

HONORABLE INTENTIONS

An In-Depth Look at UNC's

Honor Court

"It shall be the responsibility of every student at the University of North Carolina at Chapel Hill to obey and support the enforcement of the Honor Code, which prohibits lying, cheating or stealing when these actions involve academic processes or University, student or academic personnel acting in an official capacity."

(Instrument of Student Judicial Governance, II.A.)

cases are similar: Is the testimony credible? What do the facts indicate? Did the student intend to commit a violation? What sanctions are appropriate?

The Learning Environment: Much learning and nearly all studying occurs outside the classroom. To facilitate this process, the University environment must be conducive. If students violate the Campus Code with no consequences, other students who don't violate it may suffer negative consequences, e.g., be afraid to leave their room to go to the library. Just as it's hard to take an exam when you're aware that people are cheating around you, it's also hard to study when you're being threatened or when someone in your suite keeps a weapon in the top drawer. The importance of the Campus Code in making the learning environment fair to everyone can't be overstated. That's not to say we're entitled to pursue interests with no distractions. The Campus Code punishes conduct which "significantly" impairs others' welfare or educational opportunities.

Peer Education: Students gain experience in handling difficult situations and assessing the appropriateness of their own behavior.

Federal and State Requirements: For some violations, a higher authority requires disciplinary processes for nonacademic violations. The U.S. Congress has taken a special interest in sexual assault on college campuses. Under the Campus Security provisions of the Student Right to Know and Campus Security Act of 1990, universities must develop a policy which addresses, among other things, "the procedures followed once a sex offense has occurred." (20 USCA Section 1092(f)(7)(A)). The policy must address "[p]ossible sanctions to be imposed following the final determination of an on-campus disciplinary procedure regarding rape, acquaintance rape or other sex offenses, forcible or nonforcible," as well as "[p]rocedures for on-campus disciplinary action in cases of alleged sexual assault..." (20 USCA Section 1092(f)(7)(B)).

As a result, numerous colleges and universities across the nation now provide some process for handling sexual assault cases from a disciplinary perspective. All 16 UNC universities are required by the Board of Governors to impose the same minimum mandatory disciplinary sanctions for the possession or sale of illegal drugs. Accordingly, for some violations, the question is how to regulate the behavior. At UNC, the "how" has been answered in favor of student self-governance. There are a number of reasons why student conduct that is not strictly academic is addressed by the University. There is room for discussion about how to improve the procedures.

It is my hope that students will take the opportunity to apply for the Student Attorney General's Staff and the Honor Court this spring (and the Graduate Honor Court as well), so that they can contribute to improving student conduct and treating accused students fairly in all cases, academic and nonacademic.

Margaret Barrett is the associate dean of Student Affairs and the faculty adviser to the Undergraduate Student Court.

"It shall be the responsibility of every student to conduct oneself so as not to impair significantly the welfare or the educational opportunities of others in the University community." Although every UNC applicant signs in support of the Campus Code, few aspects of student self-governance have generated more debate than student courts handling cases outside the academic realm.

Most critics suggest that nonacademic conduct is fully covered by the criminal system. Some Campus Code violations might not always overlap with criminal violations.

Additionally, some have stated that a student who is held accountable in criminal student courts is a victim of "double jeopardy." It's only double jeopardy if you're charged more than once for the same violation within the same system.

The question of why student courts handle nonacademic conduct deserves explanation.

Tradition: In addition to a tradition of handling allegations of academic dishonesty, students have long assumed responsibility for nonacademic discipline problems. During the 1938-39 year, for example, the Campus Code governed nonacademic conduct. The Code stated, "A student is on his honor always to conduct himself as a gentleman." No specific offenses were listed, and students had to decide what conduct might be determined "ungentlemanly."

Today the Code is no longer gender-specific; it is, however, very specific about what acts are prohibited. A detailed listing of possible violations includes: hazing; assault; damage to University property, sexual assault or harassment; possession or sale of illegal drugs; discrimination based on race, religion, creed, sexual orientation, age, national origin or disability; and possession of guns or other weapons on campus.

Community Interests: The overriding reason for holding students accountable for violations that also may be criminal or nonacademic in nature is that UNC's interests are not necessarily protected by actions taken in criminal courts. Imagine that a student with no previous criminal record punched an instructor because of a grade dispute. Chances are, the student will serve little time; more importantly, criminal court cannot influence whether the student remains enrolled in the University. If the same facts were considered by the Honor Court, it might result in a penalty of suspension from the University.

This in no way implies that crime victims should choose to go through the student judicial system in lieu of taking criminal action. It only means that if the crime is also a violation of the Campus Code (or the Honor Code), two options may be pursued concurrently with potentially different outcomes.

On some campuses, such as the University of Virginia, responsibility for academic and nonacademic violations is split between two or more student conduct boards. On other campuses, administrators handle most or all nonacademic conduct violations. At UNC, it has worked well to have both academic and nonacademic cases handled by the same group of students. Many of the issues involved in

MARGARET BARRETT
GUEST COLUMNIST

Respect for Students Is Primary Concern of Honor Court

INTERVIEW BY JEANNE FUGATE

Navid Ahdieh has been a member of Honor Court for two years and is currently the outgoing chairman.

The Daily Tar Heel: What are your duties as chairman?

The chairman organizes training for Honor Court, acts as a liaison between the court and Student Government to get members confirmed and coordinates hearings.

DTH: What does training involve?

Training should inculcate a basic knowledge of the Instrument [of Student Judicial Governance], including "what is a violation and what is not; what are students' rights; what are faculty rights."

This year, specific training programs focused on discrimination and sexual assault. Representatives from the Student Affairs Division and the Orange County Rape Crisis Center facilitated discussions about the definition of discrimination and sexual assault and how to deal with them.

DTH: How many hours do you spend in training?

Members spend about 20 hours before serving. Ahdieh added, "We also look at what we do in the courtroom as additional training." Each member tries about two hearings a month.

DTH: Do you think members can try a case after only 20 hours of training, especially cases like sexual assault?

They don't focus so much on trying to justify why they try cases as why the University cannot avoid confronting these issues. "There is no other forum where students can address these issues."

Ahdieh felt "training is enough to put in the mindset to judge." Honor Court members are assisted with input from the Judicial Programs Officer, Margaret Barrett, the attorney general's staff and Student Affairs.

DTH: How do you determine whether a trial

is open or closed to the public?

If the defendant wants to have a lawyer or friend sit in, the hearing automatically becomes open. Or, if the student wishes the University community to know how they're being treated, they can request an open hearing. When trials are open, Honor Court makes a point to invite the DTH. This option is made clear to all defendants.

DTH: Can you justify having any trials closed to the public in terms of your accountability to the student body?

Honor Court has closed trials "out of respect for the person bringing charges and the person being charged." Since the Court does not know what defendants will plea, both sides deserve to have their cases heard without becoming a public spectacle. "Both parties deserve privacy."

Although some may argue the campus needs to know about the issues brought up in cases, such as sexual assault, "justice does not include informing the entire campus what goes on."

DTH: What about cases that go to criminal court — entailing a lot of publicity? Can you still justify closing these trials?

Just because another group acts in a certain way does not mean Honor Court should, especially when their purposes diverge. "We are really nothing like the criminal courts," Ahdieh said. Because they are not a part of the same system, there is room in Honor Court for niceties. "One of our major principles is respect."

DTH: Do you feel the punishment you mete out is sufficient?

Ahdieh noted that members were "kind of split," but they were restricted to specific guidelines. For instance, a student convicted of possession of marijuana automatically gets put on drug probation.

DTH: Is there any situation where a student receives less than the normal sanction?

Members take into account unusual mitigating circumstances. If the sanction will be unduly harsh, the sanction can be lessened. For example, justices weigh whether students would have to return home to abusive situations if they were to be expelled. "There's no precedent for our court, but we do try to have some equality in how we deal out sanctions."

DTH: You say you try to have equality.

Does that mean the court could change from year to year depending on its makeup?

"We try to keep the court diverse in every way, but it's more or less a random process. We pick out the applicants that seem rational, deep thinkers and interested in helping the University."

Ahdieh admitted there was some chance that, depending on the personalities of selected members, sanctions could change. However, "the Instrument does not allow that much room to maneuver," so students wouldn't be faced with dramatic changes like one court sentencing expulsion where another court would opt for suspension.

DTH: Do you like having these rigid guidelines?

"Yes and no. People are entitled from one semester to the next to expect equal treatment, but sentencing needs change. People become more aware and may call for less lenient sanctioning."

The campus should have more input on what constitutes an appropriate sanction. Honor Court is setting up groups comprised of faculty and students to solicit opinions. Ahdieh explained, "This is for

them, not for us."

DTH: Some people complain that Honor Court falls too much under control of student government. How do you feel about the relationship?

Justices must be confirmed by Student Congress every fall and every summer to serve. "There needs to be some system of checks and balances. If this [confirmation] is all we're offered, so be it."

The court can also be held accountable by the student body. "If anyone has problems with a member of the court, we're more than willing to look into it."

DTH: How do people get involved in Honor Court?

Applications are available today and are due Feb. 29.

DTH: What have you personally learned as a member of Honor Court?

"I've had an opportunity to work with some of the most motivated, critically thinking people on this campus. It has been a great leadership opportunity. It's not every day you can take the lead of 40 highly motivated people and get something done for this campus."



NAVID AHDIEH

Faculty Should Support Court Student-Run Model Is Better

As a faculty member who has presided in Honor Court appeals and served on the Committee on Student Conduct (the faculty-student-administration group that writes Honor Court rules), I remain unclear regarding faculty practices with respect to the Honor Code. Some faculty bemoan the level of students cheating, while others scoff at the idea of filing charges.

Among the comments I've heard: "The process is too time-consuming," "Students won't convict other students," "Students lack the maturity to run a judicial system."

Some faculty confess, "I don't file charges, I simply flunk cheaters." Although I am not surprised by the comments, I am dismayed. I offer the following observations.

The process is too time-consuming: As anyone who followed the O.J. Simpson trial can attest, the wheels of justice can roll slowly. But, compared to California, the student judicial system operates with lightning dispatch. Typical cases in the student judicial system rarely last beyond the semester in which they are filed. Moreover, the time required of faculty is usually not great — a few hours at most. Finally, let's not lose sight of what's involved. The educational system requires that we all

participate if we are to have a community built on trust.

Students lack the maturity to run a judicial system: I have heard this complaint numerous times, particularly about cases involving sexual assaults. A number of skeptics insisted two years ago that students would focus on titillating aspects of cases involving sex to the detriment of the judicial process.

My response: hogwash. Having sat in the first sexual assault case at UNC, I found the student judges demonstrated incredible intelligence, sensitivity and fairness.

Students won't convict other students: Want to know who the "softies" are when students bring appeals before boards on which faculty and students sit? Students rarely want to reverse convictions on the basis of sob stories. It's the faculty that usually want to go easy.

I don't file charges. I simply flunk cheaters: Applying this type of "self-help" appears to be convenient. One big problem: It's not legal. Look to the Faculty Responsibilities under the Honor Code. Item 8 states, "private action as a sanction

for academic cheating, including the assignment for disciplinary reasons of a failing grade in the course, is inconsistent with faculty policy and shall not be used in lieu of or in addition to a report of the incident." Flunk a student for cheating and you may find yourself the subject of an appeal that will embarrass you and cut loose a guilty student. Cheating is an offense against the integrity of the University. As we bar private retribution for criminal acts, so we require public accounting for transgressions against the community.

Although many skeptics unfairly denigrate the student judicial system, I take their concerns seriously. If faculty fail to support this institution, all is lost. Faculty kill respect for integrity within the University if they pooch-pooch the Honor Court. I wonder if some changes might improve faculty engagement, for example:

1. How about permitting faculty to exercise "self-help" by flunking students who cheat so long as faculty report to the Honor Court and the student's record reflects that the grade resulted from cheating? Students who disagree would be free to appeal.

2. Why not follow the example of state-run courts and require faculty, on a random basis, to serve as "jurors" in Honor Court cases? This would spread responsibility for promoting justice throughout the community and might inspire greater respect for the student judicial system.

God knows, faculty couldn't do any worse than the O.J. jurors. On second thought, maybe that's too easy a target. I urge members of the faculty community to join in the ongoing debate regarding steps to improve the system. But, let's improve it, not just criticize it or ignore it.

Bob Adler is a professor of legal studies at the business school and a faculty member of the Committee on Student Conduct.

This university has an honor system that is superlative. One way is the system's reliance on student self-governance.

Students prosecute and defend those accused of violating the Honor Code. Students weigh evidence and sanction as necessary. Making students part of defending honor renders us partners in the intellectual climate.

Such a system is not common among large public universities. Michigan, Iowa, Georgia, Minnesota — none have a student-run system. Why is student self-governance important? It establishes a system with legitimacy amongst students. Before college, we were accountable to someone several generations removed. Because UNC's honor system is student-run, I am accountable to my peers.

This condition is only just, as cheating hurts the student community, not only the professor. Through the honor system, students investigate my actions and determine what punishment I deserve. The resentment felt toward the principal for being an old fogey, or toward our parents for not "understanding" is not possible.

If I am found guilty by the Honor Court, I have stood before a group of people like me. They have had the same chances to cut corners or plagiarize but have chosen honor. I am thankful I have never been in that position.

I do not assume that every defendant found guilty feels shame. But a panel of peers has the best chance of communicating the need for honor. A faculty or a mixed student-faculty panel would not have the same effect. Allowing students to run the honor system also provides useful experience. In most professions your performance is monitored by others like you. Students should have the same role. There is no shortage of talented students.

Criticisms of student self-governance are misguided. Some fear a conflict of interest. Court procedure makes provisions for disqualification of court members and allows the defendant to challenge any person's inclusion on the Court.

It is sometimes feared that students will be too lenient. In fact, when cases are appealed to the University Hearings Board, where both students and faculty serve, students are more stringent. Other complaints like the severity of sanction have to do with how the system is run rather than who runs it. The University needs to be

aware of one real threat. More and more, when students appeal guilty verdicts, those verdicts are overturned. The Honor Court's guilty verdict is upheld less than half the time. Student self-governance is not being respected.

Three appellate bodies — the University Hearing Board, the chancellor and the Board of Trustees — can review the case. They cannot overturn a case if there is a "reasonable basis" for a guilty verdict. They cannot lessen the punishment if there is a "reasonable basis" for the original sentence.

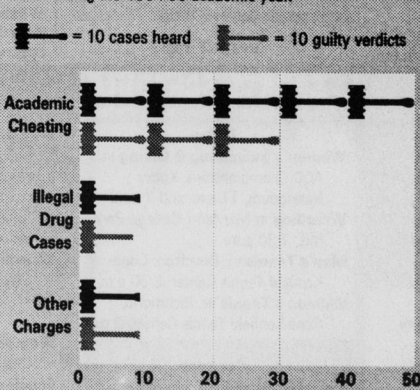
The question these appellate levels must ask is not "Do I agree with the decision and sentence?" but "Could a reasonable person have come to that decision?" They often ask "Do I agree?", overturn a verdict, and in doing so exceed their jurisdiction. This phenomenon must end.

We should be thankful we have talented students who work hard to preserve honor. It is important that such a system continue and that students, faculty and staff remain partners in the intellectual climate. By preserving this system, UNC will remain a model for other universities.

John Sides is a senior political science major from Winston-Salem and a member of the Committee on Student Conduct.

Court Is In Session

The Undergraduate Student Court heard the following cases during the 1994-95 academic year:



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