



CODE OF CONDUCT
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CODE OF CONDUCT

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**TOURO COLLEGE
JACOB D. FUCHSBERG LAW CENTER
CODE OF CONDUCT**

Article I: Statement of Purpose

A. The purpose of this Code of Conduct (the "Code") is to define instances of misconduct at Touro College Jacob D. Fuchsberg Law Center (the "Law Center") and to establish exclusive, uniform, and fair procedures for determining whether violations of the Code have occurred and for recommending and imposing disciplinary sanctions for misconduct.

B. This Code is not intended to limit or affect the rights, duties, or responsibilities of faculty members in the grading process.

C. This Code is not intended to discourage or prevent collaborative study by two or more students who seek through joint effort to expand their understanding of the materials in a course or other academic activity, as long as such joint effort does not violate the spirit of this Code.

Article II: Authority and Jurisdiction of the Conduct Review Committee

A. Any student enrolled in the Law Center is bound by the provisions of this Code. The Code of Conduct applies to a person applying to the Law Center or applying for readmission.

B. A copy of the Code will be distributed to each student in the first year of enrollment. The Code will also be on file in the library and available from the Office of the Registrar. The failure of any student to receive a copy of the Code shall not be a defense to alleged violations of this Code.

C. The Conduct Review Committee (the "Committee") shall consist of two faculty members and one student member. At the beginning of each academic year, the Dean of the Law Center (the "Dean") shall appoint the faculty members, of whom one shall be designated by the Dean to serve as a Chairperson. The Dean shall appoint the student member from a list of three students submitted to the Dean by the President of the Student Bar Association. The student member will not participate at a Hearing on a Complaint if the charged student (the "respondent") so requests.

In the event that the respondent requests that the student member not participate at the Hearing, the Dean shall appoint a third faculty member to serve on the Committee for the purpose of judging that Complaint only.

D. (1) The Committee shall have original jurisdiction of all cases based upon reports to the Dean pursuant to Article V(A).

(2) Any student who has received a grade of F or any grade lower than was earned on an examination paper or from other work required for a course because a faculty member has independently concluded that such student has violated this Code may request a Hearing before the Committee. However, if after a Hearing, the Committee finds that a violation of this Code has occurred, the Committee may recommend to the Dean for determination any sanction it deems appropriate.

E. The Code shall be administered by the Committee and the Dean. The Committee shall provide fair hearings in the manner prescribed by the Code.

F. The Committee may issue opinions, formal or informal, about whether hypothetical conduct would constitute a violation of this Code.

Article III: Prohibited Conduct

A. Academic Misconduct

Students shall not engage in fraudulent, deceitful, dishonest, or unfair conduct while enrolled at the Law Center. To assist students in understanding their responsibilities under this section of the Code, the following nonexclusive examples of conduct constitute violations:

(1) **PLAGIARISM:** A student shall not plagiarize.

A student plagiarizes when the student submits the work of another as the student's own. Plagiarism is the copying of the work of another without fully crediting sources, the improper paraphrasing of the work of another as fully explained in the materials referenced below, or the use of ideas or text obtained from another without fully crediting sources.

Fully crediting sources means referring to sources by footnotes, in addition to indicating, by the use of quotation marks, language taken directly from the source. Proper paraphrasing means restating the text in a different, proper form, not merely rearranging or rephrasing the text, and fully crediting source material.

Every student is responsible for reading the Law Center plagiarism materials prior to preparing any research paper at the Law Center. Additionally, each student must submit a written statement acknowledging that (s)he has read and understands the examples in these materials.

(2) Other Academic Misconduct

- a. A student who puts his/her name or examination number on any work submitted for academic credit, publication, or presentation shall be deemed by that act to have certified that resources have been fully credited and that no unauthorized aid has been received in connection with that work.
- b. A student shall not permit his/her own work to be submitted as the work of another.
- c. A student shall not offer any work (or part thereof) submitted or used by him/her for any other purpose (such as, by way of example, work prepared for or submitted in another course, or work prepared for a law journal, clinic, law firm, government agency or other organization), except upon receipt of written permission after full disclosure from the faculty member to whom the work is offered.
- d. A student shall not invade the security maintained for the preparation and storage of examinations. If a student learns of information, other than that released or authorized by the faculty member, which concerns an examination that he/she is due to take, the student shall notify the Dean and shall not take the examination until the Dean gives permission.
- e. A student shall not take an examination for another, nor permit another to take an examination for him/her.
- f. While taking an examination, a student shall neither possess nor refer to any material (such as, books, notebooks, outlines, papers, or notes) not authorized by the faculty member for use in the examination.
- g. While taking an examination, a student shall neither give, receive, nor obtain information or assistance in any form not authorized by the faculty member or person(s) administering the examination.
- h. A student shall neither converse nor communicate with any person other than the person(s) administering the examination, unless with the permission of the person(s) administering the examination.
- i. A student shall not commence an examination before the time announced for the commencement of the examination by the person(s) administering the examination.
- j. A student shall not continue writing after the time announced for the conclusion of the examination by the person(s) administering the examination.
- k. A student shall not fail to submit a set of answers, the examination, or such other materials as are requested at the conclusion of the examination by the person(s) administering the examination.
- l. A student who has permission to take a make-up examination shall not discuss the contents of the examination with any other student until said other student has taken the examination.
- m. A student shall not knowingly communicate, directly or indirectly, the contents of an examination to any student who has not taken the examination and is scheduled to take the examination.
- n. A student shall not knowingly misrepresent an illness for the purpose of being excused from an examination.
- o. A student shall not violate any rules which provide for the anonymity of the grading of examinations.
- p. A student shall not take an examination, submit a paper, or perform other work in violation of the instructions given by the faculty member for whom the student performs the work.
- q. A student shall not knowingly make false representation to a faculty member, member of the administration, Law Center organization, or the Committee.
- r. A student shall not take material (such as, by way of example, books or notebooks) from another student without the consent of the latter.
- s. A student shall not tear, mutilate, destroy, hide, misfile, or remove library materials from the library without complying with library procedures.
- t. A student shall not use any Law Center computer system for any purpose other than education in accordance with library procedures.
- u. A student shall not knowingly make a false allegation of a violation of this Code.
- v. A student shall not knowingly misrepresent his/her academic record, extracurricular activities, or work experience to other institutions, prospective employers, or law center organizations.

B. Non-Academic Misconduct

(1) Students shall comply with requirements of the administrative authorities and full-time and part-time faculty for maintenance of order on the Law Center premises. Students shall not engage in behavior which jeopardizes the health or safety of the Law Center community, or disrupts the educational activities and supporting services of the Law Center. Students shall act in compliance with all requirements imposed by the administrative authorities or any member of the full-time or part-time faculty, provided that such requirements reasonably relate to the educational process or the administration of the Law Center.

(2) The following shall be a violation of the Code of Conduct:

(a) Physical assault, intentional acts of physical violence, malicious injury to the property of others, conduct that intentionally or recklessly imperils the safety of any person or of Law Center premises, or threatens to commit any of the above.

(b) Physically threatening or otherwise intimidating behavior by speech, written word, or deed, that is overtly and intentionally directed towards a person on the grounds of race, ethnicity, national origin, gender, religion, sexual preference, age, or disability.

(3) Ordinarily, a student's off-campus conduct will be subject only to sanctions of the public authorities. However, some kinds of off-campus conduct may violate Law Center rules or may otherwise adversely reflect on an individual's fitness as a law student and prospective member of the legal profession.* Conduct of these kinds may result in Law Center sanctions regardless of whether public law sanctions are applicable.

*Crimes involving moral turpitude are examples of the latter.

C. Misconduct on Application for Admission

(1) The following conduct, if committed by an applicant to the Law Center, and not discovered or disclosed until after the applicant's matriculation as a student at the Law Center, may subject the student to action under the Code of Conduct:

(a) Forging, falsifying or altering documents or records submitted in connection with the student's application for admission to the Law Center; or

(b) Submitting false information in response to questions on the student's Law Center application or questions from admissions officers in connection with the student's Law Center application; or

(c) Failing to provide information or providing incomplete information in response to questions on the student's Law Center application or questions from admissions officers asked in connection with the student's Law Center application if the omitted information would have been material to the decision of the Law Center Admissions Committee regarding the student's application. The Admissions Committee will determine, on a case by case basis, whether the omitted information "would have been material" to its decision.

D. General Provisions

(1) While the failure to report personal conduct or conduct of another student which may constitute a violation of this Code is not itself a violation of this Code, a student is expected to notify the Dean when the student reasonably suspects a violation.

(2) No member of the Committee, faculty member, or member of the administration, or student (other than the respondent) shall disclose any information about a suspected violation or Complaint, except with the Committee's permission.

(3) A student violates this Code when he/she attempts or conspires to commit conduct which would violate this Code.

(4) Inadvertent violation of this Code (such as, by way of example, possession of unauthorized material in an examination or unauthorized removal of a book from the library) is a defense to alleged violations of this Code. The respondent has the burden of proving the inadvertence by a preponderance of the evidence.

(5) Extenuating circumstances (such as, by way of example, illness, pressure from school or outside work, or family obligations) are no defense to an alleged violation of this Code, but may be relevant to sanction.

Article IV: Responsibilities of the Faculty and the Administration

A. Each faculty member shall identify the materials (if any) that the students may use during the examination and shall designate the circumstances (such as, by way of example, whether the materials may be annotated) in which those materials must be used.

B. Each faculty member shall include the instructions regarding the materials above described in Article IV(A) on the front page of the examination.

Article V: The Charge and Investigation Process

A. Any student, faculty member, or member of the administration should promptly report to the Dean's designee any conduct that is reasonably believed to constitute a violation of the Code.

B. Within 10 days after receipt of information regarding a suspected violation of the Code, the Dean's designee shall appoint a member of the administration or a faculty member to serve as Prosecutor and shall report the suspected violation to the Prosecutor.

C. (1) The Prosecutor shall promptly investigate the suspected violation, including gathering relevant documentary evidence, interviewing the person who referred the matter, the student whose conduct is under investigation, and any other person who may have relevant information.

(2) The Prosecutor shall explain to any person interviewed the procedures involved in resolving suspected violations under the Code.

(3) Before referring the matter to the Committee, the Prosecutor shall notify the student whose conduct is under investigation and shall give that student an opportunity to discuss the matter. The student whose conduct is under investigation may refuse to speak to the Prosecutor, and the Prosecutor shall so inform the student of his/her right to refuse to speak. No inference as to the truth of the suspected violation shall be drawn by the Prosecutor or the Committee from a student's refusal to speak.

(4) The Prosecutor shall make a record in writing or recorded on audiotape or videotape of conversations with persons who provide information. Information obtained by the Prosecutor is not privileged with respect to the Committee.

(5) The Prosecutor shall complete the investigation within 30 days of appointment, provided that upon a showing of special circumstances, the Dean's designee may extend the time hereunder for such period as he/she shall determine, but in no case beyond the semester (Spring or Fall) following the semester in which the conduct was reported under Section A.

D. The Prosecutor shall decide upon completion of the investigation whether to prepare a Complaint for consideration by the Committee.

(1) The Prosecutor may decide not to prepare a Complaint if he/she believes that the suspected violation is without merit or that insufficient evidence exists to support a Complaint, in which case:

(a) The Prosecutor within 7 days of completing the investigation shall submit a report to the Committee describing the suspected violation, the available evidence, and the reasons for the decision not to prepare a Complaint.

(b) The Committee shall review the Prosecutor's report and, within 10 days of receipt thereof, shall by majority vote, either accept the Prosecutor's Report or direct the Prosecutor to prepare a Complaint within 5 days.

(2) If no Complaint is filed, the Prosecutor shall notify the student whose conduct was under investigation in writing within 10 days that no Complaint will be filed.

E. If the Prosecutor decides there is sufficient evidence to support a Complaint, the Prosecutor shall prepare the Complaint within 7 days of completing the investigation and submit it to the Committee. The Complaint shall set forth the alleged conduct in question and the manner in which that conduct allegedly violates the Code.

F. The prosecutor shall within 5 days of submitting the Complaint to the Committee give notice, by certified mail or in person delivery, to the respondent of the following:

(1) A copy of the Complaint and of the Code;

(2) A summary of the factual allegations giving rise to the Complaint;

(3) A list of expected witnesses;

(4) A copy of any documentary evidence;

(5) The time and place of the Hearing and a list of the members of the Committee;

(6) A statement that the respondent may request that the student member of the Committee be replaced by a third faculty member;

(7) A statement that the respondent may have one preemptory challenge of any member of the Committee, and unlimited challenges for cause;

(8) A statement that the respondent may be represented by counsel or other advisor;

(9) A statement that the respondent will have the opportunity to obtain and present evidence at the Hearing;

(10) A statement that respondent may request an open Hearing.

G. Subject to Section 1 hereof, failure by the Prosecutor to provide notice of any of the above items or of any participant to meet a time limitation imposed herein, is not grounds for dismissal of the Complaint, but it may be grounds for postponement of the Hearing until a time considered appropriate by the Committee.

H. If no complaint is submitted to the Committee by the last day of the final examination period of the semester following the semester in which the Report was received under Section A, then the matter shall be dismissed with prejudice, provided, however, that upon a showing of good cause made prior to the expiration of the applicable period, the Dean's designee or the Conduct Review Committee may extend the period for filing a Complaint. The Dean's designee or the Conduct Review Committee, as the case may be, shall notify the Prosecutor and the Respondent in writing of the period of the extension no later than 7 days following the expiration of the applicable period.

Article VI: Rights of the Respondent

- A. A student charged with violating this Code has the following rights:
- (1) To receive the information listed in Article V(F).
 - (2) To present witnesses and other relevant evidence at the Hearing.
 - (3) To retain counsel or other advisor for assistance at the Hearing. If the respondent cannot afford counsel or other advisor, the Committee will assist respondent to the best of its ability in obtaining counsel or other advisor.
 - (4) To be present at the Hearing. If respondent decides not to be present, he/she shall notify the Dean in writing at least five days before the scheduled Hearing date, and the Hearing may proceed in his/her absence.
 - (5) To question any witness at the Hearing.
 - (6) To refuse to speak at the Hearing. Such refusal to speak shall not be construed as evidence of guilt.
 - (7) To have an open Hearing. A request for an open Hearing must be made in writing to the Dean at least five days before the Hearing.
 - (8) To forego a Hearing on the merits by admitting the merits of the Complaint.
 - (9) To make a statement of opposition to a particular sanction.
 - (10) To waive any right or procedure otherwise provided by the Code.
 - (11) To have copies of all documentary evidence.
 - (12) To have the Hearing recorded by tape recording or by transcription.
 - (13) To appear before the Dean if the Committee Report finds that the respondent has violated the Code.

Article VII: The Hearing

- A. (1) Any member of the Committee who is directly involved in the alleged misconduct or who believes his/her participation in the Hearing would be improper shall promptly recuse himself/herself from the Hearing.
- (2) The respondent shall have one peremptory challenge of any member of the Committee for any cause whatsoever.
- (3) The respondent shall have unlimited challenges of any member of the Committee for cause. The burden is on the respondent to prove the impropriety of any member's participation at the Hearing by a preponderance of the evidence.
- (4) The respondent shall make his/her challenge(s) of any member(s) of the Committee to the Dean at least five days prior to the scheduled Hearing date.
- (5) The respondent shall make his/her request that the student member not participate at the Hearing as provided in Article II(C) to the Dean at least five days prior to the scheduled Hearing date.
- (6) In the event of recusal, a peremptory challenge, or a finding of cause on any other challenge, the Dean shall appoint an alternate member to the Committee. Such alternate member shall be subject to challenge for cause as provided in Article VII(A)(3).
- B. The Hearing shall commence no later than ten days after the respondent has received the notice listed in Article (V)F. The respondent shall be entitled to one ten-day continuance. Upon a showing of good cause, the Committee may grant the respondent an additional continuance. The request for a continuance must be made in writing to the Committee at least five days prior to the scheduled Hearing date.
- C. The Hearing shall not be held unless all members of the Committee are present.
- D. The Committee Chairperson shall preside at the Hearing.
- E. The Hearing shall be closed to all persons who are not required for the Hearing, unless the respondent has requested an open Hearing.
- F. All witnesses shall be excluded from the Hearing unless the Prosecutor, respondent, or Committee has called upon him/her to testify, or unless the Committee decides otherwise.
- G. A witness shall disclose nothing about the Hearing, except with the permission of the Committee.
- H. The Hearing shall be either tape recorded or transcribed upon the request of either the Committee or the respondent.

I. The rules of evidence do not apply. The Committee may consider any probative evidence as long as such evidence is made a part of the record.

J. The Prosecutor shall present the evidence, including that which supports and negates the charge and that which is relevant to the merits or to sanction. The respondent may then present evidence which is relevant to the merits or to sanction. The Committee and the respondent may question any witness. The Committee may decide, in its discretion, to consider any evidence as to sanction.

K. Any student, faculty member, or member of the administration called by the Prosecutor, the respondent or the Committee shall cooperate at the Hearing. Any student, faculty member, or member of the administration may be excused from cooperation at the Hearing upon a finding of good cause by the Committee. Such student, faculty member, or member of the administration who refuses to cooperate at the Hearing has the burden of providing good cause for such refusal by a preponderance of the evidence. The Committee may recommend to the Dean such sanction as it deems appropriate upon a finding of no good cause for refusal to cooperate at the Hearing.

L. The Prosecutor may request the Committee to amend the Complaint to conform with the evidence adduced. If the Prosecutor so moves, the respondent shall be notified of that motion and given an opportunity to object before the Committee rules on the motion. If the Complaint is amended, the respondent shall have the opportunity to present any relevant evidence to the Complaint as amended. In that instance, the Committee may grant a five day continuance if the respondent so requests.

M. The respondent is presumed innocent until proven guilty by clear and convincing evidence.

N. The Committee shall decide by at least a 2 to 1 vote the merits of any Complaint. If there is a finding that the respondent has violated this Code, the Committee shall recommend a sanction by at least a 2 to 1 vote. The Committee shall prepare a Committee Report within ten days after the Hearing. The Committee Report shall state the Committee's decision as to the merits of the Complaint, and where appropriate, shall make a recommendation to the Dean as to sanction. The Committee Report shall also set forth the evidence considered, the reason(s) for its decision as to the merits of the Complaint, and where appropriate, the reason(s) for its recommended sanction. A concurring or dissenting member of the Committee may prepare a concurrence or dissent to the Committee Report explaining his/her position.

O. The Committee shall refer the Committee Report to the Dean. A copy of the Committee Report shall be given to the respondent.

Article VIII: The Dean's Determination

A. If the Committee finds that the respondent has violated this Code, the Dean shall make the Determination as to sanction. The Dean may not reverse the Committee's decision on the merits of the Complaint.

B. While the Dean is considering his/her Determination as to sanction, the respondent shall have the right to appear before the Dean.

C. The Dean shall make his/her Determination as to sanction based upon the Committee Report, the Committee's recommendation as to sanction, and the respondent's appearance before the Dean.

D. The Dean may not increase the sanction recommended by the Committee.

E. The Dean may decrease or otherwise modify the sanction recommended by the Committee, but only upon consultation with the Committee.

F. The Dean shall issue his/her Determination of sanction within ten days of receiving the Committee Report. The Committee and the respondent shall receive a copy of the Dean's Determination. The Dean's Determination shall be final and nonappealable.

Article IX: The Record

A. The Committee may publish all or part of its Committee Report. On publishing its Report, the Committee shall not publish the name of the respondent or of any participant in the Hearing.

B. If no Complaint is filed because the suspected violation is without merit or the evidence is insufficient, the Dean shall retain in a secure place the Prosecutor's report. Such record shall be kept strictly confidential, and neither the contents nor the existence of such a report shall be disclosed except to the Committee upon request.

C. If after a Hearing, the Committee finds that the respondent has not violated the Code, the Dean shall retain in a secure place the Complaint, the evidence presented at the Hearing, and the Committee Report. Such record shall be kept strictly confidential, and neither the contents nor the existence of such a record shall be disclosed except to the Committee upon request.

D. If after a Hearing, the Committee finds that the respondent has violated the Code, the Dean shall retain in a secure place the Complaint, the evidence, the Committee Report, and the Dean's Determination. Such record shall be kept strictly confidential, and neither the contents nor the existence of such record shall be disclosed except to the Committee upon request and as provided in Article IX(E).

E. If after a Hearing, the Committee finds that the respondent has violated the Code, the finding of violation and the sanction imposed shall be placed in the respondent's official Law Center file. The Law Center has the responsibility of making available the contents of the respondent's official Law Center file to any judicial committees on character and fitness to practice law, or to any other licensing body or professional association. The Law Center may in its discretion make available the contents of the respondent's official Law Center file to other educational institutions, employers, or other appropriate entities.

Article X: Sanctions

A. Sanctions that may be recommended by the Committee and imposed by the Dean upon a finding of a violation of the Code include, but are not limited to, one or more of the following:

- (1) Removal of Degree Awarded: The student may have his/her degree awarded by the Law Center removed. This penalty is reserved for conduct which is incompatible with the student's admission to the legal profession.
- (2) Expulsion: A student may be expelled from the Law Center. The student who has been expelled from the Law Center shall not be entitled to be readmitted. This penalty is reserved for conduct which is incompatible with the student's admission to the legal profession.
- (3) Suspension: A student may be suspended from the Law Center. The student who has been suspended shall not attend the Law Center for a definite period to be determined by the Dean, not to exceed two years. Such period may begin during or at the close of a semester. After the period of suspension the student may apply for readmission to the Law Center. Readmission shall be at the discretion of the Committee.
- (4) Probation: A student may be placed on probation. The student who is on probation shall remain on probation for a definite period to be determined by the Dean during which period further violations of the Code may result in expulsion or suspension. While on probation, the student will not be permitted to represent the Law Center in any capacity or hold office in any Law Center organization.
- (5) Written Reprimand: A student may be advised in writing that his/her conduct has violated the Code. Notice of the reprimand and reasons for its issuance may be published by the Committee. The Committee shall not publish the name of the student.
- (6) A Grade of "F": A student may receive a grade of "F" in the course to which his/her conduct pertained.
- (7) Lowering of Grade: A student may receive a lower grade in the course to which his/her conduct pertained.
- (8) Retake of Examination: A student may be required to retake an examination in the course to which his/her conduct pertained, or may be required to repeat any other work required for the completion of such course in a manner prescribed by the Committee.
- (9) Restitution: A student may be required to pay restitution in an amount reasonably related to the losses sustained as a result of his/her conduct. No punitive damages shall be imposed.
- (10) Other Sanctions: The Committee may recommend and the Dean may impose any other sanction deemed fair and equitable under the circumstances.

B. The Committee and the Dean shall consult the records for past rulings for guidance in recommending and imposing sanctions for like offenses. The obligation to the Law Center community as a whole, as well as the presence or absence of mitigating factors in the respondent's conduct, will be taken into consideration by the Committee and the Dean.