

# **FLORIDA INTERNATIONAL UNIVERSITY COLLEGE OF LAW STUDENT CODE OF CONDUCT**

## **Statement of Principles**

It is the responsibility of the legal profession to enforce its own standards of conduct. The profession requires that a legal professional's conduct exemplify the highest of ethical standards. The Florida International University College of Law (College of Law) has adopted a Student Code of Conduct (the College of Law Code of Conduct) that reflects principles of self-regulation and high ethical behavior. Prior to application by a Juris Doctor graduate for entry into the profession, the College of Law must certify that he/she is of moral and ethical character. The College of Law requires a commitment by all students to adhere to principles of high ethical conduct and academic integrity. The relationship between the College of Law and the student is based upon mutual trust and respect. Each student who joins the College of Law community agrees, by the student's acceptance of a position in the community, to adopt this commitment to academic integrity, trust, and respect. Each student is presumed not to have violated this commitment unless and until proven otherwise.

The College of Law establishes the rules by which students at the College of Law will be governed with respect to any conduct or act relating to academic matters as determined by the College of Law Code of Conduct. The Florida International University (FIU) Student Code of Conduct establishes the rules by which all students at FIU will be governed.

A student is on notice of the College of Law Code of Conduct and its provisions by virtue of enrollment at the College of Law. Copies are to be distributed by the Associate Dean for Student Services or his/her designee to every student enrolling for the first time at the College of Law. The College of Law Code of Conduct will be available on the College of Law webpage.

# **College of Law Student Code of Conduct**

## **ARTICLE 1. APPLICABILITY AND JURISDICTION**

### **1.01 Jurisdiction.**

Under the College of Law Code of Conduct, the College of Law has exclusive jurisdiction over matters of academic misconduct. In the event of a difference in standards or procedures relating to matters of academic misconduct between the College of Law Code of Conduct and the FIU Student Code of Conduct, the College of Law Code of Conduct will prevail. The FIU Student Code of Conduct will prevail as to matters of non-academic misconduct that are not covered by the College of Law Code of Conduct.

### **1.02 Applicability.**

Unless otherwise specified, the College of Law Code of Conduct applies to all Juris Doctor (J.D.) candidates, Master of Law (LL.M.) candidates, and Juris Master (J.M.) candidates. The College of Law Code of Conduct does not apply to Legal Studies Institute (LSI) students; those students are governed only by the FIU Code of Conduct.

## **ARTICLE 2. PROHIBITED CONDUCT AND MISCONDUCT**

### **2.01 Prohibited Conduct.**

Unless otherwise specified, violations will consist of conduct that is performed intentionally, knowingly, or recklessly. Knowledge that an act constitutes a violation of the College of Law Code of Conduct, however, is not a necessary element of misconduct. The following conduct, while not exhaustive, will constitute a violation of the College of Law Code of Conduct:

### **2.02 Academic Misconduct.**

#### **(a) Misconduct Involving Work Required for a Law School Course, Program, or Other Requirement**

(1) **Plagiarism:** A student must not intentionally, knowingly, or recklessly include in work offered to fulfill any law school requirement the language, work, or ideas of another without proper attribution. Plagiarism includes (a) the misappropriation of language taken verbatim, or nearly verbatim, from other sources without crediting the author of the original work by use of both quotation marks and footnotes or other appropriate forms of attribution, (b) the misappropriation of the original ideas of another without appropriate attribution, and (c) the misappropriation of the original pattern of ideas or organization of one or more original works over a substantial portion

of the paper. This third type of plagiarism occurs when a student follows the work of others, idea for idea, over a substantial portion of the paper, while paraphrasing the language of the original work, without indicating that the pattern of thought or structure of the paper comes from the original source.

(2) Use of work completed by another: A student must not submit the work of another in fulfillment of any law school requirement. This includes work completed by another student, practicing attorney, or any other person.

(3) Multiple submission of work: A student must not submit work in fulfillment of any law school requirement that the student has submitted in compliance with the requisites for any other course or program at this or any other academic institution without the express consent of the present professor. This provision will also apply to work submitted for credit at the College of Law that was previously completed in satisfaction of non-academic work requirements outside the College of Law.

(4) Unauthorized collaboration: A student must not submit work produced in collaboration with another without the permission of the professor. This includes collaboration with respect to the substantive content of the work, as well as the writing style, grammar, proofreading, or cite form. This provision will not apply if the professor has expressly permitted discussion, collaboration, or assistance in the matter.

(5) Third parties: A student must not assist another student in violating the regulations set forth in any part of this section, nor may any student attempt to enlist the assistance of a third party with the purpose of violating any of the foregoing provisions.

**(b) Misconduct Involving Examinations**

(1) A student must not copy the work of another during the course of any examination.

(2) Unauthorized use of materials during examinations: During an examination, a student must not use any materials that are not expressly permitted by the professor or exam proctor. This includes use of books, outlines, notes, recorded materials, or any other similar materials.

(3) Unauthorized departure from the exam room; unauthorized use of materials during absence: A student must not leave the exam room before completing the exam without permission of the exam proctor, if an exam proctor has been assigned to the room. If permission is granted to leave the exam room, a student must not review any materials during his/her absence from the examination room, nor may the student discuss the exam or related matters with any person during the course of the exam.

(4) Interference with other students during exam: A student must not talk or engage in other conduct that unreasonably distracts or disturbs other students during an examination.

(5) Unauthorized departure with, or discussion of, an exam: Without the express permission of the professor, a student must not remove any exam, or any portion thereof, from the exam room.

A student must not transcribe, deliver, or receive notes taken during or after an exam that reflect the substance or nature of an exam. No student may discuss the nature or substance of an examination with another student whom he/she knows has not yet taken the exam.

(6) Cheating by substitution: A student must not take an exam for another student, nor may a student intentionally or knowingly permit another to take an exam for him or her.

(7) Violation of exam security: A student must not in any way violate the security maintained for preparation or storage of any exam materials or other course materials.

(8) Violation of anonymous grading: A student must not purposefully act in a manner that is reasonably calculated to identify oneself to the person grading the work so that the anonymous grading system is compromised.

(9) Attempts to enlist assistance of third parties: A student must not attempt to enlist the assistance of another student or third party with the intention of violating any of the foregoing provisions.

**(c) Misconduct Involving Library Materials**

(1) A student must not tear, deface, destroy, or otherwise dispose of library materials or equipment.

(2) A student must not disrupt others with respect to their use of library materials, equipment, or resources.

(3) A student must not remove library materials without complying with established library procedures.

(4) A student must not conduct himself or herself in a matter that unreasonably interferes with others' use of library materials, equipment, or resources, or that violates a library rule about which the student should know.

**2.03 Other Forms of Misconduct.**

(a) A student must not misrepresent or omit facts about himself or herself in connection with admission to, or withdrawal from, the College of Law, or any class or program of the College of Law. This includes, but is not limited to, misrepresentations or omissions regarding degrees; enrollment at colleges, universities, trade schools, graduate schools, and professional schools; grades; coursework; work experience; academic misconduct; professional misconduct; or other personal or professional achievements or experiences. The student will have the continuing obligation to update the College of Law and/or relevant authorities as such information may change. Failure to do so will constitute a violation of the College of Law Code of Conduct.

- (b) A student must not sign the attendance roster for another student who is absent from, or late to, class. A student must not enlist the assistance of another to sign his/her name on the attendance roster.
- (c) A student must not falsify credential information presented to an employer.
- (d) A student must not record all or part of a College of Law class, as defined in Part XI of the Academic Policies and Regulations, unless otherwise permitted under the Academic Policies and Regulations.
- (e) A student must not use an actual recording in violation of the restrictions set forth in Part XI of the Academic Policies and Regulations, unless otherwise permitted under the Academic Policies and Regulations, or violate the terms of a written use agreement governing the use of an actual recording.
- (f) A student must not fail to comply with the lawful directions of a College of Law official or other public officials acting in the performance of their duties while on College of Law or FIU property or resist or obstruct those officials in the performance or attempted performance of their duties.
- (g) A student must not fail to comply with a condition or sanction imposed by the Conduct Review Committee.
- (h) If an individual, while a student in the College of Law, is adjudicated by a court of law to have violated any criminal laws of the State of Florida or the United States, said individual will be deemed to have violated the College of Law Code of Conduct.

### **ARTICLE 3. STUDENT CODE OF CONDUCT INQUIRIES.**

#### **3.01 Inquiries.**

- (a) The faculty member in charge of an assignment has the primary responsibility for adequately informing students in writing of the rules under which the assignment should be completed. Any questions about ambiguity in the rules should be raised initially with the faculty member.
- (b) Any student who has a question about the interpretation of the College of Law Code of Conduct as it applies to a particular assignment should raise the question with the faculty member who is in charge of the assignment. If the faculty member is unable to assist the student in the application of the College of Law Code of Conduct, the student should seek the advice of the Associate Dean for Academic Affairs.
- (c) Any student who has a question about the application of the College of Law Code of Conduct in general should seek the advice of the Associate Dean for Academic Affairs.

## **ARTICLE 4. PROCEDURES.**

### **4.01 Initial Reporting to the Associate Dean for Academic Affairs.**

- (a) Any individual who believes that a violation of the College of Law Code of Conduct has occurred may file a complaint, orally or in writing, to the Associate Dean for Academic Affairs, who has sole authority to investigate the allegations and to decide to initiate proceedings under the College of Law Code of Conduct.
- (b) After notification, either orally or in writing, of an alleged violation of the College of Law Code of Conduct is received by the Associate Dean of Academic Affairs, the Associate Dean for Academic Affairs will engage in a preliminary investigation to determine whether there is probable cause to believe that a violation of the College of Law Code of Conduct has occurred. This investigation may include interviewing the complaining party, the accused, and any other person who may have knowledge or information that will assist the Associate Dean for Academic Affairs in the probable cause determination.
- (c) Within a reasonable amount of time of receiving the complaint, the Associate Dean for Academic Affairs will notify the accused in writing that either an oral or written complaint has been made.
- (d) At the same time as the Associate Dean of Academic Affairs notifies the accused of the complaint, the Associate Dean will notify the Dean of the complaint and will provide the Dean with a written probable cause determination.
- (e) If the Associate Dean for Academic Affairs determines that no probable cause exists that a violation of the College of Law Code of Conduct has occurred, the Associate Dean for Academic Affairs will meet with the accused and inform the accused of the Associate Dean for Academic Affairs' determination and the basis of the determination. The Associate Dean will also meet with the complaining party and inform him/her of the Associate Dean for Academic Affairs' determination and the basis of the determination. The Associate Dean for Academic Affairs will send a copy of the no probable cause determination to both the accused and to the complaining party. The Associate Dean will also inform the Dean and any person whom the Associate Dean for Academic Affairs contacted during the probable cause investigation of the no probable cause determination. If the Associate Dean for Academic Affairs determines that no probable cause exists, no reference to the College of Law Code of Conduct complaint will be placed in the accused's permanent record unless requested by the accused.
- (f) If the Associate Dean for Academic Affairs determines that probable cause exists that a violation of the College of Law Code of Conduct has occurred, the Associate Dean for Academic Affairs will meet with the accused and inform the accused of the basis of the probable cause determination. The Associate Dean for Academic Affairs will, at or in advance of that meeting, provide the accused with a copy of the written probable cause determination. During this meeting, the Associate Dean for Academic Affairs will also explain the options available to the accused.

(1) In appropriate cases where institutional interests and the accused's position suggest that informal resolution of the complaint may be consistent with the policies of the College of Law Code of Conduct, the Associate Dean for Academic Affairs may suggest informal resolution of the complaint.

(2) In cases where informal resolution is either inappropriate or is not acceptable to the accused, the accused will be informed that a hearing on the probable cause determination will be held before the Conduct Review Committee.

(g) If the Associate Dean for Academic Affairs suggests and the accused is interested in pursuing informal resolution, the Associate Dean for Academic Affairs will propose a resolution consistent with the purpose of the College of Law Code of Conduct, the nature of the violation, and the circumstances of the accused. The accused may reject the proposed resolution without forgoing any of the rights provided under the College of Law Code of Conduct to a hearing. If the accused rejects the proposed resolution and a hearing on the complaint is held before the Conduct Review Committee, the attempt at informal resolution will not be disclosed to the Conduct Review Committee.

If the Associate Dean for Academic Affairs and the accused reach an informal resolution of the complaint, the Associate Dean for Academic Affairs will present the informal resolution of the complaint to the Dean in writing with a copy of the probable cause determination. If the Dean agrees to the informal resolution, the Dean will send a letter to the accused that sets forth the terms of the informal resolution. If the Dean does not agree to the informal resolution, the Associate Dean for Academic Affairs will inform the accused in writing that a hearing on the alleged violation will be held before the Conduct Review Committee.

Neither the existence of a proposed informal resolution nor its rejection by the Dean will be disclosed to the Conduct Review Committee.

(h) If informal resolution is not appropriate or is unsuccessful, the Associate Dean for Academic Affairs will forward a copy of the complaint and the probable cause determination to the Dean and refer the matter to the Conduct Review Committee. Within ten days of receiving a copy of the complaint and probable cause determination, the Dean will convene the Conduct Review Committee.

(i) During the course of the College of Law Code of Conduct hearing, it is the responsibility of the Associate Dean for Academic Affairs to present the case in support of the determination of probable cause. The Conduct Review Committee is not limited to the evidence presented by the Associate Dean for Academic Affairs, and may independently investigate the alleged violation. The Associate Dean for Academic Affairs should be available to respond to any questions that the Conduct Review Committee has about the nature of the investigation or the basis upon which the Associate Dean for Academic Affairs determined the existence of probable cause.

## **ARTICLE 5. THE FORMAL HEARING: CONDUCT REVIEW COMMITTEE.**

### **5.01 Composition.**

October 27, 2016

Each year, a panel of six, including three members of the faculty and three students, will be appointed by the Dean to serve as members of the Conduct Review Committee. The Dean will select three student members on a case-by-case basis to serve as Conduct Review Committee members. Each selected student will be given the opportunity to decline after being informed of the nature and extent of the responsibility. If the accused is a J.D. student, then the three student members of the Conduct Review Committee will consist of J.D. students only. If the accused is an LL.M. student, then the three student members of the Conduct Review Committee will consist of at least one LL.M. student; the remaining students may be LL.M. students or J.D. students. If the accused is a J.M. student, the three student members of the Conduct Review Committee will consist of at least one J.M. student; the remaining students may be J.M. or J.D. students.

One of the faculty members will be appointed to chair the Conduct Review Committee by the Dean. The accused may challenge for cause any of the Conduct Review Committee members. Challenges for cause are addressed to the Dean, who determines their validity in his or her sole discretion. The Dean will replace any successfully challenged member. The replacement member may also be challenged for cause.

#### **5.02 Hearing Process.**

- (a) Before the Conduct Review Committee hearing, the accused is entitled to a reasonably specific written statement of the charges and to reasonable time for preparation.
- (b) The accused will be presumed innocent.
- (c) The Conduct Review Committee chair conducts the hearing, subject to the discretion of a majority of the Conduct Review Committee. The Associate Dean for Academic Affairs or his/her designee presents the case to the Conduct Review Committee. The accused is entitled to the presence of counsel or an adviser.
- (d) The accused may call witnesses and question witnesses heard by the Conduct Review Committee.
- (e) The College of Law will make an adequate record of the hearing by written memorandum, audio recording, or otherwise.
- (f) Trial rules of evidence are not applicable and the accused has no privilege against the drawing of adverse inferences from failure to cooperate in the investigation or hearing. The hearing will generally proceed in the following order:
  - 1. Evidence in support of the complaint;
  - 2. Evidence in rebuttal;
  - 3. Argument on findings;
  - 4. Decision as to whether the accused has committed the alleged misconduct;
  - 5. If appropriate, evidence in aggravation, mitigation, and extenuation;
  - 6. Arguments on sanction; and

7. Decision on recommended sanction.

(g) The College of Law will bear the burden of proof by a preponderance of the evidence, except that a sanction of suspension or dismissal must be supported by clear and convincing evidence of the alleged violation.

(h) A vote determining that a violation has been committed by the accused will require the concurrence of at least four members of the Conduct Review Committee; the chairperson will vote on all matters.

(i) A vote determining the appropriate sanction that results in a three-three tie will be submitted to the Dean for final disposition. The Dean may undertake additional fact finding in aid of final disposition.

(j) The hearing committee will render an expeditious, written decision that will include findings of fact, conclusions, and, if appropriate, sanctions.

**5.03 Discussing Code Matters.**

(a) The hearing will be held in private. During the pendency of a College of Law Code matter, persons connected with it, whether officially or personally, will not communicate respecting the case except:

1. Insofar as is necessary to implement the College of Law Code of Conduct; or
2. Where a potential witness voluntarily chooses to discuss the matter with the accused or his or her designated representative.

(b) To the extent authorized by law, the deliberations and decisions of the Conduct Review Committee, as well as any appeals taken from those decisions, will be held in confidence by all persons having knowledge of them unless the accused disclosed them or authorizes disclosure.

**ARTICLE 6. APPEAL TO THE DEAN.**

**6.01. Appeal Process.**

(a) A disciplined student may appeal the decision of the Conduct Review Committee to the Dean in writing within 30 days of the date of the decision.

(b) On appeal, the Dean will review the written decision of the Conduct Review Committee. The Dean may affirm or reverse the Conduct Review Committee's decision or reduce the sanctions it imposed. In any case, the Dean may request additional information and/or written argument from the disciplined student and the College of Law.

(c) The Dean will issue a written decision, affirming, overruling, or modifying the decision of the Conduct Review Committee. A copy will be sent to the disciplined student and the members of the Conduct Review Committee.

(d) If the Dean overrules or modifies in any respect the decision of the Conduct Review Committee, his or her written decision will include the reasons for the modifications of the decision of the Conduct Review Committee.

(e) On appeal, the decision of the Dean is final.

## **ARTICLE 7. RECORD KEEPING AND ANNUAL REPORT.**

### **7.01 Storage of Records and Access.**

After final determination of a matter, and to the extent allowed by law, all transcripts, recordings, memoranda, opinions, findings, and any other tangible records connected with that matter will be stored under lock and key in the Office of the Dean for the College of Law. The Associate Dean for Academic Affairs will have the duty to collect and transmit such materials to the Dean's Office.

### **7.02 Annual Report.**

The Associate Dean for Academic Affairs will issue a brief annual report to the student body describing the disposition of matters arising under the College of Law Code of Conduct, not including the names of the parties. The report will be sent via email to the student body.

## **ARTICLE 8. SANCTIONS.**

### **8.01 Penalties.**

Any one or a combination of the following sanctions may be imposed for a violation of the College of Law Code of Conduct:

1. **Warning.** Written notice to the student that a future violation of the College of Law Code of Conduct will be cause for disciplinary action.
2. **Censure.** Written reprimand for a violation of the College of Law Code of Conduct. A written reprimand may include a recommendation for the completion of (a) community or pro bono service hours, (b) a written brief, and (c) an anonymous letter of atonement to be sent via email to the student body.
3. **Disciplinary Probation.** Probation for a stated period of time on specified conditions.
4. **Suspension.** Termination of student status for a specified period. Suspension may include exclusion from designated areas of the College of Law or FIU campus.
5. **Dismissal.** Permanent termination of student status.

6. Interim Suspension. Exclusion from classes or from other designated activities or from designated areas of the campus, before final action on an alleged violation, when there is reasonable cause to believe that such action is in the best interest of the College of Law.

7. Grade Reduction. The Conduct Review Committee may recommend to the faculty member that a student be denied course credit or a grade be reduced to an administrative “F” where the relevant misconduct consists of cheating on an examination, plagiarism in a paper, or other academic dishonesty.

### **8.02 Notation of Sanction on Official Transcript.**

Suspension and dismissal, and any other sanctions, will be noted on the disciplined student’s official College of Law transcript. Other sanctions may be noted on the transcript. When a sanction is noted on a disciplined student’s transcript, the College of Law will report that sanction to any state bar to which the student has previously been certified for admission. All disciplinary sanctions, whether or not noted on the student’s transcript, will be reported to any licensing authority making inquiry.