or activity the alleged violation occurred, and any other person who might have relevant information to provide.

6. The decision of the Dean or Dean's delegate or of the Honor Committee conducting the hearing is based on the rules of the Law School and the evidence adduced at the hearing.
7. The Law School Administration must make every reasonable effort to secure the presence at the hearing of any witness whose attendance is desired by the Dean or Dean's delegate or Honor Committee conducting the hearing, or by the accused student.
8. See Section 6.2.4 for a list of student rights and responsibilities.
9. The investigators may not participate in the Honor Committee's deliberations, and they may not vote.
10. A record shall be kept of the hearing.

6.2.6.05 Sanctions

If the Dean or Dean's delegate or a majority of the Honor Committee conducting the hearing determines, by clear and convincing evidence, that a violation has occurred, and that the accused student committed the violation, then the Dean or Dean's delegate or the Honor Committee decides upon the appropriate sanctions to be imposed by the Dean or Dean's delegate.

11. On occasion, the consequences imposed on an accused student may be limited to the context of the course or activity in which the violation occurred.
12. On other occasions, there may be other or additional consequences such as a requirement to make restitution, reprimand, and disciplinary probation for a fixed or indefinite period of time, suspension for a fixed or indefinite period of time, or expulsion.
13. If a student is found to have violated the Honor Code, the Dean or the Honor Committee conducting the hearing may recommend that this fact and the sanction imposed be entered or not be entered on the student's official transcript.

6.2.6.06 Written report of the hearing

- G. After a hearing, the Dean or Dean's delegate or the Honor Committee conducting the hearing writes a report that states the decision, the reasons for the decision, and the sanctions to be imposed, if any. The report, together with any records of the hearing, is given to the Dean or Dean's delegate. The Dean or Dean's delegates decides whether and in what form the decision shall be made public, and whether or not to enter on the student's transcript the fact that the student was found to have violated the Honor Code and the sanction imposed.
- H. The Dean or Dean's delegate shall deliver a copy of the Honor Committee's report to the student.
- I. Sanctions of suspension and expulsion are always entered on the student's transcript; other

sanctions may or may not be so entered. The Dean or Dean's delegate also makes provision for the retention, return, or destruction of records of the hearing.

6.2.6.07 Loss of Privileges

- J. Students who are found to have violated the Honor Code and who have received a sanction of probation, suspension, or expulsion are not permitted to receive financial aid from Capital University, and are not permitted to engage in extracurricular activities during the period of the probation.
- K. Violators who receive a less severe sanction may be prohibited from receiving financial aid from Capital University and may be prohibited from engaging in extracurricular activities for a fixed or indefinite period of time.
- L. Any courses taken at other universities during the period of suspension or expulsion will not be credited toward obtaining a Capital University law degree.

6.2.07 Appeals

6.2.7.01 In General

- A. The Appeals Committee shall be composed of two faculty members and one student member.
- B. The Dean or Dean's delegate annually shall appoint the two faculty members, including a chair. The SBA annually shall appoint the one student members. Preferably, at least one member of the Appeals Committee shall have served on the committee in the preceding year.
- C. The student shall have one appeal as of right from any decision of the Honor committee to the Appeals Committee. The Appeals Committee shall make any decision by a majority vote.

6.2.7.02 Grounds for Appeal

The grounds for appeals are:

- D. The failure to substantially comply with procedural provisions of the Honor Code, thereby resulting in prejudicial error; or
- E. A clearly erroneous interpretation of the code, thereby resulting in prejudicial error; or
- F. A recommended penalty that is too severe in light of the circumstances.
- G. The Honor Committee's findings of fact are clearly erroneous.

6.2.7.03 Procedure for Appeals and New Hearing

- H. The student shall file a timely notice of appeal, and within a short time thereafter shall file a memorandum setting forth all of his or her arguments. The co-chairs of the Honor Committee shall establish reasonable deadlines for the filings of the notice of appeal and memorandum and

notify the student thereof.

- I. The Appeals Committee shall meet as soon as possible to determine whether to grant or deny the appeal. At this meeting, the Appeals Committee shall review the record and report of the Honor Committee hearing and the student's memorandum. The Appeals Committee shall invite the student (and his or her lawyer) and the members of the Honor Committee to appear before the Appeals Committee to give further explanation of their positions and respond to questions of the Appeals Committee members. The Appeals Committee shall determine the procedures to be used at the hearing including, for example, time limitations and the receipt of responsive memoranda.
- J. If the Appeals Committee sustains the appeal, it shall memorialize the reasons for doing so. The Appeals Committee shall then either make a final decision or remand the case to the Honor Committee for further proceedings that are consistent with the decision of the Appeals Committee, which may include a new hearing. Upon remand, the Honor Committee shall meet and comply with the instructions of the Appeals Committee.

6.2.08 Other Post-Hearing Procedures

- 6.2.8.01** After all appeals to the Appeals Committee are final, the Appeals Committee shall transmit all records to the Dean or Dean's delegate. The student may request that the President of the University or the President's delegate review the Appeals Committee decision. The only basis for this review is the failure to substantially comply with the procedural provisions of the Honor Code, resulting in prejudicial error.
- 6.2.8.02** A hearing that results in a finding of a violation can be reviewed by the Dean or Dean's delegate or by the Honor Committee upon the discovery of new evidence that casts doubt on the earlier finding. The new hearing can be conducted under either Option A or Option B.
- 6.2.8.03** A former student who has been expelled or indefinitely suspended after having been found to have violated the Honor Code may apply for readmission as a new student. Such readmission is uncommon, and can be granted only by a majority vote of the law school council. The burden is on the former student to prove that circumstances since the Honor Code violation indicate that the former student is now of good moral character and is highly unlikely to commit another ethical lapse. Because of this burden, several years typically elapse before the faculty entertains a petition for readmission.

6.2.09 Conclusion

This document was the product of collaboration between students and faculty, and was composed in the spirit of cooperation.

6.3 Rules of Professional Conduct

The Rules of Professional Conduct are expressly incorporated by reference into this Manual, as if all of its provisions were specifically set forth herein.

6.4 Employment

American Bar Association educational standards specify that full-time students may not be employed for more than twenty (20) hours each week during the school year. Capital University Law School expects all students to comply with this standard. A student who violates this standard is subject to involuntary withdrawal.

Full-time students are those who are registered for twelve (12) or more credit hours during the semester.

6.5 Recognition and Funding of Student Organizations

6.5.01 Recognition of Student Organizations

- A. Students at Capital University Law School are encouraged to participate in student organizations and activities. Students may form voluntary associations of any type, based upon any community of interest they may share.
- B. Students wishing to use the facilities of the University, including the Law School, must first obtain the official recognition of the Law School Faculty or its delegate. Recognition is sought by requesting it in writing signed by the organizers of the new organization. This request is presented to the Assistant Dean of Student Affairs who will present the request to the Faculty or its delegate.
- C. The official recognition of a student organization does not create any agency relationship between the Law School and the organization, nor does it constitute, on the part of the Law School, the endorsement, approval, or ratification of any actions undertaken by the organization.

6.5.02 Funding of Student Organizations.

- A. Any recognized student organization may request funding. Funding determinations are made in the Fall of each year by the Funding Commission and by the Assistant Dean of Student Affairs. Budget request forms are provided to the leaders of all recognized student organizations.
- B. Budget determinations are made on the basis of available funds, the total requests of all student organizations, and the merits of the programs proposed by each organization.
- C. Expenditures from budgeted funds must be approved by the Assistant Dean of Student Affairs and all Law School procedures relating to the payment of invoices must be followed.
- D. The Law School is not responsible for expenditures or obligations incurred by an organization in violation of this policy or in excess of its budget.

6.6 Guidelines for Student Requests for Accommodations and Exceptions to Academic Procedures Based on Physical or Mental Handicap

Capital University Law School is dedicated to extending all available services, programs and activities to its students including those with disabilities. The Director of Counseling Services works with the Associate Dean of Academic Affairs and the Director of Multicultural Affairs to ensure that the law school is in compliance with the Americans with Disabilities Act and responsive to the needs of persons with disabilities. The purpose of this section is to notify all students of the resources available to those with disabilities and other conditions and the procedures by which those resources may be best utilized.

6.6.01 Actions Student to Take Upon Admission

Upon admission to the law school or when diagnosed; students are encouraged to contact Terry Thompson, Director of Counseling Services at tthompson@law.capital.edu or at 614-236-6562 to discuss accommodations that may be required. In addition, during the registration period for each semester, students are invited to identify themselves as students with disabilities to the Director of Counseling Services for any requests for special assistance or accommodations. Students are advised to consult with the Director of Counseling Services regarding how accommodations may affect their academic program.

6.6.02 Professional Evaluations

If you have a condition that requires reasonable accommodations for you to perform in an academic setting please submit documentation from your Physician, Psychologist, or other licensed professional qualified to evaluate your status to the Director of Counseling Services. Please make sure your evaluator has outlined the exact nature of your condition and shared his/her professional opinion on how to best accommodate you.

It is the student's responsibility to arrange for testing and to incur the cost of evaluations. It is strongly recommended that students with learning disability(ies) submit such Documentation to the Director of Counseling Services at the time of admission to the Law School or shortly thereafter. Any student with a disability(ies) must keep a copy of his /her Documentation for his/her own records.

6.6.03 Learning Disabilities

Learning disability evaluations must include a comprehensive summary of the student's educational, medical, and family history; as well as a report of behavioral, neurological and personality disorders that relate to the learning disability(ies). Evidence of a specific learning disability and actual test scores must be provided. Grade equivalents are not acceptable.

Comprehensive testing must be administered for documentation to be acceptable. At a Minimum, assessment data must be provided in the following areas:

Aptitude:

Acceptable instruments include, but are not limited to, the following:

- * Kaufman Adolescent and Adult Intelligence Test
- * Wechsler Adult Intelligence Scale - Revised (WAIS-R)
- * Woodcock-Johnson Psycho-educational Battery- Revised * Tests of Cognitive Ability

Achievement:

Current levels of functioning in reading, mathematics, and written language are required.

Acceptable instruments include, but are not limited to, the following:

- * Woodcock -Johnson Psycho-educational Battery - Revised
- * Test of Achievement
- * Stanford Diagnostic Mathematics Test
- * Woodcock Reading Mastery Tests - Revised Cognitive Processing Abilities:

Specific areas of information processing must be assessed. Acceptable instruments include, but are not limited to, the following:

- * WAIS-R and Woodcock-Johnson Psycho-educational Battery- Revised

Cognitive Ability:

- * Wechsler Memory Scales - Revised

Learning disability evaluations must be provided by licensed professionals such as Educational psychologists, school psychologists, neuron-psychologists, learning disabilities specialists and medical doctors with training in the evaluation of learning disabilities. Diagnostic reports must include the name, title and credentials of the evaluator and should be presented on letterhead. *Reports by special education teachers and/ or tutors are not acceptable.*

Accommodations are primarily based upon assessment of the current impact of the student's disability(ies) on his/her academic performance. Therefore, learning disability documentation should be completed within three years, unless a student has documentation from their undergraduate institution and has enrolled at CULS immediately following his/her graduation. If evaluation documents are more than three years old, students may be required to provide a more recent diagnostic assessment.

All acceptable documentation should be on official letterhead.

ADD/ADHD

Students who are seeking accommodations for Attention Deficit Disorder ("ADD") or Attention Deficit Hyperactivity Disorder ("ADHD") are required to provide documentation to the Director of Counseling Services Office. The documentation must include information which can be used in establishing the need for appropriate accommodations. The documentation should be from licensed mental health professionals such as psychiatrists, psychologists and physicians. The documentation must include the following:

- * Development history
- * Assessment tools used in the evaluation
- * Learning areas impacted by ADD/ ADHD
- * A medical or clinical diagnosis

- *A clear statement of ADD/ ADHD including the reason for the diagnosis
- *Qualitative and quantitative information supporting the diagnosis
- *the relevance of recommended accommodation(s) in relation to the student's disability(ies).
- *Medical prescription, if any, including its effects and side effects.

All acceptable documentation should be on official letterhead.

Physical Disabilities:

Students who are seeking accommodations for physical disabilities are required to provide documentation to the Director of Counseling Services Office. The documentation must include information which can be used in establishing the need for appropriate accommodations.

Students may request accommodations for any or all of the following physical disabilities: blindness and visual impairment, deafness, hard of hearing, mobility impairment, or medical conditions such as cancer, epilepsy, traumatic brain injury, multiple sclerosis, asthma, AIDS and other invisible physical disabilities that may cause functional limitations.

Appropriate documentation is accepted from licensed professionals such as audiologists to confirm deafness or hard of hearing, ophthalmologists to confirm blindness or visual impairment and neurologists to verify the existence of epilepsy, traumatic brain injury, multiple sclerosis or a spinal cord injury as well as psychologists and mental health professionals. The documentation should include a statement which verifies the individual's disability, describes the disability's current impact on the individual's daily function, current medication and recommendations for necessary accommodations. Diagnostic reports must include the name, title and credentials of the evaluator and should be presented on letterhead.

All acceptable documentation should be on official letterhead.

Mental Impairments:

Students with psychiatric disabilities must present documentation from licensed mental Health professionals such as psychiatrists, psychologists, physicians and social workers. The documentation must include the following:

- * Diagnosis and Psychological test results, where appropriate
- * Summary of treatment and medication recommendations
- * Learning areas impaired by the mental disorder
- * Evaluation of ability to function in a college environment
- * Recommendation for continued treatment

All acceptable documentation should be on official letterhead.

6.6.04 Determinations by Director of Counseling Services

Once you have secured your documentation, please bring your documentation to the Director of Counseling Services at the Law School. The Director of Counseling Services and the Associate Dean of Academic Affairs will then determine what accommodations can be provided by the Law School.

Upon receiving the disability evaluations, the Director of Counseling Services will review the recommendations for accommodations and support services. Appropriate accommodations will be offered only after meeting with the student and may require further contact with selected members of the University's administrators and/or faculty.

Following this determination; the Office of Multicultural Affairs will then work with the rest of the Law School to ensure that your accommodations are in place. The Office of Counseling Services and the Office of Multicultural Affairs will be your point of contact concerning all of your accommodated exam and class needs. *Please do not contact your professor directly* concerning your accommodations. Your professor does not know what your accommodations are and will not know, unless you choose to share that information. The Office of Multicultural Affairs will be able to answer any questions that you might have about your accommodations once they have been determined. **Students requesting exam accommodations should notify the Office of Multicultural Affairs 30 days prior to the first day of each final exam period and 14 days prior to any midterm exams to provide adequate time for scheduling of the accommodation.**

If a student needs accommodations that require the Director of Counseling Services to contact faculty, administrators or outside agencies, the student will be asked to sign a release form. The signed form allows the Director of Counseling Services to share information relative to the student's disability(ies) with appropriate professionals.

It is the *individual student's* duty to notify the Office of Multicultural Affairs that they will be using their accommodations or we will assume that you do not need any accommodations. A few weeks prior to final exams, the Office of Multicultural Affairs will contact students by e-mail with instructions about test accommodation procedures. Please keep track of any issues that may arise regarding your accommodations and share those issues with the office of Multicultural Affairs as soon as possible.

Note: Students do not have to use their accommodations in every class if they feel that accommodation is not needed for any particular class or exam.

Accommodations are made only during the semester(s) when a student is actively participating in course work. A student will not be granted accommodations if his/her accommodation request pertains to academic performances prior to the diagnoses of a learning disability(ies). No retroactive accommodations will be granted.

6.6.05 Resource Limitations

Capital University and its Law School may not have all of the resources that are requested by disabled students. For example, tutoring is not provided to students by the university and thus is available only at student expense. Similarly, books on tape, to the extent available at all, are purchased by students.

6.6.06 Complaint Procedure

Students with a claimed handicap or disability who feel that their requests for accommodations or exceptions or Law School academic policies and procedures have not been appropriately addressed by the Dean or Dean's delegate may direct their complaints to the Dean or Dean's

delegate.

6.6.07 Requests for accommodations or exceptions to other non-academic policies and procedures

Requests for accommodations or exceptions to other non-academic policies and procedures are submitted to the Dean or Dean's delegate, who resolves the matter or forwards them to the appropriate persons or offices. Students who feel that their requests have not been appropriately addressed by the Dean or Dean's delegate may direct their complaints to the Dean or Dean's delegate.

6.6.08 Orientation Announcement

The following announcement shall be sent to all beginning law students prior to orientation, shall be included at least annually in registration packets, and shall periodically be posted at appropriate locations on law school bulletin boards:

ANNOUNCEMENT

It is the policy of Capital University Law School to provide reasonable accommodations for handicapped and disabled students, including learning disabled students and those with health impairments, as well as those with other disabilities.

Students whose handicap or disability may require some academic accommodation or exception to academic policies and procedures are encouraged to discuss these with the Dean or Dean's delegate as early as possible.

Students whose handicap or disability may require some non-academic accommodation or exception to non-academic policies and procedures are encouraged to discuss these with the Assistant Dean of Student Affairs as soon as possible.

Appropriate modifications and accommodations will be worked out on a caseby-case basis.

Students with certain disabilities, such as learning disabilities and health impairments, will be required to provide appropriate documentation of the disability .

A copy of the Law and Graduate Center's guidelines on students requests for exceptions to policies and procedures based on physical or mental handicap or disability is included in the Student Manual, a copy of which is given to every student who so requests. Copies also are available from the Dean or Dean's delegate, and Assistant Dean of Student Affairs.

6.6.09 Promotional Announcement:

The Viewbook and other promotional material (where appropriate) shall contain a statement similar to the following:

Capital University Law School does not discriminate against otherwise qualified students with

handicaps or disabilities. It is our desire to ensure that applications for admission are reviewed appropriately. If an applicant believes that he or she has a handicap or disability that significantly bears upon the fact that the undergraduate GPA, LSAT score, or other credentials do not reflect the applicant's ability, we welcome a statement on that issue. On the other hand, if an applicant believes that his or her performance demonstrates excellence in light of the handicap or disability, we would like to know about that also. It is not mandatory that this information be provided.

Any applicant, who would like to discuss the availability of accommodations, or any other matter relating to his or her disability, is invited to contact the Admissions Office. If a handicapped or disabled applicant is accepted for admission, we will want to know of the handicap or disability in case of any accommodation in appropriate.

6.6.10 Application Announcement:

The application for admission to Capital University Law School shall include a statement similar to the following:

Please describe any special circumstances in your background that would help us evaluate your application.

6.7 Student Complaint and Appeal Procedures

6.7.01 Student Complaint Procedure

Students with complaints against the law school or any of its faculty members, administrators, or staff persons may file a complaint with the Assistant Dean of Student Affairs. If the complaint concerns the Assistant Dean of Student Affairs, the complaint shall be filed with the Associate Dean. The Assistant Dean of Student Affairs or Associate Dean shall forward the complaint, or direct the complaining student, to the appropriate person, committee, or office for response.

6.7.02 Appeals to Dean from Decisions of Law School Directors or Assistant Deans

Decisions made by the Law School Directors or Assistant Deans involving students are final, except that decisions having a material adverse impact on students may be appealed, in writing, to the Law School Dean within 14 days of the notice of the decision being transmitted to the student. The review of the decision by the dean is a limited appeal. The dean will review the decision only to determine whether the Director or Assistant Dean abused his or her discretion and whether there was a material adverse impact on students. Example of decisions not having a material adverse impact includes, but are not limited to: parking fines, late fees, computer lab charges, and library fees. If the Law School dean finds that the decision was an abuse of discretion, the dean may, at the dean's discretion, remand the decision to the applicable Director or Assistant Dean for action consistent with the dean's determination, reverse or modify the decision, or make the appropriate referral of the matter to another appropriate law school or university office. The dean may confine the review to written materials submitted by the student and written materials submitted by the Director or Assistant Dean. The Dean may refer the appeal to the Associate Dean, who shall proceed consistent herewith. The determination by the Dean or Associate Dean hereunder is final, as to the decision in question.

Decisions regarding admissions to the Law School and financial aid are final and not appealable.

6.7.03 Appeals to Dean from Academic Decisions of the Associate Dean

Academic decisions made by the Associate Dean involving students are final, except that decisions may be appealed, in writing, to the Law School Dean within 14 days of the notice of the decision being transmitted to the student. The review of the decision by the Dean is a limited appeal. The Dean will review the decision only to determine whether the Associate Dean abused his discretion. If the Law School Dean finds that the Associate Dean abused his/her discretion, the Dean may, at the Dean's discretion, remand the decision to the Associate Dean for action consistent with the Dean's determination, reverse or modify the decision, or make the appropriate referral of the matter to another appropriate law school or university office. The Dean may confine the review to written materials submitted by the student and written materials submitted by the Associate Dean. The determination by the Dean hereunder is final, as to the academic decision in question.

6.7.04 Appeals to Dean from Academic Decisions of the Graduate Council

Academic decisions made by the Graduate Council involving students are final, except that the decision may be appealed, in writing, to the Law School Dean within 14 days of the notice of the decision being transmitted to the student. The review of the decision by the dean is a limited appeal. The Dean will review the decision only to determine whether the Graduate Council violated its own procedures or another Law School or University policy and the student was prejudiced by such violation. If the Law School dean finds that the decision of the Graduate Council violated its own procedures or another Law School or University policy and finds the student was prejudiced by such violation, the dean may, at the dean's discretion, remand the decision to the Graduate Council for action consistent with the dean's determination, reverse or modify the decision, or make the appropriate referral of the matter to another appropriate law school or university office. The Dean may confine the review to written materials submitted by the student and written materials submitted by the Graduate Council.

6.8 A Procedure to Ensure Compliance With Non-discrimination Policies

The use of career services is restricted to those who agree to abide by career services office policies and procedures including the University non-discrimination policy. Capital University Law School provides equality of opportunity in legal education for all persons including faculty and employees with respect to hiring, continuation, promotion and tenure, applicants for admission, enrolled students and graduates without discrimination or segregation on the grounds of race, color, religion, national origin, sex, age, handicap or disability, or sexual orientation. Capital University Law School pursues a policy of providing its students and graduates with equal opportunity to obtain employment without discrimination or segregation on the grounds of race, color, religion, national origin, sex, age, handicap or disability, or sexual orientation except as mandated by Ohio or Federal Law.

6.8.01 Complaint Procedure

A law student who has reason to believe that a prospective employer, who interviews on campus, does not comply with Capital University and other applicable regulations concerning employment practices, may file a complaint with the Office of the Dean.

6.8.02 Dean's Actions

The Dean or Dean's delegate will talk informally with the prospective employer in an attempt to ascertain the precise nature of that employer's policy.

6.8.03 Suspicion of Non-compliance

If, based on the prospective employer's response, the Dean or Dean's delegate has reason to believe that the prospective employer is not in compliance with the relevant regulations, the Dean or Dean's delegate will appoint an ad hoc committee to make a more formal inquiry to determine the facts. The committee will submit a report to the Dean within a reasonable period of time.

6.8.04 Decision

The Dean or Dean's delegate will decide whether the prospective employer is in compliance with the relevant regulations. If not, the Dean or Dean's delegate will attempt to use mediation to attempt to bring the prospective employer into compliance. After mediation, the Dean or Dean's delegate will determine whether a sanction should be imposed, or the Dean or Dean's delegate can refer the entire matter to the faculty for decision. The sanction can range from the filing of a formal objection (most likely in the case of an inadvertent violation not likely to recur) to a denial of the privilege to use law school premises, offices, or both for recruitment purposes.

6.8.05 Report

The Dean or Dean's delegate will report the matter, on a confidential basis, to the faculty. If a faculty member disagrees with the Dean's or Dean's delegate's decision, he or she may appeal

that decision to the faculty, which may modify the sanction imposed by the Dean or Dean's delegate.

6.9 Policies of Capital University Applicable to Faculty, Staff, and Students in All Divisions of the University

6.9.01 Nondiscrimination Policy

It is the policy of Capital University to admit students of any race, color, national and ethnic origin to all the rights, privileges, programs and activities generally accorded or made available to students at the University. It does not discriminate on the basis of race, color, national and ethnic origin in administration of its educational policies, admission policies, scholarship and loan programs, and athletic and other university administered programs.

6.9.02 Affirmative Action Policy

Capital University's policy is to afford to all persons, without regard to race, color, religion, sex, national origin or handicapping conditions, equal opportunity for employment and equal opportunity to benefits from its educational programs, student personnel services, financial aid, housing, and other services.

Within the limits of its resources, the university will carry out an affirmative action program to assure equal opportunity to all.

The Affirmative Action Officer of the university must approve all notices of vacancies before such notices are posted. The Affirmative Action Officer is to brief all search committees concerning affirmative action procedures unless such briefing is done by the Dean or Dean's delegate or Vice President/Provost with the approval of the Affirmative Action Officer.

6.9.03 Human Dignity Policy

Capital University is an institution committed to Christian values and to the development of individual potential. The members of our campus community must respect all persons regardless of race, ethnic origin, gender, age, religion, disability, or sexual orientation. While we realize that acts of intolerance may be the result of ignorance and that a significant part of our mission is to confront ignorance with education, we cannot allow these acts to harm another person. In the same sense that we are called to support the mission of Christian higher education, we are also called to commit our energies and resources to the continual task of combating both subtle and obvious intolerance.

Capital University regards as unacceptable conduct on the part of its students, faculty, and staff, words or actions that are intended to be, or that are reasonably foreseeable to be, threatening, intimidating, or harassing to any member of the university community including students, faculty, staff, guests and contracted services employees on the basis of race, gender, sexual orientation, national or ethnic origin, age, religion or handicapping condition.

Complaints of such conduct shall be heard and disciplinary action taken consistent with the

provisions of the student handbook, faculty-administrative handbook, and staff handbook.

6.9.04 Policy on Sexual Harassment

In keeping with its mission statement and in compliance with the requirements of Title VII of the Civil Rights Act of 1964 as amended, and of Title IX of the Education Amendments of 1972 as amended, Capital University explicitly forbids and will not tolerate any conduct by employed personnel or by its students that is culpable under the generic legal term "sexual harassment".

A. Rationale

1. Sexual harassment is a form of sexual discrimination and, as such, is a violation of the law. Quite apart from its illegality, sexual harassment subverts the mission of the university and threatens the careers, educational experience and well being of students, faculty and staff. Relationships involving sexual harassment or discrimination have no place within the university. In both obvious and subtle ways, the very possibility of sexual harassment is destructive to individual students, faculty, staff and the academic community as a whole. When, through fear of reprisal, a student, faculty member or staff member submits or is pressured to submit to unwanted sexual attention, the university's ability to carry out its mission is undermined.
2. Sexual harassment is especially serious when it threatens relationships between teacher and student or between supervisor and subordinate. In such situations, sexual harassment exploits unfairly the power inherent in a faculty member's or supervisor's position. Through grades, wage increases, recommendations for graduate study, promotions and the like, a teacher or supervisor can have a decisive influence on a student's, staff member's, or faculty member's career at the university and beyond.
3. While sexual harassment most often takes place in situations of a power differential between the persons involved, the university also recognizes that sexual harassment may occur between persons of the same university status.

B. Prohibited Acts

1. No member of the university community shall engage in sexual harassment. For the purpose of this policy, sexual harassment is defined as unwelcome advances, requests for sexual favors, or other verbal, visual or physical conduct of a sexual nature when:
 2. submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or status in a course, program or activity; or
 3. submission to or rejection of such conduct is used as a basis for an employment or educational decision affecting an individual; or
 4. such conduct has the purpose or reasonably foreseeable effect of unreasonably interfering with an individual's work or educational performance or of creating an intimidating, hostile or offensive environment for work or learning.

C. Examples of Sexual Harassment

Sexual harassment encompasses any sexual attention that is unwanted. Examples of verbal, visual, or physical conduct prohibited by this policy may include, but are not limited to:

1. physical assault;
2. direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation;
3. direct propositions of a sexual nature;
4. repeated unwanted staring;
5. sexually suggestive or insulting sounds or gestures (e.g. , whistling or leering);
6. subtle pressure for sexual activity;
7. a pattern of conduct (not legitimately related to the subject matter of a course, if one is involved) that is intended to discomfort or humiliate, or both, that includes one or more of the following: (1) comments of a sexual nature, or (2) sexually explicit statements, questions, jokes or anecdotes;
8. a pattern of conduct that would discomfort or humiliate, or both, a reasonable person at whom the conduct was directed that includes, but is not limited to, one or more of the following: (1) unwanted touching, patting, hugging, or brushing against a person's clothing or body; (2) remarks of a sexual nature about a person's clothing or body; (3) disparaging remarks about one's gender; or (4) remarks about sexual activity or speculations about previous sexual experience.

D. Investigation and Enforcement

Anyone believing that a provision of this policy has been violated is encouraged to report the violation to the appropriate authority as provided for in Section 6.10 and following or Section 6.11 and following. Complaints regarding sexual harassment will be received, promptly investigated, and vigorously pursued pursuant to the applicable procedures. A determination that this policy has been violated will result in appropriate disciplinary action up to and including dismissal.

6.10 Procedure to Implement the University's Sexual Harassment Policy in Cases of Complaints Against Law Students

Scope

The procedure is intended to clarify the investigation and enforcement provision set out in the University's Policy on Sexual Harassment when the alleged violator of the policy is a law student. These procedures apply if the complainant is a student, staff member, administrative personnel, or faculty member.

Privilege

Communications with members of the faculty and staff are not privileged. Communications with the Law School Counselor are privileged to the extent permitted by law.

6.10.01 Commencing a Complaint

- A. A complaint that a law student has violated the University's Policy on Sexual Harassment should be reported to the appropriate authority. For this purpose the appropriate authority is the Dean or Dean's delegate.
- B. The Dean or Dean's delegate should provide a copy of the Policy and these procedures to any student, staff member, or faculty member who believes that he/she has experienced a violation of the Policy. While the Dean or Dean's delegate should not advise the complainant on the validity of the complaint or act as the complainant's adviser or counselor, the Dean or Dean's delegate should render assistance necessary to enable the complainant to proceed with either an informal or formal complaint.
- C. The Dean or Dean's delegate should inform the complainant of the following options:
 1. Commencing informal investigation and negotiations to resolve the complaint (see Provision II);
 2. Filing a formal complaint with the Dean or Dean's delegate (see Provision III);
 3. Making a police report, filing an action outside the University (e.g., with the EEOC, Ohio Civil Rights Commission, Department of Education, or court of law), or both.
- D. The Dean or Dean's delegate should inform the complainant that:
 1. A decision to proceed informally does not preclude the filing of a formal complaint at some later time.
 2. The filing of an informal complaint is not a prerequisite to a formal complaint.
 3. Internal University actions do not extend filing deadlines (e.g., statutes of limitations) relating to actions outside the University.

4. The alleged harasser normally does not have to be informed of the complainant's identity if the complainant chooses the informal complaint process (see sections 1.5, 2.2), but the alleged harasser must be informed of the complainant's identity if the complainant chooses the formal complaint process (see sections 3.3, 4.3); and
5. Action by the Law School on the complaint may be necessary, even if not requested by the complainant. Such actions normally will not be taken without informing the complainant in advance of such action.
- E. Once the Dean or Dean's delegate has discussed with the complainant the nature of the complaint and the options set out above, the complainant shall elect what process to follow.

If the complainant elects to pursue an informal resolution of the complaint, the procedures set out in Provision 6.10.02 shall be implemented.

If the complainant elects to file a formal complaint, the procedures set out in Provision 6.10.03 shall be implemented.

If the Dean or Dean's delegate determines that, taking the facts alleged as true, those facts reveal a substantial violation of the Policy, or a repeat violation of the Policy such that the Dean or Dean's delegate may be obligated to report the matter to the Bar, the Dean or Dean's delegate may proceed with an investigation over the complainant's objections.

6.10.02 Informal Resolution

- A. If the complainant wishes to pursue informal resolution of the complaint, the Dean or Dean's delegate shall appoint a member of the faculty or administration to pursue an informal resolution (the negotiators). The goal of the informal resolution is to gather basic facts about the alleged conduct and negotiate a mutually agreeable resolution to the complaint.
- B. Upon receiving an informal complaint, the negotiator will discuss with the complainant the behavior that prompted the complaint; the issues involved in the complaint; the need for investigation of the complaint; and possible resolutions of the complaint. The negotiator should obtain the complainant's consent for informing the alleged harasser of the complaint. The complainant should be informed that the Law School's ability to take any action is severely limited in situations where the alleged harasser is not apprised of the complaint (see section 2.6).
- C. The scope of the investigation should be at the negotiator's discretion. Normally, the negotiator should meet with the complainant, the alleged harasser, and any other witnesses the negotiator deems helpful. Normally, the negotiator will propose a resolution of the dispute and discuss this proposal with the parties. The investigation and negotiation of informal complaints should normally be concluded within twenty- one (21) calendar days after they are made. When this is not possible, the negotiator processing the complaint should notify the parties of the delay and the reasons for such delay.

- D. Normally, within ten (10) business days of concluding the investigation and negotiation, the negotiator will notify the Dean or Dean's delegate, the complainant, and the alleged harasser (except in instances of where confidentiality has been promised), in writing that the investigation has been concluded and if a resolution has been reached. When this is not possible, the report should be made as soon as possible thereafter.
- E. Where an informal resolution is reached, it must be approved by the Dean or Dean's delegate. If an informal resolution is not reached, or if the complainant is not satisfied with the informal resolution, she/he again should be advised of the option of filing a formal complaint with the Dean or Dean's delegate and of the existence of options outside the University.
- F. In the exceptional case where the alleged harasser is not notified of the complaint, the investigator may still investigate and report to the Dean or Dean's delegate, but may recommend only corrective action that is not a sanction against the alleged harasser (e.g., that the complainant's class schedule be changed).

6.10.03 Process for Filing Formal Complaints

- A. Normally, the formal complaint process is initiated by the filing of a formal written complaint by the complainant with the Dean or Dean's delegate. In exceptional circumstances, the Dean or Dean's delegate can initiate the formal complaint process.
- B. The Dean or Dean's delegate shall appoint a faculty member or administrator to be primarily responsible for the investigation of the complaint (the investigators).
- C. The Dean or Dean's delegate or the investigator shall inform the alleged harasser of the allegations and identity of the complainant at the commencement of the process, and give her/him a copy of the policy and these procedures. The alleged harasser should be informed that retaliation against the complainant is unlawful and that the school will take steps to prevent and punish any retaliation that occurs.
- D. The purpose of the investigation is to determine whether reasonable grounds exist to believe a violation(s) of the sexual harassment policy has occurred. The investigator will interview the complainant, the alleged harasser, and other persons with relevant information. The alleged harasser will be afforded full opportunity to respond to the allegations. Throughout the investigation, steps to preserve the confidentiality of all persons involved will be taken by the investigator.
- E. Matters to be investigated include:
 - 1. Whether the specific conduct alleged constitutes sexual harassment, including the type(s) of conduct; frequency of occurrence; date(s) or time period over which the conduct occurred; location of alleged occurrence(s); whether similar complaints have been made by others; and all factual circumstances upon which the complaint is based.

2. The specific relationship of the alleged harasser to the complainant (e.g., peer-adviser/advisee).
 3. The effect of the alleged harasser's conduct on the complainant, including any consequences that may be attributed to the conduct.
 4. Whether the alleged harasser was aware of the complainant's concern regarding the behavior.
 5. Whether any prior steps were taken to resolve the complaint.
- F. The possible outcomes of the investigation are:
1. A finding that a violation of the Policy occurred; or
 2. A finding that no violation of the Policy occurred; or
 3. A negotiated settlement of the complaint. A negotiated settlement of the complaint may be entered at any time during this process. A negotiated settlement must be approved by both parties and by the Dean or Dean's delegate.
- G. Investigations of formal complaints should be concluded within thirty (30) calendar days after they are made. When it is not reasonably possible to conclude the investigation within that amount of time, the investigator will notify the complainant and the alleged harasser in writing of the delay and reasons for the delay.
- H. Upon conclusion of the investigation of a formal complaint, the investigator will prepare a written report describing his/her (1) findings of fact; (2) finding as to whether a violation of the Policy occurred; and (3) recommendations as to appropriate sanctions (if a violation occurred). The investigator's recommendations as to appropriate sanctions must be approved by the Dean or Dean's delegate. The investigator will provide a copy of this report to both the complainant and the alleged harasser.
- I. The parties will then be given the option to resolve the matter in accordance with the investigator's findings and recommendations. The parties will also be given the option to proceed to a formal hearing. If either party chooses to proceed to a formal hearing, that party must so notify the Dean or Dean's delegate in writing within 10 business days of receiving the investigator's report.
- J. If either party notifies the Dean or Dean's delegate that he/she wants to proceed to a formal hearing, the Dean or Dean's delegate will appoint a panel of 5 persons. This panel shall be composed of three faculty members (one of whom shall be designated as the chair) and two students. All panel members shall have full voting rights. No person involved in the case (e.g., as a witness, investigator, or negotiator) shall be a member of the panel. The Dean or Dean's delegate will notify the parties in advance of who has been appointed to the panel, and the Dean will consider any objections that the parties may raise.
- K. The panel shall conduct a hearing as promptly as circumstances will allow. The hearing shall be

informal and not adversarial in nature, and will be more analogous to an administrative hearing than to a judicial trial.

1. Prior to the hearing, the panel may review the files and reports prepared by the investigator and negotiator.
 2. The alleged harasser has the right to be present during the hearing, the right to question all witnesses, and the right to be present during the complainant's own witnesses and evidence.
 3. The complainant and/or the alleged harasser may be accompanied by an attorney at the hearing. (The attorney must not be employed by Capital University.) The attorney may participate at the hearing, subject to the control of the panel chair.
 4. The parties will be responsible for bringing their own witnesses and other evidence. The panel may also call witnesses, or provide assistance to the parties in obtaining witnesses.
 5. The decision of the panel shall be by majority vote and shall be based on the policy and rules of the Law School and the evidence of the hearing.
- L. The panel shall present its views in writing to the Dean or Dean's delegate on whether a violation of the Policy occurred. If a majority of the panel has found that a violation occurred, then it shall also recommend appropriate sanction[s]. The panel shall also provide the Dean or Dean's delegate with all files and records from the investigation and hearing. The panel's decision and recommendation are not binding on the Dean or Dean's delegate.
- M. The Dean or Dean's delegate shall make the final decision on whether the alleged harasser violated the Sexual Harassment Policy. If the Dean or Dean's delegate decides that the alleged harasser did violate the policy, the Dean shall impose appropriate sanctions. These sanctions may take the form of counseling, verbal or written reprimands, notations in the student's file, notification of the appropriate Bar or Bars, suspensions, or other action, up to and including dismissal. The Dean's or Dean's delegate's decision shall be provided to the parties in writing.
- N. Within 10 business days of receiving the Dean's or Dean's delegate's final decision, either party may request that the President of the University review this decision for either (1) material and prejudicial departure from established procedures; and/or (2) abuse of discretion.

6.10.04 Presence of Support Persons and Confidentiality

- A. The complainant and/or alleged harasser may be accompanied at the initial complaint and subsequently as appropriate) by a friend, family member, attorney, or other individual whose presence is necessary to provide support.
- B. To the extent possible, the Dean or Dean's delegate, the negotiator, the investigator and any hearing panel will treat as confidential all information received in connection with the filing, investigation, and resolution of complaints, except as necessary to conduct the investigation.

- C. Anonymous complaints will only be permitted to trigger the informal complaint process. See Sections 6.10.01(D), 6.10.02(B), and 6.10.03(C).

6.10.05 Records

Any person conducting an investigation, whether formal or informal, shall maintain a record of the investigations and hearings, consent provided, evidence gathered, and the outcome of the investigation and hearings. Records of such investigation will not be maintained in personnel files or student files unless part of a corrective action approved by the Dean or Dean's delegate. Upon filing of a complaint outside the University, information gathered in the course of the internal investigation may be disclosed to the investigating agency.

Approved by the Law School Council April 15, 1998

6.11 Procedure to Implement the University's Sexual Harassment Policy in Case of Complaints Against Faculty

Scope

The procedure is intended to clarify the investigation and enforcement provisions set out in the University's Policy on Sexual Harassment when the alleged violator of the policy is a tenured faculty (including the Dean and Associate Dean) or tenure track faculty member. These procedures apply if the complainant is a student, staff member, administrative personnel or faculty member.

Nothing in this policy should be construed to limit or take away faculty rights as set out in the University Handbook. Rather these provisions should be construed to work in congruence with the Handbook.

6.11.01 Publicity

- A. The Dean or Dean's delegate shall request that the Sexual Harassment Policy be published annually in Res Ipsa Loquitur.
- B. Posters shall be created and displayed around the School highlighting the School's commitment to the policy. Additionally, a brochure shall be created and distributed explaining the Policy including distribution in the orientation materials given to first year students.

6.11.02 Appointment of Designated Contact Person and their Role

- A. In addition to the Dean or Dean's delegate, three faculty members (selected with diversity concerns in mind) shall be designated as contact persons.
- B. The Contact Person shall provide information on the policy to any student, staff member or faculty member who believes that he or she has experienced a violation of the Policy. In particular, the Contact Person should inform the complainant of the following options:
 - 1. **FILING A FORMAL COMPLAINT:** the Contact Person shall distribute copies of the Policy, explain how and where a formal complaint can be filed, and the process (as set out in the University Handbook, Section 4.149--hereinafter Handbook) which a formal complaint would follow. While the Contact Person shall not advise the complainant on the validity of the complaint, the Contact Person shall render assistance sufficient to enable the complainant to file a complaint. The Contact Person shall also advise the complainant of his or her right to an adviser or counselor as set out in the formal policy (Handbook, Section 4.1491 E6), however, the Contact Person may not serve in that role; and
 - 2. **MAKING AN INFORMAL COMPLAINT TO THE DEAN:** the Contact Person shall explain that the

complainant could report the matter to the Dean or Dean's delegate who could then take whatever steps the Dean felt were appropriate within his or her administrative authority.

The Contact Person shall also make clear the distinctions between the two processes. The Contact Person should make clear that the complainant's decision to proceed with an informal complaint does not preclude his or her right to file a formal complaint.

6.11.03 Reporting Responsibilities, Anonymity and Confidentiality [Contact Person]

- A. If the complainant elects to file a formal complaint, the provisions of the formal complaint process (Handbook, Section 4.149 et seq.) shall control the degree of confidentiality accorded to such a complaint.
- B. In all cases the Contact Person must report all alleged violations of the Policy to the Dean or Dean's delegate. The Contact Person shall explain this reporting responsibility to the complainant.
- C. If the complainant so desire, the Contact Person can guarantee that the Contact Person will keep the complainant's identity anonymous for the purposes of the initial report and any initial investigation by the Dean or Dean's delegate. The Contact Person should inform the complainant that retaliation is prohibited and that if he or she fears reprisal, the Law School will take strong steps to prevent retaliation and will take strong responsive measures if retaliation occurs. The Contact Person shall explain that an anonymous allegation would carry less weight and be less likely to result in any administrative action. Further, the Contact Person shall inform the complainant that after the initial investigation, if there is probable cause to believe that the accused faculty member violated the Sexual Harassment Policy, the complainant's identity will be revealed and the accused faculty member will be given an additional opportunity to respond to the allegations.
- D. The Contact Person shall also make clear to the complainant that the Contact Person cannot serve as the complainant's counselor or adviser. Additionally, the Contact Person shall inform the complainant that if the Contact Person is called to testify in an internal process, he or she will have to reveal the content of their conversations and perhaps the identity of the complainant even if anonymity had been requested¹.

6.11.04 The Process to be followed when a Report is made to the Dean against a Faculty Member

- A. When the Contact Person, or any member of the faculty, administration or staff² receives a

¹ The Contact Person would not have an evidentiary privilege in Court and should not make any statements that would lead the complainant to conclude otherwise.

² The report recommends that not only the Contact Person and faculty, but also administrators and staff be required to report complaint to the Dean or Dean's delegate.

complaint of a violation of the sexual harassment policy he or she must report the complaint to the Dean or Dean's delegate³. [The reporting obligations of Contact Persons and members of the faculty are discussed in more detail in Section 3 and 5 of this procedure.]

- B. On receiving a complaint from any source, the Dean or Dean's delegate must promptly investigate and vigorously pursue the complaint unless the Dean or Dean's delegate determines that the complaint does not fall within the definition of sexual harassment as set out in the Policy. If the Dean or Dean's delegate makes such a determination the complainant must be notified.
- C. As part of this investigation, the Dean or Dean's delegate must ask the accused faculty member for comments on the complaint and shall provide the faculty member with basic information concerning the complaint. Basic information consists of the fact that a complaint has been made and a general description of the alleged behavior (e.g. persistently ridiculing male students in class; making sexually suggestive remarks to students at a student function); but will NOT include the complainant's name or identifying information unless the complainant has agreed to such disclosure.
- D. At the conclusion of the Dean's or Dean's delegate's investigation, the Dean or Dean's delegate has three options:
 - 1. To dismiss the charges as unfounded. If the Dean or Dean's delegate chooses this option, he or she will notify all parties of this decision. Once the statute of limitations for the filing of a sexual harassment law suit has expired, the Dean or Dean's delegate will destroy the record of the complaint and any investigation undertaken.
 - 2. To seek the imposition of severe sanctions against the accused faculty member. If the Dean or Dean's delegate wishes to impose severe sanctions (i.e. dismissal for cause, suspension from service, reduction in rank, or reduction in salary for a stated period) the Dean or Dean's delegate must file a complaint under section 12.0 et seq. of the University Handbook and follow the process set out therein.
 - 3. To impose non-severe sanctions on the faculty member (e.g. to place a reprimand in the faculty members file, to issue a warning, to change the faculty members class assignment, to require a colleague to observe the class for a stated period). If the faculty member is aggrieved or disagrees with the Dean's or Dean's delegate's imposition of a non-severe sanction the faculty member may file a grievance against the Dean as provided for in the University Handbook Section 6.123 (allowing for grievances against an administrator for a violation of university policy...that is damaging to the grievant or for a malicious, arbitrary or capricious action by the [administrator] that is employment related and damaging to the grievant.)
- E. The Dean or Dean's delegate may pursue options B and C simultaneously (e.g. file a complaint

³ If the Complaint is against the Dean, the complaint should be made to the provost or vice president. The process for grievances against the Dean is presumably that set out in 6.123 of the Handbook.

seeking dismissal and in the interim change the teaching assignment of the faculty member).

- F. After the Dean or Dean's delegate has completed the investigation, but before the Dean or Dean's delegate takes either step B and or C, the Dean must first inform the faculty member of the details of the alleged policy violation including the name of the complainant (this disclosure will occur even if the complainant requested initial anonymity). The Dean or Dean's delegate must also give the faculty member an additional opportunity (either in writing or orally) to respond to the complaint.
- G. The complainant may at any time file a formal complaint under University Handbook, Section 4.149. If such a filing occurs the Dean or Dean's delegate may elect to continue the investigation, or delay it pending the outcome of the University's formal complaint process.

6.11.05 Reporting Responsibilities, Anonymity and Confidentiality [Faculty Members]

- A. Any faculty member who receives a complaint that the Policy has been violated must report the complaint to the Dean or Dean's delegate. The faculty member shall explain this reporting responsibility to the complainant.
- B. If the complainant so desires, the faculty member shall guarantee that he or she will keep the complainant's identity anonymous for the purpose of an initial report and any initial investigation by the Dean or Dean's delegate. The faculty member should inform the complainant that retaliation is prohibited and that if he or she fears reprisal, the Law School will take strong steps to prevent retaliation and will take strong responsive measures if retaliation occurs. The faculty member shall explain that an anonymous allegation would carry less weight and be less likely to result in any administrative action. Further, the faculty member should inform the complainant that after the initial investigation, if there is probable cause to believe that the accused faculty member violated the Sexual Harassment Policy, the complainant's identity will be revealed and the accused faculty member will be given an additional opportunity to respond to the allegations.
- C. The faculty member shall also make clear to a complainant that he or she cannot serve as the complainant's counselor or advisor. Additionally, the faculty member shall inform the complainant that the faculty member is called to testify in an internal process, he or she will have to reveal the content of their conversations and perhaps the identity of the complainant even if anonymity had been requested⁴.

⁴ The Faculty Member would not have an evidentiary privilege in Court and should not make any statements, which would lead the complainant to conclude otherwise

6.12 Student Records

Consistent with the federal Family Education Rights and Privacy Act (FERPA), as amended, Capital University recognizes certain rights of eligible students and parents of dependent student's educational records, as provided in this policy.

6.12.01 Definitions

- A. **Educational Records** means any record maintained by the University which is directly related to an enrolled student, except:
 - 1. a personal record made by a University employee or agent which was made as a personal memory aid and is in the sole possession of the person who made it;
 - 2. a record relating solely to an individual as an alumnus/a after the individual no longer attends or participates in an education activity for which the University awards a grade or credit;
 - 3. medical and counseling records used solely for treatment, provided such records may be reviewed by a physician or other appropriate professional of the student's choice;
 - 4. financial records of parents;
 - 5. confidential letters and statements of recommendation for admission, employment or other recognition for which students have voluntarily waived their right of access.
- B. **Eligible Students** means an individual who is or was enrolled as a student of the Law School and regarding whom the University maintains educational records. Applicants who are not admitted as students are not eligible students.
- C. **Parents** means the natural and adoptive parents of a students who are dependents under the Internal Revenue Code. When the parents of a dependent student are separated or divorced, the University will accord the rights under this policy to each parent unless provided with a court order or legally binding document revoking such rights.
- D. **Legitimate Educational Interests** means the demonstrated need to know by those officials of the University who act in the student's educational interest, including faculty, administrators, clerical and professional employees, and other persons who manage student record information.
- E. **Directory Information** means information so designated by the Law School which reasonably would not be considered harmful or an invasion of privacy if disclosed, including a student's name, address (local and home), telephone number (local and home), date and place of birth, participation in officially recognized activities programs of study, dates of attendance, and degrees, certificates, awards and academic recognitions.

6.12.02 Rights of Eligible Students and Parents

Eligible students and parents have a right:

- A. to **inspect and review** the student's educational records maintained by the University within 45 days of the day the university receives a request for access. Students should submit to the office of records and registration written requests that identify the record(s) they wish to inspect. The university official will make arrangements for access and notify the student of time and place where the records may be inspected. If the records are not maintained by the official to whom the request was submitted, the official will advise the student of the correct official to whom the request should be addressed.

The University is not required to furnish copies of such records unless they are unreasonably difficult to inspect personally, in which case the University reserves the right to charge a reasonable fee for such copies.

- B. to **request in writing that the University amend educational records** believed to be inaccurate or misleading.

Students may ask the university to amend a record that they believe is inaccurate or misleading. They should write the university official responsible for the record, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading.

If the university decides not to amend the record as requested by the student, the student or parent may request a student or parent may request a review by the provost or appropriate vice president after which, if University still refuses, the student or parent has a right to place a statement in the student's record commenting on the contested information. The right to challenge grades does not apply under this policy unless the assigned grade was inaccurately recorded.

- C. to **consent to certain disclosures of personally identifiable information** contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent of certain information, including directory information.

One exception, which permits disclosure without consent, is disclosure to university officials with legitimate educational interests. A University official is defined as a person employed by the university in an administrative, supervisory, academic, or support staff position (including law enforcement unit and health staff); a person or company with whom the university has contracted (such as a an attorney, auditor, or collection agent); a person serving on the Board of Trustees; or assisting another University official in performing his or her tasks.

A University Official has a legitimate education interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

- D. **to file a complaint**

The student has a right to file a complaint with the US Department of Education concerning alleged failures by the university to comply with the requirements of FERPA. The and address of the Office that administers FERPA is:

Family Policy Compliance Office
US Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-4605

6.12.03 General Rules of Non-Disclosure; Exceptions

- A. Generally the University must have written permission from an eligible student or parent before releasing personally identifiable information from a student's educational record. However, the University may disclose without prior consent:
1. relevant information to University employees having a legitimate educational interest;
 2. educational records of a student who is a dependent as defined in the Internal Revenue Code;
 3. relevant information to appropriate parties in connection with determining eligibility, amount, conditions or enforcement of financial aid to students;
 4. relevant information to accrediting organizations to carry out accrediting functions;
 5. relevant information as required to comply with a judicial order or lawfully issued subpoena;
 6. relevant information to persons with a need to know in health or safety emergencies;
 7. results of disciplinary proceedings to victims of the charged offense;
 8. directory information
- B. A student may request that the University not release directory information by completing and signing the appropriate form provided by the Office of the Registrar, Capital University Law School.

6.12.04 Custodians of Educational Records

Law Student records are maintained by the following University or Law School offices, which are subject to the terms of this policy, including record-keeping requirements. Each custodial office is restricted to providing only the information over which it has primary responsibility. Information properly provided may be accompanied by explanatory material whenever its meaning or interpretation is not readily apparent to potential users.

<u>Type of Record</u>	<u>Location</u>	<u>Custodian</u>
Admissions/Financial Aid	Law School	Assistant Dean of Admission/Financial Aid
Career Services	Law School	Assistant Dean
Center for Academic Achievement	Learning Center	Director

Academic	Law School	Office of Records and Registration
Disciplinary	Law School	Office of Records and Registration
Financial	Yochum Hall	Director, Finance Off. &
	Law School	Assistant Dean of Admission/Financial Aid
Health	Health Clinic	Director, Clinic
Law School	Law School	Office of Records and Registration
Non-Disclosure Requests	Law School	Office of Records and Registration/ Yochum Hall Office of Communications
Nursing	Battelle Hall	Dean

6.12.05 Record of Disclosures

When personally identifiable information other than directory information is disclosed without the student's prior consent, the appropriate records custodian will keep a record of the disclosure, including the name and legitimate interest of the parties requesting and obtaining the information.

6.12.06 Policy Implementation

The Dean or Dean's delegate, in consultation with the provost and with university counsel, serves as the FERPA coordinator responsible for resolution of questions arising under this policy. Copies of this policy are available upon request to students and parents from the offices of the University Registrar, Assistant Dean of Student Administration, in the Manual of Policies and Procedures and in the Capital University Law School web page. Annual notice of this policy shall be provided to current students and parents, including a statement of how a copy of the policy may be obtained. Students having questions or concerns regarding this policy may contact the Law School Assistant Dean of Student and Student Administration, Associate Dean or Office of Records and Registration. A complaint alleging a violation of FERPA may be filed with the U.S. Department of Education.

REQUEST TO REVIEW EDUCATION RECORDS

NOTICE: YOU ARE ATTEMPTING TO ACCESS INFORMATION THAT IS PROTECTED BY FEDERAL PRIVACY LAW. DISCLOSURE TO UNAUTHORIZED PARTIES VIOLATES THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA). YOU SHOULD NOT ATTEMPT TO PROCEED UNLESS YOU ARE SPECIFICALLY AUTHORIZED TO DO SO AND ARE INFORMED ABOUT FERPA. WHEN ACCESSING STUDENT RECORDS, YOU MUST ACCESS ONLY THAT INFORMATION NEEDED TO COMPLETE YOUR ASSIGNED OR AUTHORIZED TASK. YOU MAY COMMUNICATE THE INFORMATION ONLY TO OTHER PARTIES AUTHORIZED TO HAVE ACCESS IN ACCORDANCE WITH THE PROVISIONS OF FERPA. IF YOU HAVE ANY QUESTIONS ABOUT THOSE PROVISIONS, PLEASE CONTACT THE ASSOCIATE DEAN.

FERPA affords students certain rights with respect to their educational records. These rights include the right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent. One exception, which permits disclosure without consent, is disclosure to university

officials with legitimate educational interests. A university official is:

- A person employed by the University in an administrative, supervisory, academic, or support staff position, including law enforcement unit and health staff.
- A person or company with whom the University has contracted to perform a special task, such as an attorney, auditor, or collection agency.
- A person serving on the Board of Trustees.
- A person assisting another University official in performing his or her task.

A university official has a legitimate educational interest if the official is:

- Performing a task that is necessary to carry out the functions of his or her job.
- Performing a task related to the discipline of a student.
- Maintaining the safety and security of the campus.
- Providing a service or benefit relating to the student such as health care, counseling or financial aid.

(For example, if a law professor is counseling a student who has taken his or her exam and that law professor wants to access the student's records to assist in that counseling, this is a legitimate educational interest. If however, a law professor wants to access a student's records to assist in identifying a student for an employment opportunity, this is not a legitimate educational interest.)

Please complete the following to process your request to access student records:

Name of student: _____

Purpose of access: _____

Item(s) of information requested: _____

Name of requestor: _____

Job title: _____

I hereby agree to keep the information disclosed to me confidential according to applicable legislation and regulations.

Signature: _____

Date: _____

.....

Disposition of Request

Specify materials accessed:

Signature of official providing material: _____

Date: _____

When a request for student record information is received, this form must be completed and filed in the student's file.

6.13 Student Right to Know and Campus Security Act

Capital University complies with the federal Student Right to Know and Campus Security Act of 1990 which provides for the collection and reporting of graduation rates, campus crimes statistics, and for the development of annual campus security reports including campus security policies. Appropriate information and materials may be obtained from the offices of the Director of Administrative Services, Assistant Dean of Student and Multicultural Affairs, Career Services, and Admission and Financial Aid.