

## **PROCEDURES FOR HEARINGS ON CONTRIBUTORY HEALTH IMPAIRMENTS IN HONOR CASES**

### **A. INTRODUCTION**

These Procedures for Hearings on Contributory Health Impairments (these “CHI Procedures”) apply to University students or former University students against whom an Honor report has been received (each, as more particularly defined, below, a “Student,” and, collectively, “Students”), where the Honor Committee has jurisdiction (as described in the By-laws of the Honor Committee), and where the Student is alleging a Contributory Health Impairment (as defined, below, a “CHI”) or is asserting a Lack of Capacity (“LC”) to stand trial. These CHI Procedures establish the method for evaluating an allegation of CHI and for assessing whether a Student who establishes a CHI poses a Significant Risk (as defined below) to the University community. The hearing described in these Procedures (the “CHI Hearing”) provides for evaluation of the alleged CHI and the issue of Significant Risk by experts with professional experience in the evaluation or treatment of the relevant health impairment(s).

It is the responsibility of a Student asserting CHI or LC to be familiar, and to proceed consistent, with these CHI Procedures. Questions about these CHI Procedures should be addressed to the Honor Committee, at 434-924-7602. Students may request reasonable accommodations for a disability in order to fully and effectively participate in a CHI Hearing, as more fully described in Section C, below.

### **B. DEFINITIONS**

As used in these Procedures, the following terms shall have the meanings indicated:

1. By-laws. The By-laws of the Honor Committee in effect at the time of the conduct that is the subject of the Honor report in question.
2. Contributory Health Impairment or “CHI”. A health impairment that (i) caused the Student’s judgment to be substantially impaired at the time of the reported conduct such that the Student substantially lacked the ability to discern that the conduct in question might be considered an Honor offense, and/or (ii) caused or significantly contributed to the Student’s commission of such reported conduct, which shall mean that, in the absence of the CHI, a reasonable University student in the same or similar circumstances would not have committed such conduct. As used in this definition, “cause” means a “direct causal connection,” as described in Section C(2), below.
3. Dean. The University’s Dean of Students or the Dean’s designee, or such other officer or person authorized by the Vice President to act on behalf of the Dean under these CHI Procedures.
4. Executive Committee. The Executive Committee of the Honor Committee.

5. Expert Assessment. A written assessment regarding the Student's alleged CHI, including any relevant history of mental or physical health services or treatment, rendered by a qualified person with relevant professional credentials and knowledge, skill, experience, training, or education in the assessment and treatment of the condition(s) in question.
6. Hearing or Hearing on CHI. A hearing as described in these Procedures convened to evaluate an alleged CHI and any subsequent hearing convened to re-evaluate the issue of Significant Risk.
7. Honor Committee Participant. An individual who may be selected by the Vice Chair for Hearings or Chair of the Honor Committee to participate in or observe the Hearing.
8. Honor I-Panel. The panel of three Honor Committee members that reviews the findings of an Honor investigation in order to determine whether, by a preponderance of the evidence, an Honor offense was committed. If the I-Panel determines, by a preponderance of the evidence, that an Honor offense *was* committed, the Student is formally accused and the case moves forward for resolution pursuant to the By-laws of the Honor Committee. Otherwise, the Honor charges are dropped and the case is dismissed.
9. Honor I-Log. The written compilation of witness interviews and other evidence that is the result of an Honor investigation.
10. Lack of Capacity. The Student's substantial inability to understand the Honor charges brought against them or to assist in their defense, due to a health impairment.
11. Panel. The Hearing panel of three persons, including a Chair, selected by the Vice President to evaluate the Student's alleged CHI, as described in Section C, below.
12. Representative. The person, if any, selected by the Student to provide advice and support in connection with the CHI Hearing. A Representative may be any person, including an attorney, who is not a witness in the Hearing. The Student may be accompanied by the Representative at the Hearing, where the Representative may provide support and advice, but may not speak on behalf of the Student or otherwise participate in the Hearing, except as may be requested or permitted by the Panel Chair.
13. Restrictions. The suspension from the University or from certain University activities, or the other protective actions, conditions, and/or restrictions, collectively, which may be imposed by the Panel upon a Student whom the Panel has determined poses a Significant Risk. Restrictions will be based on an individualized assessment, taking into account the nature, duration, and severity of the established CHI.
14. Significant Risk. The likelihood that the Student will, because of a Contributory Health Impairment, commit conduct that would constitute one or more subsequent Acts of Lying, Cheating, or Stealing (as those terms are defined in the By-laws). Findings on the issue of Significant Risk will be based on an individualized assessment, taking into

consideration the nature, duration and severity of the established CHI, as those factors bear on the probability that the Student will engage in one or more subsequent Acts of Lying, Cheating or Stealing. In making this assessment, the Panel will rely on the testimony of the Student and witnesses, if any, at the CHI Hearing; the Expert Assessment, if any; the Honor I-Log; any other records supplied by the Honor Committee and/or the Office of the Dean of Students; other available and relevant medical, psychiatric, and/or psychological information; and any information regarding reasonable accommodations to which the Student is entitled that would mitigate the risk.

15. *Student*. Any person registered or enrolled at the University as a student, or a former student who seeks to re-enroll with any unresolved or pending Honor report, or any person applying for readmission when a CHI Hearing is authorized by these Procedures or otherwise approved or requested by the Vice President.
16. *Vice Chair for Hearings*. The Honor Committee's Vice Chair for Hearings.
17. *Vice President*. The University's Vice President and Chief Student Affairs Officer or designee.

### C. PROCEDURES FOR ADDRESSING ALLEGED CHI

As used in these CHI Procedures, timeframes and deadlines measured in "days" mean calendar days, unless otherwise specified.

1. *Requesting a Hearing on CHI*.
  - a) *Timing of Request*: A request for a Hearing on CHI may be made by a Student at any time after the Student has been informed of the underlying Honor report up to and including the date ten days after the Student has been formally accused by an I-Panel. The request for Hearing on CHI must be submitted to the Vice Chair for Hearings, on the form attached hereto as Appendix A (a "Request for Hearing on CHI").
  - b) *Referral by the Executive Committee*: The Executive Committee may, by majority vote at any time, refer a Student's case for a Hearing on CHI. Within ten (10) days of such a referral, the Student may decline such referral and elect instead to have the case remain before the Honor Committee for resolution pursuant to its By-laws. In order to so decline the referral, the Student must notify the Vice Chair for Hearings. If the Student does not decline the referral, the Dean will evaluate the referred case as a Request for Hearing on CHI.
  - c) *Requesting Accommodations*: The Student may request reasonable accommodations in order to fully and effectively participate in a Hearing on CHI. A Student wishing to request such accommodations is strongly encouraged to make such request in writing to the Honor Committee or to the Dean at the earliest possible time and, if possible, at least ten (10) days prior to a Hearing on CHI in order to afford the University sufficient time to respond to the request and

provide accommodations, as appropriate. Once a request is received, the Student will be connected with the University's Student Disabilities Access Center ("SDAC") or the ADA Coordinator, as applicable, to facilitate an interactive discussion to identify appropriate reasonable accommodations and to ensure that agreed-upon reasonable accommodations are provided.

- d) Requirements for Evaluation by the Dean: Following submission of a completed Request for Hearing on CHI, the Student must contact the Dean within ten (10) days to schedule an initial interview with the Dean. In addition, the Student must satisfy each of the following requirements within forty-five (45) days from the date of submission of the Request for Hearing on CHI. The foregoing deadlines may be extended by the Dean, in the Dean's sole reasonable discretion, for good cause shown. Upon the expiration of the forty-five- (45-) day period (and any extension granted by the Dean for good cause shown), if any of the following requirements has not been satisfied, the Request for Hearing on CHI will be void, and the matter will be returned to the Honor Committee for resolution pursuant to its By-laws.
- (i) The Student must schedule an initial interview with the Dean, and the Student must meet with the Dean as scheduled.
  - (ii) The Student must submit an Expert Assessment to the Dean. If the Student is unable to obtain an Expert Assessment, it is the Student's responsibility to promptly notify the Dean and to work with the Dean to obtain an Expert Assessment within the forty-five- (45-) day timeframe set forth above. In appropriate cases, the Expert Assessment requirement may be waived by the Dean, provided that other independent and credible evidence exists to support the Student's Request for Hearing on CHI, as determined in the sole reasonable discretion of the Dean.
  - (iii) The Student must promptly provide any additional information or documentation that the Dean deems necessary in order to complete an evaluation of the Request for a Hearing on CHI. If the Dean determines that additional medical or other healthcare documentation is necessary, the Dean will request such additional documentation, together with an explanation as to why such additional documentation is necessary. Requests by the Dean for medical and other healthcare documentation will be narrowly focused on information deemed necessary by the Dean to support the Student's Request for Hearing on CHI.
- e) Dean's Decision: Upon the timely satisfaction of each of the foregoing requirements, the Dean will evaluate the Request for Hearing on CHI, as described below, and render a written decision within thirty (30) days, subject to extension for good cause, in the sole reasonable discretion of the Dean.
- f) Effect of Dean's Decision: The Dean will notify the Student, the Vice President, and the Honor Committee, in writing, of the Dean's decision to grant or to deny

the Request for Hearing on CHI. If the Hearing is granted, such notice will state that it is given under these CHI Procedures, will refer to the underlying Honor charges, and will enclose a copy of these CHI Procedures. If the Hearing is denied, the Student may timely appeal the Dean's decision, as outlined in subparagraph (g), below. Following denial of the Student's Request for Hearing on CHI, and subject to the outcome of a timely-filed appeal, the matter will be returned to the Honor Committee for resolution pursuant to its By-laws.

- g) Appeal of the Dean's Decision: The decision of the Dean to deny a Request for Hearing on CHI may be appealed to the Vice President, in writing, within ten (10) days of receipt of the Dean's letter denying the request. The Vice President will discuss the Dean's decision with the Dean and the Student in such manner as the Vice President may determine to be expeditious and appropriate, as well as consult with SDAC and/or the ADA Coordinator if and in the manner that the Vice President deems necessary and appropriate. The Vice President may affirm or reverse the Dean's decision. The Vice President's decision is final and may not be appealed. If an appeal is denied, the matter will be returned to the Honor Committee for resolution pursuant to its By-laws.
  
- h) Admission of "Act" Element of Alleged Honor Offense: As indicated in the CHI Request Form, any Student whose Request for Hearing on CHI has been approved by the Dean shall be deemed to have admitted the "Act" or "Acts" relating to the underlying Honor charges. Such admission(s) shall be deemed to have been made upon delivery to the Student of notice of the Dean's approval of the Request for Hearing on CHI. In the event that a Student, after having their Request for Hearing approved by the Dean, (a) does not prevail at the resulting Hearing on CHI, or (b) forfeits the Hearing on CHI, as described below, the case shall be referred back to the Honor Committee for resolution pursuant to its By-laws. The jury panel in any resulting Honor hearing will be informed of the Student's admission of the underlying Act or Acts, the Student will be precluded from denying that they committed such Act or Acts, and the jury panel's vote will reflect that the "Act" element of each alleged Honor offense has been satisfied. The Student's right to introduce evidence on the remaining elements of an Honor offense (i.e., "Knowledge" and "Significance") will not be affected, except that, as provided in the By-laws, Causal Psychological Evidence (as defined in the By-laws) will not be admitted. In the event that a Student's Request for Hearing on CHI is denied by the Dean, the Student will not be deemed to have admitted the "Act" or "Acts" relating to the underlying Honor charges.
  
- i) Scheduling and Forfeiting a Hearing: A Student who fails to cooperate in the scheduling of a Hearing on CHI or who otherwise unduly delays the Hearing will forfeit the Hearing on CHI that has been granted by the Dean. Such cooperation includes responding promptly to phone calls, emails, and letters addressed to the Student; making reasonable efforts to accommodate proposed Hearing dates; and making arrangements with the Student's witnesses, if any, to facilitate their availability at the Hearing. Students should anticipate that the University will

make every effort to schedule a Hearing as promptly as possible after a Request for Hearing on CHI has been granted. (The actual date of individual Hearings is necessarily dependent on the total number of Hearing requests that have been granted, and on the academic calendar.) If the University reasonably concludes that a Student is not cooperating in scheduling or preparing for a Hearing, it will so notify the Student, in writing, and the Student will have fourteen (14) days in which to comply with any outstanding requests relating to the Hearing on CHI. After that time, the Dean, in the sole reasonable discretion of the Dean, may determine that the Student has forfeited the Hearing on CHI and return the case to the Honor Committee for resolution pursuant to its By-laws.

2. Evaluation of Request for Hearing on CHI.

- a) The Dean's Review: The Dean will meet with the Student in order to review the Request for Hearing on CHI. In order to grant the Student's Request for a Hearing on CHI, the Dean must find that the Student has satisfied all of the requirements set forth in Section C(1), above, within the timeframes indicated. Provided that all such requirements have been satisfied, the Dean will grant the requested Hearing if, based on information obtained from the student or contained in materials submitted to the Dean (including any records provided by the Honor Committee and any Expert Assessment(s)), the Dean determines that the Panel could reasonably conclude that: (i) the alleged CHI existed *contemporaneously* with the reported Honor offense; and (ii) there was a *direct causal connection* between the alleged CHI and the reported conduct underlying the Honor charges.
- b) Factors Guiding Dean's Review: While no single factor is decisive, the Dean's evaluation of a Request for a Hearing on CHI will take into account the following considerations:
  - Whether the Student has demonstrated a diagnosed medical, psychiatric, or psychological condition that could qualify as a CHI, as defined above.
  - Whether the Student is engaged in an ongoing relationship with one or more health providers, taking into account the details of that history, such as: When was the alleged CHI first diagnosed, and by whom? Did health services or treatment begin prior to the conduct that is the subject of the Honor charges? If so, when? Were health services or treatment being sought at the time of the commission of such conduct? Were health services or treatment sought after the Student was made aware that an Honor report had been received?
  - Whether the alleged medical, psychiatric, or psychological condition might be found to be of a type and severity to have caused the Student's judgment to be substantially impaired at the time of the reported Honor offense.
  - Whether the Student has presented other independent evidence (witness testimony, academic records/grades, approved accommodations through SDAC, other social/environmental information) documenting a medical,

psychiatric, or psychological condition that existed at the time of the reported Honor offense.

3. Hearing Panel; Notification; Documentation.

- a) Panel Appointment; Composition: A Panel shall preside over each Hearing under these Procedures. The Vice President shall select the Panel members and shall notify the Student and the Dean (each, a “party,” and collectively, the “parties”) of the names of the Panel members and of the Panel Chair. The Vice President shall seek to staff the Panel with three persons with appropriate expertise, including psychologists or psychiatrists. Selection of Panel members may be made without any restriction or requirement as to the number of prior Panels on which a panelist has previously served.
- b) Notification of Hearing; Copies of Documentary Evidence: The Vice President shall notify the Student and the Dean as soon as possible regarding the date, time, and place of the Hearing. Not fewer than five days prior to the Hearing, the Vice President shall provide to the Student and the Dean a copy of the complete case file to be presented to the Panel, including the Honor I-Log.
- c) Evaluations/Reports: In addition to the Expert Assessment supporting the Request for Hearing on CHI, if any, the Student may submit the opinions or recommendations of other licensed healthcare professionals for review by the Panel. If the Student wishes to submit such other opinions or recommendations, the student shall provide to the Vice president a copy of the documents or reports to be so submitted not less than two days prior to the Hearing.
- d) Hearing Panel not Bound by Expert Assessment or Other Opinions/ Recommendations: The Hearing Panel will not be bound by the opinions or conclusions set forth in the Expert Assessment or by the opinions or recommendations of other healthcare professionals submitted for or on behalf of the Student.
- e) Participation by the Honor Committee: The Honor Committee may designate an Honor Committee Participant.

4. General Hearing Procedures.

- a) Attendees at the Hearing; Role of Representatives and Attorneys: The Dean, the Student, the Student’s Representative, and the Honor Committee Participant, if any, may attend the entire Hearing, excluding the Panel’s deliberations, which shall be conducted in private. Witnesses other than the Student and the Dean may remain in the Hearing room only while giving their testimony, unless the Panel Chair determines otherwise. The Student and the Dean are responsible for arranging the attendance of their respective witnesses at the Hearing. The Panel may arrange for the presence of a person or persons who may advise it, privately

or otherwise. The Panel Chair shall determine the propriety of attendance at the Hearing by any other persons.

- b) Evidence: The Panel is not bound by the rules of procedure or evidence applicable to judicial proceedings, and may adopt such rules of procedure and evidence that it deems appropriate, allow for flexibility in sequencing, and take into account any evidence it deems relevant, in the sole reasonable discretion of the Panel Chair.
- c) Decisions by Majority Vote: All decisions by the Panel shall be made by majority vote.
- d) Truthful Testimony: Each witness is expected to testify truthfully and, if a witness is a Student, such testimony will be given on the Student's honor pursuant to the University's Honor Code.
- e) Burden of Proof of CHI: The Student bears the burden of proof on all issues (i.e., the existence of a CHI and, if applicable, the lack of a Significant Risk) at the Hearing on CHI and any related proceedings.
- f) Standard of Proof; Preponderance of the Evidence: In order to meet the burden of proof, the Student must persuade the Panel on the issue in question by a preponderance of the evidence. A "preponderance of the evidence" means the greater weight of the evidence; that is, to establish a fact by a preponderance of the evidence means to prove that the fact is more likely true than not true, considering the totality of the evidence.
- g) Assumption of Admission of "Act" Element: The purpose of the Hearing on CHI is, in significant part, to enable the Panel to make an informed decision regarding the existence of the alleged CHI. In order to make this determination, the Panel (which is *not* charged with determining whether the alleged conduct meets the criteria of an Honor offense) may assume that the question of whether the Student committed the reported conduct underlying the Honor charges (i.e., committed the "Act" or "Acts" charged) is not in dispute.
- h) Opening Statements; Witness Testimony; Documentary Evidence; Questions: The parties may make opening statements at the beginning of the Hearing, and closing statements at the end of the Hearing. The Student may make the first opening statement and a rebuttal opening statement. Following the opening statements, the Student may present any witnesses, documents, and other evidence to support the Student's position. The Dean may then present relevant evidence, followed by an opportunity for the Student to present rebuttal evidence. The Honor Committee Participant may provide information relating to the Honor investigation and I-Log, upon request of the Panel Chair. Additional evidence may be presented in the sole, reasonable discretion of the Panel Chair. The parties may question witnesses upon the completion of each witness's initial testimony. Panel members

may question witnesses at any time. Documents and other exhibits offered, when received in evidence by the Panel, will be made a part of the Hearing record.

- i) Continuances: The Panel Chair may continue the Hearing from time to time, provided that the Hearing will be completed within ten (10) days of its commencement, unless the parties agree otherwise or the Panel decides otherwise, in writing, for good cause, in its sole, reasonable discretion. Once the Hearing has been completed, it may be reopened by the Panel at any time before the Panel renders its written decision, as described below.
- j) Recordings and Transcripts: The Panel will make its best efforts to arrange for the Hearing to be accurately recorded and will arrange for transcription of the recording upon request by a party or if the Panel deems transcription appropriate. Such recording and transcription may be made by any person(s), including University employees, that the Panel may designate and such persons will ensure the confidentiality of the information transcribed.

5. Findings of the Panel on CHI and Significant Risk.

- a) Determination of Existence of CHI: In the initial Hearing, the Panel shall first determine whether the alleged CHI has been established, by a preponderance of the evidence, as described above.
  - i. If the Panel determines that the CHI has not been established by a preponderance of the evidence, the Panel will refer the case back to the Honor Committee for resolution pursuant to its By-laws.
  - ii. If the Panel determines that the CHI has been established by a preponderance of the evidence, the underlying Honor charges will be dismissed and the Panel shall next consider whether the Student's presence at the University poses (or, where a Student is seeking readmission following suspension or withdrawal, would pose) a Significant Risk.
- b) Determination of Significant Risk; Restrictions:
  - i. If the Panel determines that the Student does not pose a Significant Risk, the Panel will not impose Restrictions of any kind.
  - ii. If the Panel determines that the student does pose (or would, upon readmission, pose) a Significant Risk, the Panel shall impose Restrictions, as appropriate. A Restriction involving suspension shall be enforced through a registration block applied by the Office of the Dean of Students.

Restrictions may also include conditions to be satisfied in order for the Student to remain enrolled at the University, if applicable, or in order to

request re-evaluation by the Panel, at a subsequent Hearing, on the issue of Significant Risk. Such conditions may include, among others, the lapse of a stated period of time; the requirement that a Student initiate or continue regular relationship(s) with certain healthcare providers; the requirement that a Student abstain from using certain substances and/or submit to periodic or random testing for such substances; the requirement that the Student meet regularly, as requested, with the Dean; and/or the requirement that the Student's healthcare provider(s) submit an updated written assessment describing the Student's treatment and progress since the initial Hearing and, in the opinion of the assessor, whether or not the student, if readmitted, would continue to pose a Significant Risk.

Upon the satisfaction of the Restrictions; if applicable, a Panel may convene to re-evaluate the issue of Significant Risk; may lift or modify some or all of the Restrictions; and, in appropriate cases, may grant permission for the Student to seek re-enrollment at the University.

The effective date and termination date, if applicable, of the Restrictions shall be in the sole, reasonable discretion of the Panel. A notice of all Restrictions shall be filed with the Office of the Dean of Students and the Vice President. The Honor Vice Chair for Hearings shall be informed of the outcome of the proceedings by the Office of the Vice President.

6. Panel Decision; Hearing Records.

- a) Panel Decision: The Panel will announce its decision orally at the end the Hearing (or, if the Hearing is continued, at the end of the continued Hearing). In addition, the Panel will prepare a written decision letter that specifies its findings and conclusions, in detail. The decision letter also will specify any Restrictions imposed by the Panel, including their respective effective date(s) and duration, if applicable. The Panel will endeavor to provide a copy of its written decision to the Student, the Dean, and the Vice President as soon as reasonably practicable following the conclusion of the Hearing.
- b) Records: The Panel shall retain in confidence all records relating to Hearings on CHI, as shall the Office of the Vice President, the Dean, and the Honor Vice Chair for Hearings, and shall make no public disclosure except where disclosure is required or permitted by law.
- c) Decisions by the Panel Without Convening a Hearing: In unusual cases, the Panel may elect to evaluate a claim of CHI without convening a Hearing where,
  - i. the Panel has received copies of the Student's academic, Honor, health, or other relevant records, and such records are deemed sufficient, without more, to evaluate the issues of CHI and, if applicable, Significant Risk,  
*and*

- ii. the Panel concludes that either
  - (1) significant passage of time has made convening a Hearing impossible, impractical, or unnecessary, or
  - (2) in re-evaluating the issue of Significant Risk or the continued necessity of Restrictions, the Panel is able to determine on the record submitted that the Student does *not* pose a Significant Risk or that such Restrictions should be lifted.

#### **D. APPEALS TO THE VICE PRESIDENT**

1. *Time for Appeal*. The Student or the Dean may appeal the Panel's decision by so notifying the Vice President, in writing, within ten (10) days following receipt of the Panel's written decision, subject to extension for good cause in the sole, reasonable discretion of the Vice President.
2. *Form of Appeal; Arguments; Consultation with Panel*. The appellant's notice to the Vice President shall include a statement of the specific portion(s) of the Panel's decision with which the appellant disagrees, any arguments in support of the appellant's position, and the appellant's proposed alternative to the conclusions of the portion(s) of the decision in question. The Vice President may afford the Student and the Dean an opportunity to present written arguments in support of their respective positions on the appeal. The Vice President may impose any reasonable time and length limitations on such presentations. The Vice President may question the Panel members about their decision and obtain and review any or all of the Hearing transcripts and exhibits.
3. *Appeal for Cause*. Except in the case of New Evidence (as defined below), the Vice President will evaluate whether the Panel's findings and conclusions are reasonably supported by evidence in the record and, if so, shall affirm those findings and conclusions. If the Vice President concludes that the Panel's findings and conclusions are *not* reasonably supported by evidence in the record, the Vice President may direct the Panel to reopen its Hearing and receive additional evidence, or the Vice President may appoint a new Panel to consider the case *de novo*.
4. *Appeals for New Evidence*. The Vice President will evaluate any additional evidence proffered by the appellant as "New Evidence" during the appeal period. For these purposes, "New Evidence" means evidence (i) of which the appellant was unaware, and could not reasonably have been aware through the exercise of due diligence, prior to the Hearing, and (ii) the existence of which would very likely, in the sole, reasonable discretion of the Vice President, have affected the outcome of the Hearing. If the Vice President is persuaded that additional evidence submitted by the appellant constitutes New Evidence, the Vice President may direct the Panel to reopen its Hearing and receive such New Evidence, or the Vice President may appoint a new Panel to consider the case *de novo*.

5. *Vice President's Decision Final.* The Vice President shall provide to the Student and the Dean a written decision on the appeal in as timely a fashion as the Vice President's schedule can accommodate. This decision is final and may not be appealed.

## **E. PROCEDURES FOR CLAIMS OF LACK OF CAPACITY**

### 1. *Assertion of LC.*

- a) Timing and Process for Asserting LC: A Student may assert that they lack the capacity to stand trial ("Assertion of LC") prior to the commencement of an Honor hearing. The Assertion of LC must be made in writing, in the form attached hereto as Appendix B (the "LC Form"), and must be submitted to the Vice Chair for Hearings. The Vice Chair for Hearings shall forward a copy of the LC Form to the Dean.
- b) Consultation with the Dean: Serious consequences attach to the Assertion of LC and the resulting avoidance of the Honor hearing process. Moreover, Students considering such a choice may, by definition, be in an impaired condition. For these reasons, in order to assert LC, Students must meet with the Dean to discuss the decision and the resulting suspension from the University, and the Dean must confirm that such meeting occurred by signing the LC Form. The Dean may consult with the University's department of Counseling and Psychological Services, with a mental health specialist treating the Student, or with others who might have relevant input to assist the Dean in this consultation.

### 2. *Consequences of Assertion of LC.*

- a) Suspension from the University: An Assertion of LC involves a claim that a serious health impairment compromises a Student's fundamental functioning so as to make their participation in an Honor hearing impossible. For this reason, a Student making this claim will be deemed to pose a Significant Risk, mandating immediate suspension from the University. Students will not be allowed to complete classes if such suspension occurs mid-semester. Such suspension shall be noted on the Student's record as: "Suspension Pending Elimination of Risk and Resolution of Honor Charges."
- b) Procedures for Return to the University: Suspension for LC shall only be removed if and when:
  - i. The Student files a written Request for Conditional Return to Stand Trial, in the form attached hereto as Appendix C;
  - ii. The Student returns for their Honor hearing; and

- iii. The Student is acquitted of the underlying Honor charges upon completion of such hearing.

**F. NOTICES**

All notices to be given under these Procedures shall be deemed to have been given (a) to the Student, when sent to the Student’s “Primary Email Address,” as outlined in the University Undergraduate Record; (b) to the Dean or to the Vice President, when delivered to their respective regular University offices; and (c) to all other persons, upon actual receipt by or personal delivery to the person intended, or three (3) days after mailing by U.S. mail to the person’s address of record, whichever shall first occur.

**G. AMENDMENTS**

These Procedures may be amended at any time, in writing, by mutual agreement of the Honor Committee and the Vice President. Representatives of the Executive Committee, the Vice President, the Office of University Counsel will make reasonable efforts to meet for the purpose of reviewing and, if appropriate, revising, these CHI Procedures, at such intervals as they may deem appropriate. The parties to such meetings may consult with other University subject-matter experts, as appropriate. The procedures applicable to a particular Student will be these CHI Procedures, as amended through the date on which the relevant Honor report is filed.

\_\_\_\_\_, 2018

\_\_\_\_\_  
\_\_\_\_\_, Honor Committee Chair

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Patricia M. Lampkin, Vice President and Chief Student Affairs Officer

**APPENDIX A**

**REQUEST FOR HEARING ON CONTRIBUTORY HEALTH IMPAIRMENT**

Student's Name: \_\_\_\_\_

Student's ID number: \_\_\_\_\_

Honor Committee Case Number: \_\_\_\_\_

Date of Investigative Panel hearing (if any): \_\_\_\_\_

Date this Request received by Vice Chair for Hearings: \_\_\_\_\_

Understanding Procedures: I have read and understand the Procedures for Hearings on Contributory Health Impairments in Honor Cases (the "CHI Procedures"), a copy of which is attached to this Request, and I understand that this Request is subject to the requirements of Section C of the CHI Procedures. I understand that I may select as my Representative, if a Hearing is granted, any person, including another University student, a University employee, or any other person, including an attorney, who is not a witness or otherwise participating (e.g., as a panelist) at the Hearing. I understand that my Representative, if a Hearing is granted, may provide support and advice at the Hearing, but may not speak on my behalf or otherwise participate in the Hearing, except as may be requested or permitted by the Panel Chair.

Acknowledgement Regarding Admission of "Act": I understand and acknowledge all of the following:

In accordance with the By-laws of the Honor Committee (the "By-laws"), in order to convict an accused student of an Honor offense, an Honor jury panel must find, beyond a reasonable doubt, that three elements exist: (1) the accused student committed the Act in question; (2) the Act was committed with Knowledge; and (3) the Act was Significant, as each of those terms is defined in the By-laws.

The By-laws define "Act" as the specific event that gave rise to the Honor charges.

By submitting this Request for a Hearing on Contributory Health Impairment ("CHI"), I understand that, if my Request for a Hearing on CHI is approved by the University Dean of Students, I will be deemed to have admitted the "Act" element of the alleged Honor offense.

I further understand that, if I fail to carry the burden of proving a CHI at a Hearing on CHI, as described in the CHI Procedures, my case will be referred back to the Honor Committee for resolution pursuant to its By-laws. I understand that, in any ensuing Honor hearing, the jury panel will be informed of my admission of the "Act" element of the alleged Honor offense, I

will be precluded from denying that I committed such Act, and the jury panel’s vote will reflect that the “Act” element of such alleged Honor offense has been satisfied. However, I will not be precluded from introducing any evidence which would otherwise be admissible at an Honor hearing on the issues of “Knowledge” and “Significance,” except that Causal Psychological Evidence will not be admissible. “Causal Psychological Evidence” is defined in the By-laws as any evidence relating to the mental state of the accused that is introduced for the purpose of establishing that, at the time of the reported conduct, the accused was affected by a health impairment that (i) caused their judgment to be substantially impaired such that they substantially lacked the ability to discern that the conduct in question might be considered an Honor offense, and/or (ii) caused or significantly contributed to their commission of such reported conduct.

Procedure for Requesting Reasonable Accommodations - I understand that if I have a disability I may request reasonable accommodations in order to fully and effectively participate in the CHI Hearing process. I also understand that, while I may make such a request at any point during the process, I am strongly encouraged to make my request known at the earliest possible time and, if possible, at least ten (10) days in advance of the CHI Hearing, in order to afford sufficient time for the University to respond to my request and provide accommodations, as appropriate. I agree to work with the University’s Student Disabilities Access Center (the “SDAC”) to ensure that any reasonable accommodations I request are provided. I understand that, upon making a request for reasonable accommodations, the Honor Committee or the Dean will connect me with SDAC and/or the ADA Coordinator for this purpose, as outlined in the CHI Procedures.

\_\_\_\_\_  
Student’s Signature                      Date

\_\_\_\_\_  
Witnessed by                                      Date

Appendix B

Assertion of Lack of Capacity and Acknowledgement of Suspension from the University

Student's Name: \_\_\_\_\_

Student's ID number: \_\_\_\_\_

Honor Committee Case Number: \_\_\_\_\_

Date of Honor Trial (if scheduled): \_\_\_\_\_

Date this Request received by Vice Chair for Hearings: \_\_\_\_\_

Understanding Procedures: I have read and I understand the Procedures for Hearings on Contributory Health Impairments in Honor Cases (the "CHI Procedures"), a copy of which is attached to this Request.

Acknowledgement Regarding Immediate Suspension: I understand and acknowledge that, by reason of my assertion of a Lack of Capacity to stand trial, I am subject to immediate suspension from the University pursuant to the Procedures, and that I will not be re-admitted to the University unless and until I return to participate in a hearing on the Honor offense(s) with which I have been charged and have been acquitted of such Honor offense(s).

\_\_\_\_\_  
Student's Signature

\_\_\_\_\_  
Date

I have consulted with the above-named Student regarding the consequences of their decision to submit this Assertion of Lack of Capacity and Acknowledgement of Suspension from the University.

\_\_\_\_\_  
By: Dean of Students or Dean's Designee

\_\_\_\_\_  
Date

Appendix C

Request for Conditional Return to Stand Trial

Student's Name: \_\_\_\_\_

Student's ID number: \_\_\_\_\_

Honor Committee Case Number: \_\_\_\_\_

Date of Student's Suspension: \_\_\_\_\_

I was suspended from the University pursuant to my Assertion of a Lack of Capacity to Stand Trial. I hereby request a conditional return to the University for the sole purpose of completing my Honor hearing process. I understand that I may be re-admitted to the University only if and when I return to participate in a hearing on the Honor offense(s) with which I have been charged and have been acquitted of such Honor offense(s).

I am prepared to return for my Honor hearing on or after the following date: \_\_\_\_\_

I can be reached as follows:

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

\_\_\_\_\_  
Student's Signature

\_\_\_\_\_  
Date