

FIGHTING *Academic Dishonesty Charges*

AT YOUR SCHOOL, COLLEGE, OR UNIVERSITY

By Thomas Tona, Esq.
TonaLaw



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So You've Been Accused of Cheating?

Academic dishonesty. Academic integrity violation. A breach of ethics.
College cheating.

No matter what you call it, being accused of violating your school's rules carries a harsh sting. Worse, it can feel like a heavy burden chained directly to your heart.

You may be wondering:

- ***What exactly am I being accused of?***
- ***What facts is the school alleging and how and why do they intend to proceed against me?***
- ***What are the consequences of being found in violation of my school's academic honesty policy?***
- ***Can an academic dishonesty finding hurt my future academic or career prospects?***
- ***Should I break down and confess, even if I think I didn't do anything wrong?***
- ***Do I need a lawyer to help me build my case and talk with the school?***
- ***MOST IMPORTANTLY: What do I do next?***

In most situations, what you do next is the following:

- 1. Start being careful about what you say and do. Don't discuss your case with anyone who is not your personal attorney.***
- 2. Start preparing your defense strategy. You will likely have to attend a hearing, and you want to know what to say at that hearing to assert your rights and defend your case.***
- 3. Explore the totality of your options with an academic dishonesty lawyer who has a proven track record. You may be able to get your case dismissed prior to a hearing, for example.***

To sum it up more succinctly: **stop talking, and start getting serious about your defense.**



You Don't Have to Go It Alone — Consider Hiring an Academic Dishonesty Attorney

You, as a student, have the right to know exactly what your school's process is for conducting an academic dishonesty review. You also have the right to seek seasoned legal counsel from a law firm familiar with handling these cases. Your school may not allow a lawyer to talk for you directly in a hearing, but you can always hire an attorney to guide you through your case and prepare a solid, well-formed defense, including preparation of your hearing statement, where school rules prohibit an attorney from speaking at the hearing.

Navigating your defense on your own can be incredibly difficult, not to mention daunting. Since the global outbreak of COVID-19, new and ever-changing remote learning policies have created entirely new gray areas within school ethics policies. There is now an increased potential to be accused of a violation, even when a student's actions have been compliant with all of the rules.

When you have been accused of cheating, the attorneys at TonaLaw are here to help. You have the option to consult with a lawyer after being accused of academic dishonesty. During your consultation, you get to learn about the exact process your school uses to build a case against you and the most important steps you need to take next.

TonaLaw Can Provide You With Experienced Legal Defense for Academic Dishonesty Accusations

The TonaLaw firm is highly experienced with all matters of contract law, including contracts between students and their schools. After all, a cheating accusation is really an allegation of one thing: you violated the school's contract — a contract you signed when you agreed to attend.

Most students don't even realize that their school has the freedom to come up with its own definition of academic dishonesty, as well as its own process for how to investigate and prove accusations.

By consulting with an attorney at TonaLaw, you get professional help when it comes to knowing your options during this process and forming a strong defense with all the facts in mind.

An academic dishonesty defense lawyer can provide you answers to tough questions like:

- ***What counts as a violation?***
- ***What rights and options do I have once I'm suspected or accused?***
- ***Do I have to attend a hearing?***
- ***What evidence does the school have, and is it enough to meet their own standards?***
- ***Are there any legal-style actions I can take to get the case dismissed — or, at very least, get my charges reduced?***
- ***Is there any way to minimize the impact of a finding or an accusation upon my future?***
- ***What should I say once I am accused?***

As for that last point, the answer's easy: Don't say anything.

If you intend to fight your charges, tell the school that's your intention, and don't discuss the case with them any further until your hearing.

Rest assured that, once you are accused, you have to go through the entire process. Once you have been accused, there is no opportunity to "talk your way out of it", and saying anything without a lawyer can only hurt your position later on.

You will also find it difficult to assemble the perfect set of facts needed to convince the school to drop your case now. Instead, prepare your words, evidence, and reasoning for the hearing that will inevitably result. Strongly consider getting a professional legal advocate to help.

Don't Wait to Seek Legal Advice When You're Accused, Talk to an Attorney Today!

Reading this guide is an important step. You've signalled your interest in learning about your rights and, more importantly, your options.

Our Academic Dishonesty eBook provides you with the basic information about how the process usually works, what to expect, and what's on the line. However, even the best eBook cannot prepare you for your unique case. Every school is different, and every case is different. The only way to know about what options you have and what strategies could work for you is to talk to a professional.

If you are being accused of academic dishonesty, are scared, and want to know the best step to take next, the answer is: to make a call.

Call Thomas Tona at 1-833-TONALAW (1-833-866-2529) or contact us online now to schedule an initial case review. We can begin working on your case right away. More importantly, we can help you avoid the most common mistakes students in your position come to regret when they try to handle their cases on their own.

Don't wait until the week before — or the day before — your hearing! Start working on your case now, when you have time to prepare and your options are more open. Make the right call, a call that ensures you can stop worrying, and start working towards the best outcome for your future. As always, our initial consultations are free of charge.

Frequently Asked Questions About Academic Dishonesty Accusations and Hearings

Can an Academic Dishonesty Finding Hurt My Future Academic Plans or Professional Career?

YES! This cannot be emphasized enough.

Many schools purposefully use language and rhetoric that is meant to pressure the student into admitting guilt. One of the most common strategies employed is to mislead the student into thinking the consequences for a violation are minor.

Common stated consequences for a first offense, for example, often include: getting an F in the course, agreeing to attend a course on ethical conduct, being assigned to a judicial officer (similar to probation), being temporarily suspended from certain campus activities, and having a notice on your transcript that allegedly disappears by the time you graduate.

The school will talk up how these consequences are a slap on the wrist compared to the threat of suspension, expulsion, and a permanent mark on your academic record. They act as if you are being given a simple choice: admit guilt, save yourself time/stress, move on, and avoid getting in worse trouble.

However, the truth is that many of the worst consequences are completely out of the school's hands.

Self-Reporting Requirements

Firstly, many future academic and job applications will specifically ask you a question about whether you have been found guilty of academic dishonesty. Some will even ask if you have been merely accused of it. These questions form the basis of what is known as a “self reporting requirement.”

If you fail to self-report — AKA lie— on the application about your academic history — then you can face significant consequences if this failure is later discovered. You may be fired from a job, be stripped of a professional license or face permanent sanctions from your governing professional board. If you do self-report, there’s a strong chance that your application could be automatically disqualified.

Self-reporting is common among graduate schools and professions that assign you a fiduciary duty. The practice has also spread to corporate environments that have a low tolerance for unethical behavior and questionable risk-taking.

For example, you may find a self-reporting question on applications for:

- ***Graduate School programs***
- ***Assistantship programs***
- ***Law school, medical school, engineering school, etc.***
- ***Residency programs***
- ***Public service career programs***
- ***Public office candidacy requirements***
- ***Law enforcement career programs***
- ***Armed forces service, including civilian contracting***
- ***Large corporate enterprises***
- ***Firms and operations with strong ethical priorities***

Professional Standard Mandates (Retroactively Revoking Your Degree)

A second concern is that professional standards may require your school or program to disqualify your credentials because of an academic integrity violation. What this means is that your school will receive a notice from a professional conduct board, such as a state bar association, and that notice will compel them to invalidate or revoke the degree you earned. This can even happen years after your degree was awarded!

Revocations provide an extreme example, but they can and do happen. Many times, the school will actually try to avoid doing this to a student, only to find out that policy requires them to do it to keep their accreditation status protected.

The threat of your degree being retroactively rescinded is why academic dishonesty investigations actually don't end once the review board or academic judiciary council has presented its findings. There's always the risk that your conduct could come back to haunt you — especially if you talk publicly about your case after-the-fact.

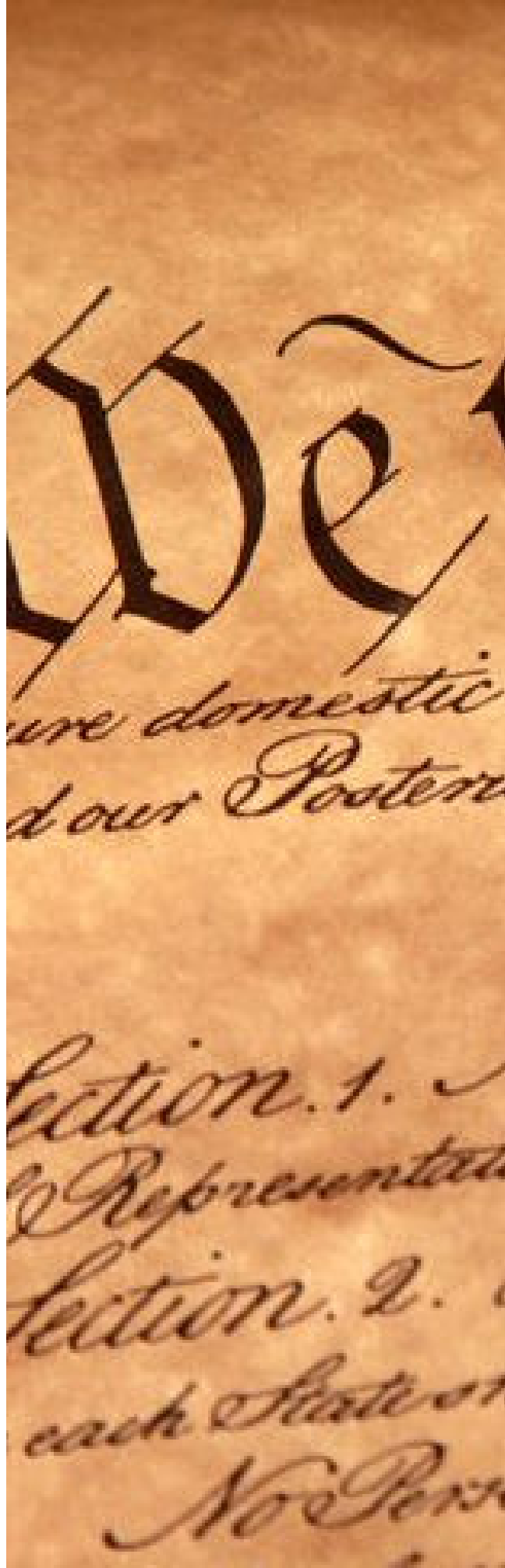
How Can an Attorney Help Me When I Am Accused?

When people find themselves in a challenging situation with very real consequences, they're often given this advice: get a lawyer.

Why? Simply put, attorneys have skills and experience you don't. They've handled cases similar to yours, and they know the exact technicalities of the law that matter the most to your case.

Second: an attorney isn't you. You're naturally going to be emotionally attached to your case. You may get nervous, for instance, when you're asked a leading question. Rather than responding to this question logically, you may end up fumbling for the right words.

Even if you are good at speaking in your own defense, your arguments come across differently when delivered by a neutral party. An attorney is seen as a professional, someone who is coming in to apply their knowledge and experience in order to ensure the law and process is applied fairly and correctly. When you have a lawyer, people tend to sit up and listen with less prejudice and bias, generally speaking.



Services an Academic Dishonesty Lawyer Can Provide

Overall, know that an attorney can provide you with the following services:

Look into the facts of your case, including:

- ***The basis of your accusation, within specific school policies***
- ***The evidence being used by your school to support and prove the accusation***
- ***The process at your school for conducting an integrity review***
- ***Any external factors relevant to your case, like whether you have a condition that would normally require special accommodations for learning***
- ***Provide you with guidance on your next best steps and available options***
- ***Gather evidence to support your side of the story***
- ***Aggressively pursue weaknesses in the school's case, including hearsay evidence or misapplications of the school's policies***
- ***Discuss your case, as permitted, with school administration to explore your options for handling the matter***
- ***Prepare you for a hearing, questioning, or other formal defense process***
- ***Explore your options for an appeal or getting a decision reversed***
- ***Negotiate for the most favorable outcome, which can range anywhere from seeking a summary dismissal to agreeing to a plea bargain to reduce the severity of charges***
- ***Help you minimize the impact of a finding or accusation upon your future prospects***
- ***Reduce the stress and burden of handling your case while providing peace of mind***

TonaLaw Can Provide You With Seasoned Legal Counsel, and Greater Peace of Mind

You can expect five star lawyering from start to finish once our law firm is engaged by you. We guide you through the entire process, and we are available to answer questions and provide suggestions for your next actions.

In sum: when you hire an attorney to represent you during your academic dishonesty proceedings, you can go from feeling completely lost and helpless to knowing with confidence what lies ahead — and how to best respond to it.

What Is the Legal Basis of an Academic Dishonesty Accusation?

An academic dishonesty inquiry is a quasi-legal judicial proceeding. What that means is that, except in very specific, and hopefully rare, instances, the actions you are being accused of will not count as a criminal act or a civil violation. In other words, you likely won't go to jail over your actions, nor can you be sued by the school. (Although, there are certainly exceptions in extreme cases, like when a student commits a breaking and entering offense or other crime on campus, or when they share information that can be used to breach the school's protected digital systems.)

Put simply, in most cases an academic dishonesty inquiry or charge is a situation that exists exclusively between you and your school. State/federal laws and court proceedings only come into play in very rare instances (usually within a separate, outside case).

Your school should be able to provide specific policy language as to what counts as a violation, the process for investigating the violation, what you as a student can do to respond to the accusation, what consequences there might be, and so on. If your school does not have this information in its policies, then there is the potential that they are violating your rights to due process and equal protection under the law.

Speak to an attorney to look into the specific language of your school's policies. And, if such language does not exist, you and your attorney can determine if your school has an unfair or arbitrary process that can lead to discrimination and violation of your legal rights and your rights as an enrolled student.

What Are the Most Common Types of Academic Dishonesty Accusations?

There are many types of alleged academic integrity violations, with lots of overlap and the potential for gray areas. With that said, here are some of the most common case types we see at our law firm:

Collusion

Collusion is a specific category of cheating accusation, albeit one that can overlap with other alleged violation types.

Unless specifically stated otherwise, school performance is supposed to be individual. The student is not allowed to collaborate with others when performing assignments or taking tests.

Many examples involve students developing an answer key that can be used to take an exam — while producing identical or nearly identical responses. Students may also collude to “steal” course materials in order to develop an answer key, which may incur charges separate to the act of using the answer key on the assignment. Another example is a student who provides an old test or assignment for a course they’ve previously taken to a student now taking that same course.

Collusion can involve a lot of grey areas and confusion, sometimes leading to unfortunate misunderstandings on the part of the school or student. In most cases, students are allowed to study as a group and, in many instances, to invite limited input to help them complete assignments. But when these efforts cross over into one student essentially “doing the work” for another, a collusion allegation may arise.

Using Unapproved Testing Materials, References, or Aids (Traditional “Cheating”)

Many academic integrity investigations involve allegations that the student used an unapproved — or specifically banned — form of outside help. In an age of distance learning and remote test-taking, looking up the answers to a test being taken online is a very common example.

Students may also be accused of sharing answers with one another during the course of the test (a form of collusion). In the traditional classroom setting, the equivalent is a student who is suspected of looking at a fellow student’s paper.

Another highly common case type involves accusations that the student brought in an outside answer key, formula sheet, reference material, or other type of aid. Test-taking environments are increasingly restrictive, yet students can be caught sneaking in notes, hiding notes on their graphing calculators, or otherwise bringing in unapproved or banned materials. In some cases, the act of merely bringing in such materials, not necessarily using them, is enough to constitute an alleged violation — although such an event may have relevant extenuating circumstances, especially if the student genuinely did not realize they brought in such materials.

Plagiarism

Representing someone else's words or specific ideas as your own is plagiarism.

In graduate programs, where papers receive peer review, plagiarism is more likely to be seen as an attempt to take credit for an “original idea” that was actually lifted from an existing source. In undergraduate programs, however, it is more likely that a student is simply trying to avoid work by copying and pasting someone else's words and representing them as their own. The student may also have failed to properly cite the reference as a genuine mistake — which can nevertheless count as plagiarism.

Plagiarism is a very serious accusation in any context, but it becomes a career-damaging or, potentially, a career-ending prospect in the field of graduate research.



Fabrication

Fabrication can be thought of as the opposite of plagiarism. It occurs when the student simply makes up a fact or idea yet represents it as coming from an outside source.

There are two primary types of fabrication. The first is when a student is trying to get around an assignment's sourcing requirements or argument support requirements by creating a fact out of thin air and then attributing it to an outside source, real or imagined.

The second, and arguably more serious, form of fabrication occurs when the student is conducting lab research and invents the results rather than reporting their genuine results. Allegations of fabricated results, therefore, are extremely damaging not just to the research being represented but to the reputation of the student — and the school department as a whole.



Bribery/Blackmail

A bribery allegation most commonly involves a student accused of offering a faculty member money or favors in-kind in exchange for a desirable grade. The student may also be accused of pressuring faculty into giving a good grade in order to avoid an undesirable outcome, which can involve “blackmail” or another form of extortion.

Impersonation

Impersonation occurs when a student takes a test or assignment while pretending to be another student. This can involve someone completing a paper/assignment for someone else, someone showing up to take a test in-person for someone else, or someone signing in to a digital test-taking portal to take the test for someone else.

Deception/Misrepresentation

Simply put, this category refers to any form of giving false or misleading information in an attempt to achieve a favorable outcome. Common examples include lying about an illness or relative passing to be granted an assignment extension, or a student claiming they attempted to submit an assignment that somehow “disappeared”.

Note that a statement or implication need not be an outright mistruth to fall in this category. If the student makes misleading statements, convenient omissions, or “half truths”, then they may still be found in violation.

Allegations of deception or misrepresentation can occur as stand-alone instances or in conjunction with another type of alleged misconduct. The student may be accused of not only using a banned outside testing aid, for example, but also later lying about the nature of that aid. The student may also have separate charges of deception on top of existing accusations, such as when they supposedly lied when confronted with a cheating allegation.



Conspiracy

Even unsuccessful academic dishonesty attempts qualify as a violation, according to most school's policies. Students may be accused of "conspiracy to cheat", for instance, if they are caught attempting to procure an old test before they actually had a chance to use it. Conspiracy can also be used as a stand-in for collusion when multiple students allegedly collaborate towards an unethical end.

Sabotage

Academic sabotage occurs when a student or other party purposefully seeks to harm another student's ability to submit work, or to submit the quality of work they would have been able to achieve had there not been interference. Examples include deleting someone's assignment off their computer, making alterations to an assignment without the other student's knowledge, or unacceptably removing available resources needed to complete an assignment. As an example of the last type of sabotage, some highly competitive medical schools have seen journal articles critical for course work removed from within library materials using razor blades or by tearing.

Failure to Report or Aid in an Academic Misconduct Investigation

In many institutions, students are expected to report an observed or suspected academic integrity violation. Requirements that compel a student to cooperate fully in an investigation may not be enforceable so discuss these matters with an attorney. However, any deliberate falsification or intentionally misleading denial can constitute a clear violation of school policy.

Other Forms of Misconduct

Many school policies have a wide “net” allowing them to categorize a behavior or action as alleged academic misconduct, even if it does not fall under a specifically named category or violation. In some instances, such language can be attacked as arbitrary or vague, but in others the language of the policy clearly outlines the intent to discourage certain actions or to enforce a specific ethical standard.

Examples of these forms of miscellaneous misconduct include:

- ***Monetizing academic support/collaboration that would otherwise be deemed acceptable by the course instructor***
- ***Paying to have another student or a professional service complete your work***
- ***Accessing physical or digital files to purposefully alter an assignment, exam, attendance record, grade, etc.***
- ***Intimidating an individual, course instructor, or a faculty member for personal academic gain***
- ***Impersonating an individual or a faculty member for personal academic gain, including in-person, on forms, or online***
- ***Engaging in improper relations with a school employee for the purposes of academic advancement (the school employee will also be implicated in such a case)***
- ***Using unapproved methods to complete coursework, such as creating an experiment involving human subjects without Institutional Review Board (IRB) approval***
- ***Being egregiously disruptive or disrespectful to the extent it severely impacts other students’ ability to learn***

- ***Submitting the same paper to multiple different courses without giving notice or obtaining approval from the course instructors***
- ***Leveraging non-academic methods to achieve a desirable academic result, such as using, or attempting to use, a family connection with a department head to get a course grade altered***
- ***Forging the signature of a course instructor or school faculty member***
- ***Failing to disclose an unfair academic advantage the student could reasonably assume would go against the course instructor's wishes or intentions, such as having prior knowledge of an exam's specific questions***
- ***Using bomb threats, pulled fire alarms, etc. to delay or cancel an exam or academic event (also a very likely criminal offense).***

Do All Schools Use the Same Standard for Proving an Academic Dishonesty Allegation?

No. Different schools will use different evidentiary standards — AKA different “burdens of proof” — when conducting an academic dishonesty review.

The evidentiary standard should, ideally, be stated as specifically as possible in the school’s investigation and review policies. However, many schools will use vague language to discuss these matters. They may also claim to use one standard but actually employ another. The worst instances involve schools that apply completely different standards on a case-by-case basis — which can constitute a major violation of a student’s right to due process and equal protection.

Whether stated specifically or generally, most school burden of proof standards for academic dishonesty findings fall under one of the following three categories:

A Preponderance of Evidence (Hardest Standard to Beat)

“More likely than not” — 50% or more likely that a violation occurred, based on available evidence

The phrasing of this standard makes it sound like the school, acting as the prosecution, merely needs to present a copious amount of evidence to support its case. In truth, this standard is implying that there is a “preponderance of evidence to suggest that the alleged violation actually occurred.”

A simplified way to describe this standard is that the school has presented an evidence-based argument capable of demonstrating that it is “more likely than not” that the violation occurred. Many people interpret this standard as “51% likely”, but in reality the school just needs what we, in non-professional terms, call “50% and an eyelash”.

In other words, if both sides present a compelling case such that a person of normal, competent reasoning would conclude that either side could be telling the most-accurate story, that would be a toss-up: 50/50. However, if the school can provide evidence that it is slightly more likely that the allegation is accurate, compared to the student's defense argument, then the board meets this standard and can conclude that a violation did occur.

This is the most difficult standard to meet because it means that even though there is the possibility that the student's defense is sound, the school can nonetheless find them in violation of policies. Students facing this standard have the highest burden of proof to defend their position, and they must also work harder to refute the evidence or arguments presented by the school in order to beat the 50.00001% standard they are up against.

Put simply: if your school is using the "preponderance of evidence" or "more likely than not" standard, that's a strong sign you should seek legal counsel to prepare your defense.

Clear and Convincing Evidence (More Favorable Standard)

“Very likely” — Approximately 75% likely that a violation occurred, based on copious evidence that is both “clear and convincing”

A “clear and convincing evidence” standard is much more favorable to the student, and it also enforces the idea that the party making the allegations must apply sound logic when presenting evidence.

Casually, one can consider this standard as asking the prosecution to prove that it is “75% likely” that the student committed a violation. In reality, there is no way to quantify this standard in terms of percentage probabilities. Instead, the defending student can interpret the standard as saying “it is much more likely that the school’s interpretation is accurate compared to the student’s, given available evidence and the presented arguments.” That can place the probability range that the school’s interpretation is accurate anywhere from 60% to 90%, and the actual likelihood can vary, depending on the case.

What’s important to recognize is that the school has set a specific standard for itself here. They must provide not just copious amounts of evidence, but evidence that fits together such that the argument made by the school is clear and convincing.

Looking at it differently, the evidence itself must be clear, e.g. definitive, objective, specific. The evidence must also be convincing, in that it must compel the board (etc.) to believe that the prosecution's case is accurate and that all the pieces build off one another to the final conclusion.

Setting such a standard gives a student ample room to point out the weakness of the evidence itself. The student can, therefore, focus less on presenting evidence that they did not cheat, and more on discussing whether the evidence presented by the school is not only accurate but also "clear and convincing".

While a "clear and convincing evidence" standard is more favorable to a student, it also generally requires someone with legal knowledge and experience to address. Many tactics that are effective in the courtroom or during settlement negotiations can apply here. For example, an experienced attorney can know when to point out that a piece of evidence is irrelevant to the argument being made. In some cases, they may even be able to get evidence withheld because of the nature of its provenance or because it goes against the expected standards.

Beyond a Reasonable Doubt (The Most Favorable, But Least Common, Standard)

“Extremely likely” — 99.999% likely that a violation occurred, such that there are no reasonable arguments that could refute it

This is the standard for criminal cases delivered as a jury instruction before the jury makes its deliberations and renders a final verdict. It was designed to ensure that juries only turn in a “guilty” verdict when they can unanimously determine that there are no reasonable doubts that the defendant could, in fact, be innocent.

For fairly obvious reasons, this standard is exceedingly rare in academic institutions (and, really, anywhere outside criminal court cases). It is extremely hard for the prosecution to meet, and it gives the defendant nearly infinite opportunities to cast doubts upon the case, the evidence, or the way the process itself was carried out.

If a school accusing you of academic dishonesty has this standard, it should provide relief, but it does not mean the job of defending you is now easy. For one thing, the school may actually be more flexible in this standard than it implies, especially if its policies contain qualifying language. For another, even in “beyond a reasonable doubt cases,” prosecutors can attack the character and integrity of the defendant.

Making it seem as if the defendant is overwhelmingly guilty — to the point that they are an undesirable character — can rid any level of doubt from the mind of a jury or review board member. Schools know this, and it is why they will often aggressively seek to undermine the case presented by the student. Catching the student in contradictions and lies, or presenting irrelevant facts about the student’s prior conduct can effectively demolish any good will, sympathy, or faith the board has in the student.

An Accusation Can Spell Trouble, No Matter What the Standard Is

In sum, there is no standard of evidence that inherently promises a student can walk away from their accusation unscathed. They should look into the facts of their case 100% of the time, and they should prepare for the specific evidence, arguments, and questions the school will use to prove its case. This needed level of preparation is why it is always beneficial to the student to obtain knowledge, guidance, and case management services from a qualified, experienced academic dishonesty lawyer.

What Types of Evidence Are Commonly Used in an Academic Dishonesty Inquiry?

There are, technically, infinite forms of evidence that can be presented, but most schools will rely upon evidence that falls within one or more of the following categories:

Course Instructor Testimony

Most often, an inquiry will be started based upon the observations or findings of the course instructor. The instructor may have observed a student looking at another student's exam paper, for instance. Or, they may have picked up on patterns indicative of cheating, such as "they began to noticeably change their word choice and use British spellings mid-essay", in a plagiarism case.

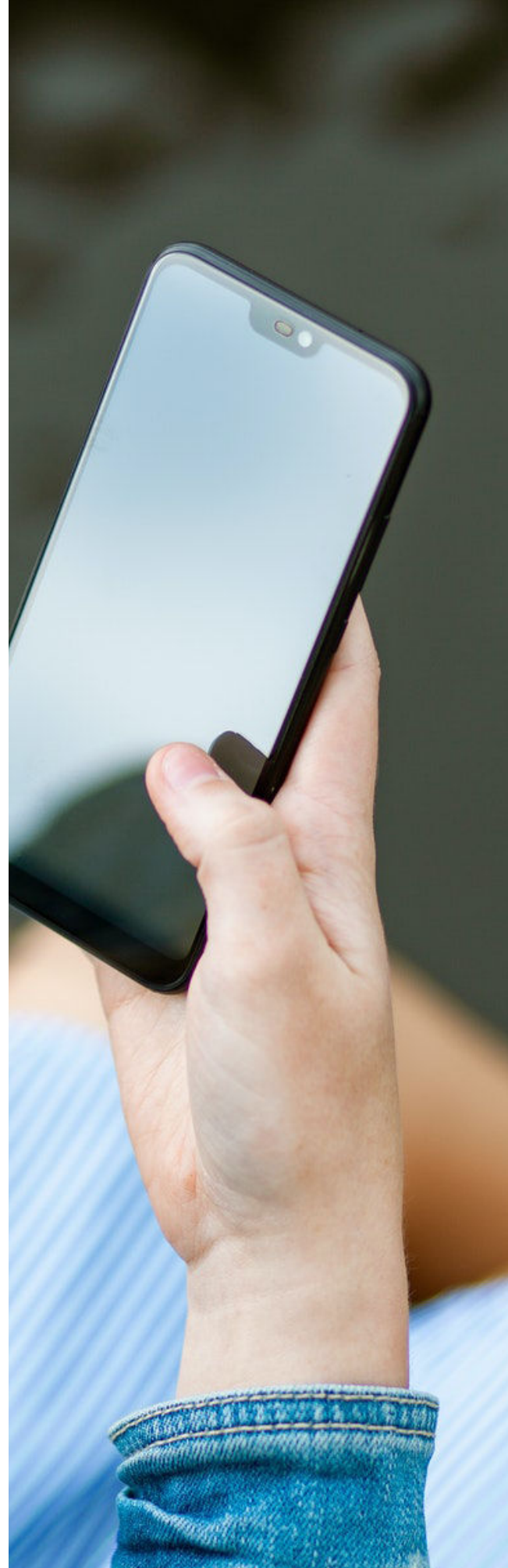
Instructor testimony can be dismissed out-of-hand in some cases, but the truth is that the school will most often implicitly trust the instructor's judgement and the accuracy of their observations. A student attempting to refute the testimony should focus on facts, or they should focus on the inherent logic or assumptions being used. For example, asking the right questions in a recent case at a prominent Long Island university allowed our attorneys to get a professor to admit they had no direct evidence of cheating, just a suspicion, causing the charges to be dropped.

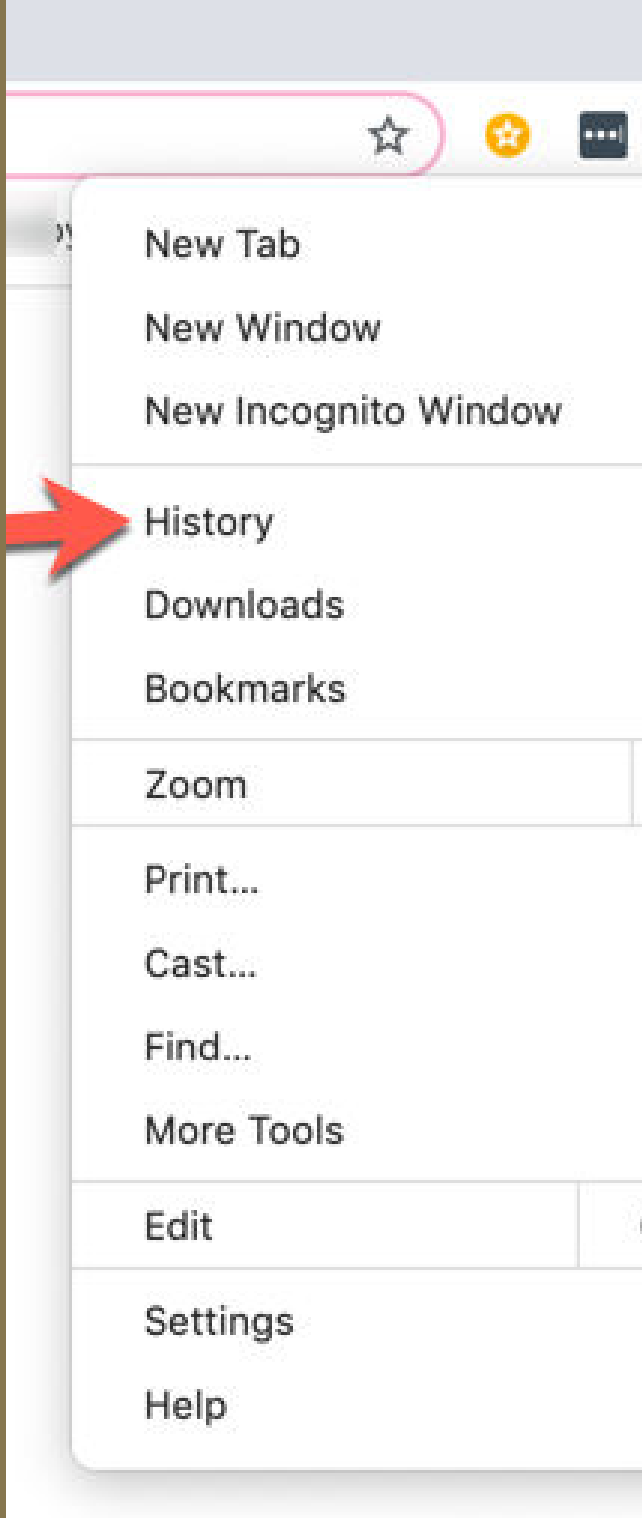
Testimony From Other Students, Faculty, Etc.

In addition to the instructor, other parties may be called in to testify. Most often, this is another student or someone supporting the instructor, such as a graduate teaching assistant. These parties may report the same sorts of observations and subjective evidence that a professor's testimony would. However, it is also very common for these parties to allege that they heard the accused student openly confessing their guilt, or implying it. The information may also be second-hand, such as if a TA "was told by someone else that they heard someone found a copy of the old exam." This would be hearsay, but it is sometimes considered as a form of evidence until a student or other party has the wherewithal to point out its weak and unverifiable nature.

Textual Evidence and Data

Textual or data-based evidence can take many different forms. One common form is an online message, chat message, or text message discussing "cheating" or plans to cheat. Prior emails to a professor can also reveal contradictions in the student's story, or they could reveal that the student deliberately used misinformation to pass off their cheating as legitimate work.





Some of the hardest forms of evidence come from data logs. A school can sometimes look up whether a device owned by a student was active in the exam room, or they can use the student's browser history to show that the student improperly accessed information online during the course of taking an exam.

In some cases, a professor will present identical or near-identical test responses between students as proof of collusion. This event is sometimes compounded by the fact that two students were taking different tests yet presented the exact same pattern of answers with one student giving decidedly wrong answers while assuming both exams were the same.

Textual and data-based evidence is only as strong as the case it makes. If it can be verified as accurate and established as indicative of a violation, then it can be difficult to refute. On the other hand, if it is irrelevant or makes a "flimsy" argument based upon multiple assumptions, then it can go from a lynchpin in the school's case to a non-factor resulting in full dismissal of the case.

Video and Audio

Many remote testing environments now make use of an embedded camera to watch the students eyes and bodily movements during an exam. In our age of frequent remote learning, something as simple as a student repeatedly turning their eyes towards an alleged second device is enough to make accusations stick. The school may even employ forensic techniques, such as the classic “reflection in the glasses” to establish that a second device was in the room.

Video or audio from an in-person testing environment can reveal the same sorts of findings.

One thing to consider with this type of evidence is that the student must have prior knowledge and consent to be recorded, in many instances. By enrolling in a course, they automatically agree to comply with being recorded in the classroom or on their school-approved device.

Overall, video and audio evidence is only as good as its verifiability, its relevance, and whether or not it was obtained using ethical means.

Physical Evidence

Physical evidence during an academic dishonesty inquiry most often takes the form of confiscated notes or devices. Sometimes, evidence can be used to “place the accused at the scene”, such as evidence that reveals a student was at another student’s house where a conspiracy to collude was taking place. However, the types of physical evidence that seem compelling on forensics shows or courtroom dramas often have no place in an academic inquiry. Instead, the school will most often present evidence that documents the cheating itself or that confirms the general timeline of events as stated.

The Language of School and Course Policies

Ideally, every single point or piece of evidence employed by the school will come back to specific language contained in a school policy or a course requirement.

A typical example would go something like this statement: “Student A used an online homework completion service, and this goes against the school’s policy that all work must be performed wholly by the student without use of any outside help, excepting approved faculty tutors.”

In civil and criminal cases, the language of the law itself is often the central focus while the prosecution and defense go back and forth. Being a quasi-legal judicial process, school's have more room to broadly interpret their policies or to point to the intent of language, even without specific do's and don'ts being named. Yet, if a faculty member or prosecutorial entity makes assertions that are contrary to the stated policy or that have no factual basis in a stated policy, then it is possible to refute the assertions outright, in many instances.

Do I Have Options Other Than Attending a Hearing?

This answer is a mix of "yes, and no."

- ***Yes, you have options.***
- ***You can discuss your case with the faculty member bringing the accusation and attempt to resolve the dispute before it proceeds to a hearing.***
- ***You can try speaking to members of the school judiciary or academic integrity program to attempt to get the case dismissed.***
- ***You can provide irrefutable evidence of innocence that can cause the matter to be resolved summarily.***
- ***You can reach out to the school's board of regents or another supervising board or commission that supersedes the judiciary board and have them intervene in your favor.***
- ***You can refuse to attend a hearing on the basis that you are not being given appropriate due process or are being discriminated against unfairly.***
- ***You can accept some of the accusations and negotiate for more-lenient treatment (a "plea deal" or "pleading down")***

However, know that these actions are only available to students in very specific cases. Further, a student trying to “manage” their own case could be seen as trying to escape consequences.

Worst of all, a student attempting to “get out” of charges could be accused of lying to cover up their violation. Or they could be accused of bribery, blackmail, or another form of coercion. For this reason, it is advisable to reserve judgement on your options until you speak to a qualified and experienced lawyer.

In many cases, submitting to a judicial review and hearing is your best option, since it gives you ample opportunity to present your own case and directly address the case being presented against you. It is a formalized setting, and it is designed to make students feel as if they have a voice in the matter.

On the other hand, some cases present opportunities for arguments that lie outside the traditional arguments. This is especially true in cases that have extenuating circumstances. For example, a student with a learning disability may exhibit different patterns of behavior that can be misinterpreted as an attempt to cheat. Or, sometimes, when the accusation doesn’t fit the definition of academic dishonesty at all, an attorney can appeal to the appropriate board to have the case dismissed summarily.

All in all, it helps to know that outside options exist. But students who try “too hard” to make their case “go away” can end up adding on violations, or they can generally color their own actions in an even-worse light. Again: it is advisable to entrust such decision-making to an attorney, who can consider all factors and apply knowledge and experience of judicial proceedings appropriately and from an unbiased perspective.

Can I Appeal or Reverse an Academic Dishonesty Finding, or Otherwise Keep It Off My Records?

Once your school has determined that the available evidence satisfies the burden of proof for academic dishonesty, the judicial board or panel will return a finding. This finding outlines the exact offense committed and the most relevant details or extenuating factors of that offense. The school may also discuss the provenance of the finding (how it was decided), and a short summary of the judicial proceedings (e.g. “student refuted the accusation, but evidence clearly contradicted their version of events”).

After a finding has been presented, it can be very difficult to undo. However, you may have a few options:

Appeal

Most schools have a formal appeal process. In many cases, the appeal is two-fold. Your first appeal will commonly be with the same judiciary board or the school administrator in charge of the review process. If this appeal is not successful, you may be able to appeal to the school’s board of regents or the university dean (or a similar administrative body) in a formal letter.

Know that the aim of the appeal is to show that the incorrect conclusion was drawn because of a misapplication of the school’s policies, a lack of due process, or a similar “miscarriage of justice”. You are not going to be going over the basic facts again, nor will you be allowed to present new evidence. Instead, you are attempting to show that the process itself was flawed and resulted in error.

Expungement, Reversal

Some schools have a process for removing a finding from your record. A typical arrangement is that the student will be rewarded for good behavior for the remainder of their attendance, or the finding will be removed upon completion of an ethics program.

In some cases, a student may be able to get a finding removed as a result of an ex post facto change to the school's policy, meaning your offense would be handled differently now compared to when your hearing was conducted. Or, in rare instances, you may be able to get the decision reversed through an administrative request once the official appeal process has ended.

Court Intervention

It may be possible to seek court intervention in order to prevent a finding from occurring or from a finding being formally attached to your record. Every student has civil rights, and every school contract must have reasonable terms. If a court determines that the school's actions were conducted in violation of your rights, then it can legally prevent the school from either issuing the finding or from sharing that finding with anyone.

Note, though, that getting the courts involved is expensive, from a procedural and case preparation standpoint. Further, many courts will decline to intervene in matters seen as between the student and their institution. In New York, these cases can often begin and end with the filing of what is known as an Article 78 petition to the appropriate court, whereupon the court may decline to hear the case. If the petition raises an issue or issues with significant merit, however, it may be possible to obtain a court order either reversing the effects of the academic dishonesty finding or preventing sanctions against the student from taking place.

Voluntary Non-Reporting

In some instances, there is no way for another institution or school to discover that a finding has taken place. In the absence of a reporting requirement on the program (or job) application, the applicant has the option to not disclose the finding.

This approach is risky, however. Most institutions consider such actions as a “lie of omission,” and if the finding is later uncovered, the student may be ejected from their program or face other sanctions. Having the “leeway” to not report will always put you in a gray area, as well, where there is always the possibility someone in the institution will interpret a policy as meaning you were required to self-report.

Academic Dishonesty Procedure — What to Expect When You’ve Been Accused

The exact process for investigating and establishing academic dishonesty is different for every school. You will have to review your school’s own policies to determine what to expect once a charge has been levelled.

In most cases, once you have been suspected, you will be given a formal opportunity to respond, followed by the scheduling of a hearing. The school should inform you of what to expect at the judiciary (or review board, etc.) hearing, how you can prepare, and what penalties you may face. If the school does not provide this information, you should request it directly. Schools without a formalized policy and process run the risk of violating students’ rights and the integrity of their contract, so it is in their interest to keep the student informed and the process standardized.

A typical academic dishonesty proceeding will go as follows:

- 1. A course instructor or faculty member suspects an academic integrity violation has occurred, or they are informed of a possible violation by another student or outside source**
- 2. The course instructor or another faculty member will confront the student with the information they have available. The student has the opportunity to respond to the charges and discuss the matter before it becomes formalized.**
- 3. If the course instructor decides to escalate, they will report the suspected violation to the school's judicial review board, or a similar entity**
- 4. The review board will give the student the opportunity to formally accept or deny the charges presented against them. If the student wishes to defend themselves, a hearing date is set.**
- 5. At the hearing, the school will present the case against the student, along with evidence. The student then has the opportunity to make a statement and present evidence of their own. Witnesses may be called for either side. Once the student's response is completed, the board/panel will then typically ask direct questions of the student.**
- 6. After all evidence and arguments have been presented, the review board can determine if the hearing should proceed to deliberations. If deliberation occurs, they will discuss all arguments and evidence and then arrive at a conclusion.**
- 7. If the student is found to have committed the violation, the student can often appeal. They may be able to appeal to the provost or the board of regents itself.**
- 8. If appeals fail, the student may have other options to reverse the finding, expunge it from their record, or otherwise avoid having to disclose it in a way that could impact their future.**

What Happens When Academic Dishonesty Is Discovered or Suspected?

Most frequently, a course instructor will observe something they consider suspicious or that they feel directly implicates a student in a violation. Other times, the course instructor may receive a report from a student, faculty member, or other interested party indicating that a violation has taken place.

Depending on the school, the course instructor may have the option to investigate the matter further on their own. Know that some schools, though, have policies demanding that a suspected violation is reported immediately.

After the instructor has determined to their satisfaction that a likely violation occurred, they may notify the student directly. This can be a confrontational scenario, where the teacher says “I saw you cheating,” or the teacher may engage the student in a dialogue to discuss the situation.

In some cases, the matter can be resolved satisfactorily at this stage. The teacher may determine the student is innocent, or they may work out an agreement in private for appropriate sanctions. These arrangements are especially common when the alleged violation occurred in a “gray area” of school policy or when it represents a genuine mistake with minimal impact on the class.

However, in many cases, the teacher will report the matter to the appropriate panel or board once they are confident that a violation likely took place.

Choose Your Words & Actions Carefully When an Accusation Arises

A student being accused of academic dishonesty should know they are on proverbial thin ice. The words they use to explain their situation or the actions they take once an accusation is communicated can have a huge effect on their options for handling the case later.

The biggest mistake students make is that they can tend to talk too much in an effort to prove their innocence. They may begin to share as much information as possible about what happened, or they may give a selective view of events to color themselves in an innocent light.

Know that — just as in criminal cases — anything you say and do can be used to build a case against you. Any small bit of factual inconsistency or the performing of actions that are seen as attempts to avoid being implicated can form the basis of a case against the student. In extreme scenarios, the school will create whole new sets of charges



if the student lied, attempted to destroy evidence, unethically pressured the teacher to drop their charges, or otherwise committed another act in violation of school policies, express or implied.

So, when you are accused, say as little as possible, and don't make obvious efforts to make the case "go away." You have the right to not respond to the teacher's accusations at all beyond, "I wish to contest these charges in a formal review." You can always choose to say, depending on which is more factually accurate, in response to questions that, "I don't know or I can't recall that specific information at this time, so I will need to..."

Teachers will frequently confront students in such a way as to make the student feel as if they've already been "caught" and that there's "no way out of this." The truth is that many students are wrongfully accused. Other times, a student may feel as if they committed a violation and confess to certain actions, only to find out the teacher had a wildly different idea of what had happened.

Reserve your words. Protect your rights. Request a formal review. And start preparing for your hearing.

When Are Academic Integrity Violations Reported to a Review Board?

It depends on the specific teacher and on the school's policies. The student and teacher could be allowed to have an informal discussion. The student and instructor may also be required to have a facilitated discussion in the presence of another party, often a student provost. This means that the alleged violation is reported, but it has not yet advanced to the review board.

However, some schools require professors and other instructors to report a suspected violation immediately. This requirement, frankly, can protect a student's rights to due process. Some instructors will commit unethical or unfair actions of their own in an attempt to leverage a confession or overwhelmingly prove guilt. When dealing with the review board, students at the very least face a tribunal that invites evidence from both sides and seeks to come to a fair, objective conclusion.

How a Typical Academic Honesty Review Board Is Conducted

While every school is different, a typical academic hearing will go through the following steps:

- 1. Presentation of evidence and arguments against the student***
- 2. Student response: a statement, and possible presentation of evidence to assert innocence or establish weaknesses in the school's case***
- 3. Questioning of the student and other material witnesses, possibly including the course instructor or prosecutorial body***
- 4. Review and discussion of the arguments, likely followed by a deliberation***
- 5. Presentation of the board's findings***

1. Presentation of Evidence and Arguments Against the Student

The onus is on the school to make its case against the student and meet its burden of proof. Basic facts will be presented, including an alleged timeline of events, how the alleged violation was discovered, and what evidence can confirm the allegations. The school will then use deductive reasoning to arrive at its conclusion that a violation occurred.

2. Student's Statement, Defense, and Presentation of Relevant Factors

Once the school has presented its case, the student has the opportunity to defend themselves. Many times, a student will use this opportunity to try to present counter evidence, such as by offering an alibi or by disagreeing with specific material facts of the school's case.

However, the student should also recognize that they can reveal weaknesses in the school's case itself. For example, if certain evidence comes from hearsay or if digital evidence does not concretely prove a student used a banned testing aid, then the school may have to concede it has no material proof of the violation.

Again, the more a student focuses on the facts that are allegedly "known" about the violation, the less they have to present information and evidence about what they were doing. Students, like everyone else, have rights to privacy, after all, so they are not compelled to share information not directly relevant to the alleged events.

In other words, students should focus more on weaknesses in the school's case itself and less on proving their own specific actions. This is the difference between saying "I wasn't looking at Student B's paper, I was looking at their shoes" versus saying "there is no objective, documented proof that I was looking at the information on Student B's page".

3. Questioning

After both sides have presented evidence and arguments, the board itself can begin to question the parties. Often, this means the board will come right out and ask the student to respond to certain allegations. e.g.: "Did you have your smartphone in the room during the test?" or "Did you obtain an illicit version of the course exam from a prior student, as alleged?"

Preparing for questioning is very difficult without having an experienced attorney to guide you. Students who are perfectly innocent can end up making statements that can cause the board to arrive at incorrect conclusions. Because of this risk, and a need to protect your own rights, it can be beneficial to work with an experienced academic dishonesty lawyer to prepare for your hearing.

4&5. Review, discussion, deliberation & Presentation of findings

After questions have been asked and satisfactorily answered, the board will deliberate. This can be a brief deliberation where everyone remains in the room while the board discusses the matter in private, or the deliberation can take place over one to several days.

Once deliberations have concluded, the board will present its findings. If an academic dishonesty violation was found to have occurred, the board may discuss sanctions immediately, or sanctions could involve a separate decision-making period or hearing.

Appealing an Academic Dishonesty Finding

When a student is found to have committed the alleged violation by the academic judiciary board, the student will often have the opportunity to appeal this decision. The appeal could be made to the board itself or a sanctioning authoritative person or body. For example, some schools allow the student to appeal directly to the student dean or provost.

An unsuccessful primary appeal can still allow for a secondary appeal. This appeal is often made to a high-ranking administrative and decision-making person or body for the school, such as its board of regents. A person or board with this level of authority will frequently decline to weigh in on individual student matters, so it is up to the student to present a case for why the matter has bearing on the academic institution as a whole. As an example, a student presenting concerns that inconclusive evidence could be resulting in unfair judiciary outcomes is different from a student saying “they said I cheated, but I didn’t.”

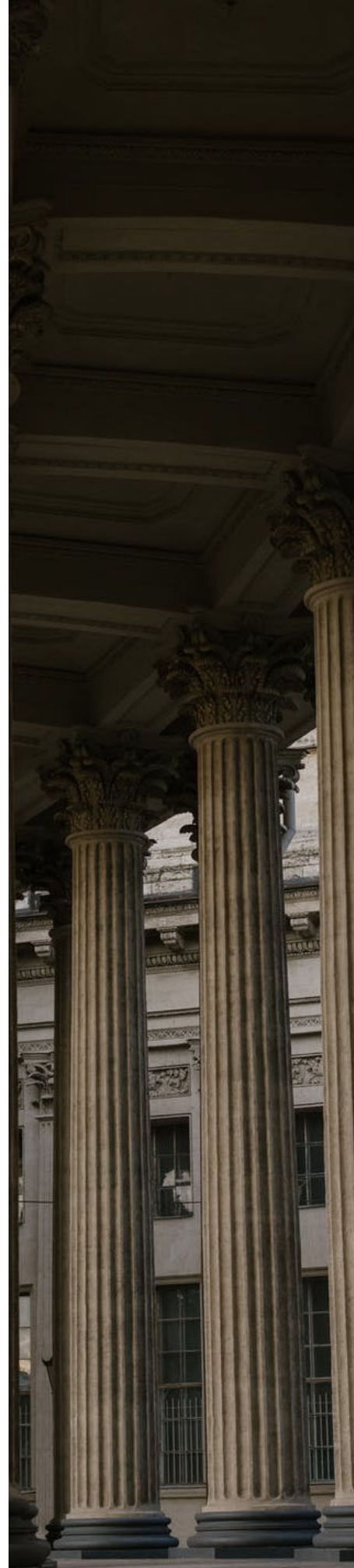
Remember that appeals are a consideration of the process itself, not the case. If a student’s appeal wishes to show an error in the outcome, they must be prepared to demonstrate that the error directly misapplied the stated policies or the findings were arbitrary and capricious. The student can also assert that the process itself is flawed, that it contradicts other school policies, or that it violated their right to due process.

Can I Sue My School and Take Them to Court?

It is possible to file a complaint that seeks to establish that your civil rights and right to due process has been violated. In New York, these complaints are primarily based in Article 78 of the Civil Practice Law and Rules (CPLR). These rules affect all sorts of tribunals, boards, pseudo-courts, and other administrative bodies. They can even control what actions a corporation takes, including an incorporated academic institution.

With that said, cases seeking to invoke a student's rights and overturn (or enjoin) a school's decision can be tough to get an audience in civil court. Many times, the court will decline that it has standing, or it will state that it is not compelled to weigh in on the matter given the facts.

Put simply, fighting your school in court can be an uphill battle. Speak with an experienced lawyer to weigh your options and to avoid trying to go down the civil lawsuit approach to the extent possible.





Preparing for Your Academic Dishonesty Case

Students interested in preparing to address academic integrity allegations can use the following actions to increase their chances of a favorable outcome.

Know Your Student Rights and Your School's Policies

Research the language of academic dishonesty policies, including specific violations and what types of evidence are allowed. Your school should also be able to provide you with information like the exact process and what consequences you may face.

Reserve your right to not overshare information or discuss the case openly. Keep your conversations focused, and consider every statement you make carefully.

Preparing for Your Judiciary Board Hearing, Statement, and Questions

The average person is inexperienced and unprepared to handle a situation like a student judiciary board hearing or an academic dishonesty panel. Seek out the services of an experienced attorney to help you assemble the facts of your case, prepare a compelling statement, address weaknesses in the school's case, and prepare for your inevitable questioning.

When Should I Get an Academic Dishonesty Lawyer?

As soon as possible, once suspicion of your behavior has been raised. Many students neglect to seek counsel until the very last minute, often just days before their hearing. Know that preparing your case takes time, and the more prepared you are, the more confident you can feel. Reduce your stress, build a stronger case, and start focusing on your future by seeking out an attorney as early on in the process as possible.

What Should I Do If I Am Accused of Academic Dishonesty? Your 10 Best Next Steps

The exact procedure for how to respond to an accusation will vary according to the case. With that said, there are a number of steps to take that, in general, allow a student to prepare for the most favorable outcome.

Here are our Top Ten Most Recommended Steps to Take After an Academic Dishonesty Accusation:

- 1. Stop talking. The more you discuss your case, with anyone, the more evidence you create that can be used to support the accusation or undermine your defense.***
- 2. Focus on your immediate decisions. Most often, when cheating is suspected, a student will be asked “do you confirm these allegations, yes or no?”. If you are at all interested in preserving your rights, say “No, I wish to defend against the charges,” and start preparing for your upcoming hearing.***
- 3. Beware of intimidation or leading questions. One of the hardest parts of dealing with an accusation are the questions that can follow from a course instructor or school administrator. “Did you access this website? Were you in this chat group engaged in collusion?” etc. Students assume that if they don’t give the correct answer immediately, they will be considered suspicious. But you are already suspected. Instead, politely state that you wish to give the most accurate information possible, so you will reserve the statements you make until the appropriate time.***

- 4. Put distance between you and others involved. Communicating openly with other accused students is not only suspicious — it can also be used as evidence of further conspiracy to destroy evidence or provide a false alibi. Tell your fellow friends and classmates that you are managing your case on your own.**
- 5. Limit contact with the course instructor/proctor/accuser. Only talk to these people as needed, such as if you are continuing to take the course. DO NOT send texts, voice messages, or emails trying to explain your actions or discuss the case in general. Don't attempt to gain the accuser's favor. All of these actions are opportunities to provide further evidence of wrongdoing.**
- 6. Study up on your school's policies. You want to focus on specifics: what am I accused of? What policy does it violate? What comes up next in the process?**
- 7. Don't destroy any possible evidence. Deleting emails, texts, etc. can constitute a violation in and of itself. Even if it doesn't relate to your own wrongdoing, it can be seen as an attempt to interfere in another student's investigation.**
- 8. Be on your best behavior. This should go without saying. You want to avoid compounding your troubles. At the same time, don't go overboard e.g. start being "extra polite" to your accuser. Focus on your school work, your upcoming case, and the day-to-day.**
- 9. Don't be baited into admitting guilt. Exercise your right to due process. Ensure you hear the school's full argument and the evidence being used against you. Don't be lured by promises of better treatment if you confess or implicate other students allegedly involved.**
- 10. Get an academic dishonesty lawyer. As a student, you are already going through a lot. You have a future you're preparing for. Keep your focus on that future — and protect it — by working with an attorney experienced in handling academic dishonesty cases.**

Reach Out to TonaLaw to Protect Your Student Rights ...and Your Future

Every single academic dishonesty accusation should be taken seriously. Even if the school claims your punishment will be minor or if you are only being implicated for associating in a bigger case, your rights and your future are on the line. Any finding can affect your ability to apply to grad school, to get a good job, or to practice as a professional in advanced fields like medicine or law.

The attorneys at TonaLaw have the knowledge, experience, and strategy-focused minds needed to help you understand your case and prepare a strong defense. We cannot guarantee results, but we can guarantee you that there are mistakes students make and opportunities they pass up when they don't have someone experienced to counsel them.

Make the call to protect your future when you are accused. Call Thomas Tona at **1-833-TONALAW (1-833-866-2529)** or [contact us online](#) now to schedule your initial case review. All initial consultations are free of charge.

You may be scared, and you may be unsure about what will happen next, but when you make that call you will at least know what to expect. More importantly, you can know how to prepare to give your case the highest possible chances of achieving a favorable outcome. So call today!