

# RULE XIII-1: CONDUCT CODE

## A. Jurisdiction and Scope

### 1. Preamble

UNH Law is devoted to education and research, functioning through a selfgoverning community of people voluntarily associated for those purposes. The members of this community are entitled and expected to exercise the rights and judgment of responsible adults. UNH Law specifically disavows any claim to act in loco parentis or to any other general authority over the social, familial or other personal affairs, interactions or activities of students, faculty or staff.

These rules of conduct are minimum standards designed to protect the functions of the community. They cannot, and are not intended to, replace the much higher standards of respect, consideration, honesty, and civility which should govern our behavior. This is not a comprehensive code of ethics. In a small, face-to-face community, public scrutiny, free speech, and free association often offer the best correctives of behavior that one considers inappropriate, offensive or wrong, and similarly good incentives for admirable conduct.

### 2. Bases of Jurisdiction

The rules of this Code have one or more of the following six bases and are to be so construed.

- To preserve the processes of teaching and learning, and the evaluation of those results.
- To preserve and assure the nondiscriminatory application of the decision-making processes of the institution.
- To preserve the peace and property of UNH Law, its members and visitors.
- To carry out the professional responsibilities of UNH Law in its capacity as a legal services corporation (NH RSA 292:1-a) and those of its members who have undertaken representation of others in connection with their teaching or study.
- To permit disassociation from the community of those who have committed grave wrongs.
- To carry out nondiscretionary duties imposed by state or federal law.

### 3. Applicability to Students, Faculty, and Staff; Varying Procedures, Routing for Complaints and Sanctions

- The substantive rules of this Code and the Sexual Harassment Policy apply to students, faculty, and staff of UNH Law.
- In the case of students in their capacity as students, this Code is UNH Law's exclusive basis for disciplinary sanctions (as distinct from proceedings to correct academic deficiency under, for example, Rules VI and VII of the Academic Rules). The procedure for handling complaints against students in their capacity as students is set forth in the Conduct Code Procedures (Rule XIII B2).
- Faculty and staff (including students in their capacity as employees or agents of UNH Law) are subject to additional rules, policies, and instructions, which may involve different investigative or disciplinary procedures. Reports or complaints of staff violations of the Conduct Code should be directed to the Director of Finance and Administration. Complaints of violation of the Conduct Code in the form of discrimination on the basis of sex, age, race, color, religion, ethnicity, disability, marital status, national origin, sexual orientation, or gender or gender expression, should be directed to the Assistant Dean of Students. Reports or complaints of faculty violations of the Conduct Code should be

directed to the Dean of UNH Law. However, nothing in this Code shall in any way limit or penalize reports or complaints to public officials of matters within their jurisdiction.

- Faculty and staff (including students in their capacity as employees or agents of UNH Law) may, and ordinarily will be subject to sanctions for violations of the Conduct Code differing from those provided for students (see part K).

## B. Obligation to Know the Rules, Mental States

- Every member of the community is obliged to conform to these rules and to seek timely guidance if they fail to understand them. Ignorance or misunderstanding of one or more rules is not a defense to a charge, although it may be considered in mitigation.
- Unless a stricter mental state is specified as an element of a particular violation, a person may be found in violation of this Code if their failure to act in accord with it was merely negligent. Negligence in this respect means ordinary (as opposed to criminal) negligence and includes failure to act with the care and attention of a reasonable person similarly situated and informed, acting in good faith. Violations may also be charged as having been committed recklessly, knowingly or purposefully, which, in cases of doubt, shall have the same meanings as under the Model Penal Code.

## C. Teaching and Evaluation

- Plagiarism
  - Submitting as one's own, for academic credit or evaluation, quotations, paraphrasing or distinctive ideas of another without sufficient citation to identify the source and scope of the borrowing is a violation, even if merely negligent.
  - Knowing or purposeful publication of language taken from the work of another without attribution in the course of work connected to UNH Law activities is a violation, except where, as in the case of form books, formulae, etc., it is commonly understood in the field that use is to be made without citation.
  - Other provisions of this Code (under F and G) may also apply to plagiarism as well as to other forms of misuse of another's work.
- Other Forms of Cheating
 

Any reckless, knowing or purposeful act in connection with any course or activity for academic credit which violates the rules for performance and evaluation of that activity is a violation. Unless otherwise indicated by the responsible instructor, all graded activity is to be solely the product of each individual student, without resort to any written or recorded materials or to any other person. It is a violation to discuss or describe an exam or quiz under circumstances where members of the class who have not yet taken it may discover its content.
- Negligent Disregard of Instructions
 

Unreasonable failure to conform to rules or instructions for any course or activity for academic credit is a violation.
- Misrepresentation of Grades, Evaluations, Recommendations or Other Academic Records
 

It is a violation to recklessly, knowingly or purposefully misrepresent UNH Law grades, grade averages, credits, class rank, evaluations, recommendations, courses taken, degrees awarded or any other academic record of oneself or another.
- Classroom and Library Conduct
  - It is a violation to continue, after protest or reminder by any person, in any course of conduct during a class, examination or in the library, which is reasonably likely to distract a person

of ordinary sensibilities from the business of the class or the taking or administration of the exam. One subject to an allegedly improper request must nonetheless obey it and may thereafter raise the issue with the appropriate authority.

- b. It is a violation to fail to leave a class, examination room or the library when requested to do so by the instructor, the Dean, the Dean's designate or the person in charge of the library. One subject to an allegedly improper request must nonetheless obey it and may thereafter raise the issue with the appropriate authority.
6. Speakers, Forums, and Other Meetings
- a. Subject to the authority of the moderator or chair to limit irrelevant or repetitious comment, it is a violation to continue, after protest or reminder by any person, in any course of conduct during or immediately prior to a UNH Law event, which is reasonably likely to prevent any person on the program or a duly recognized audience member from completing their speech, discussion or presentation.
  - b. Subject to the authority of the moderator or chair to limit irrelevant or repetitious comment, it is a violation to engage in any course of conduct during or immediately prior to a UNH Law event with the purpose of preventing any person on the program or a duly recognized audience member from completing their speech, discussion or presentation.

## D. Protection of Institutional Procedures

### 1. False Statements

It is a violation to recklessly, knowingly or purposely give any materially false information:

- a. To any person properly involved in admissions, financial aid, career counseling, academic standing evaluations and proceedings, academic counseling, Conduct Code investigations and proceedings, or sexual harassment proceedings, nondiscrimination policy investigations or to custodians of other educational records;
  - b. To any member of the faculty or staff making a direct inquiry regarding the reasons for the actor's absence or lack of preparation during the current term or regarding outside employment status;
  - c. Under any circumstances involving the procedures, affairs, reputation or property of UNH Law when the actor should reasonably foresee that the actor or any other person would receive an otherwise unjustified benefit or that UNH Law or any other person would suffer an otherwise unjustified detriment;
  - d. Which claims or creates the appearance of having authority to speak or act on behalf of UNH Law.
2. Concealment
- It is a violation to knowingly or purposefully do any act to conceal material information from:
- a. Any person properly involved in admissions, financial aid, career counseling, academic standing evaluations and proceedings, academic counseling, Conduct Code investigations and proceedings, sexual harassment proceedings, nondiscrimination policy investigations or custodians of other education records;
  - b. Any member of the faculty or staff investigating the reasons for the actor's absence or lack of preparation during the current term or regarding outside employment status; or
  - c. Under any circumstances involving the procedures, affairs, or property of UNH Law when the actor should reasonably foresee that the actor or any other person would receive an otherwise

unjustified benefit, or that UNH Law or any other person would suffer unjustified detriment.

### 3. Refusal to Give Information

Unless (and only to the extent) such cooperation would require statements which could be reasonably understood to expose the person questioned to criminal charges, all members of the community, including an accused, have a duty to cooperate in UNH Law inquiries. Unless (and only to the extent) such cooperation would require statements which could be reasonably understood to expose the person questioned to criminal charges, it is a violation to refuse to give material information about one's self, or non-privileged material information about another, in the course of academic standing evaluations and proceedings, Conduct Code investigations and proceedings, sexual harassment proceedings or nondiscrimination policy investigations.

Any student who, after being notified that she/he is being investigated for possible Conduct Code violation, withdraws from UNH Law, shall have the following notation added to her/his transcript: At the time of withdrawal from UNH Law this student had been notified of a possible Conduct or Honor Code violation. Due to her/his withdrawal a final determination of any charges was not made.

### 4. Breaches of Confidentiality

It is a violation to breach the confidentiality of any information or proceeding made confidential by written rules of UNH Law, by the applicable rules of professional responsibility, or by state or federal statutes relating to the confidentiality of education records including, but not limited to, admissions, financial aid, grades, exam numbers, academic standing evaluations and proceedings, Conduct Code investigations and proceedings, sexual harassment proceedings or nondiscrimination policy proceedings.

### 5. Improper Favoritism, Discrimination, Oppression, and Extortion.

- a. It is a violation to recklessly, knowingly or purposefully offer, solicit, or make any exchange of money, sexual favors, or any other improper inducement for admission to or participation in any UNH Law program or activity, or for employment, promotion, financial aid, grades, recommendations, evaluations or similar benefits.
- b. It is a violation to recklessly, knowingly or purposefully discriminate against any person in admission to or participation in any UNH Law program or activity, or for employment, promotion, financial aid, grades, recommendations, evaluations or similarly benefits:
  - i On account of sex, age, race, color, religion, ethnicity, disability, marital status, national origin or sexual orientation;
  - ii On account of the person's refusal to offer or make any exchange of money, sexual favors, or any other improper inducement; or
  - iii In retaliation for any good-faith report of any violation of the Conduct Code, Sexual Harassment Policy, or any other allegedly improper or unlawful act.

## E. Professional Responsibilities

All persons directly or indirectly engaged or assisting in legal representation of others are responsible for ascertaining the scope of their obligations under state law, including court rules and applicable rules of professional responsibility, and any failure to carry out such obligations in connection with their studies or work at UNH Law is a violation of this Conduct Code.

## F. Protection Peace and Property

1. Partial Incorporation of New Hampshire and United States Criminal Law
  - a. Crimes Against Persons
 

Any offense against another person which would be at least a misdemeanor under New Hampshire or United States law is also a violation if:

    - i It is committed on property used or rented by UNH Law for nonresidential purposes; or
    - ii It is committed during the course of an activity sponsored or funded by UNH Law or while the accused is expressly acting as a representative of UNH Law.
  - b. Property Crimes
 

Any offense involving theft, misappropriation or damage of property which would be at least a misdemeanor under New Hampshire or United States law is also a violation if:

    - i It is directed to property of UNH Law; or
    - ii It at least partially occurs on property used or rented by UNH Law for nonresidential purposes.
2. Reading, Altering, Defacing or Removing Notices, Mail, Computer Files
  - a. It is a violation of this Code to alter, remove or deface the mail, E-Mail, or computer files of another member of UNH Law, or to purposefully read such communications or files without the owner's permission. (However, removal as a part of administrative duties in the maintenance of UNH Law equipment is not prohibited.)
  - b. It is a violation of this Code to remove or deface notices and communications legitimately posted on UNH Law bulletin boards by another member of UNH Law. (However, removal as part of administrative duties is not prohibited.)
3. Creation of Hazards By UNH Law Member and Responsibility For Clients, Guests, and Dependents
  - a. It is a violation for a member of the community to create a substantial physical hazard to property or persons at UNH Law.
  - b. It is a violation for a member of the community to fail to take reasonable care to prevent behavior on the part of their clients, guests, children, dependents or pets on UNH Law premises or at UNH Law events which violates this Code, is disruptive of the proper functions of UNH Law, or which creates a substantial physical hazard to property or to persons at UNH Law, including the actor.

## G. Grave Wrongs for which there is no Other Provision

There are acts which evidence such disregard for the requirements of ordered liberty that our community reserves the right to temporarily or permanently exclude one who commits them, wherever the acts or resulting harm occur, and whatever the relationship to UNH Law or its activities. The security, peace of mind, and reputation of UNH Law and its members are sufficient justification in cases of grave wrong.

1. Prohibition
 

The following acts are violations wherever they occur:

  - a. Any act defined by New Hampshire statutes as a felony (and not lawful where committed) which also:
    - i Involves force or violence or sexual imposition upon the person or property of one who does not or cannot lawfully consent; or

- ii Involves obtaining property or privilege by deceit.
  - b. Any knowing or purposeful act of disloyalty in a fiduciary capacity.
2. Construction With Other Provision, Single Offense
 

In any case where the facts charged and proved amount to a violation of some other provision of this Code, that provision shall operate to the exclusion of this one.
  3. Prosecutorial and Council Discretion
 

Notwithstanding other provisions of this Code or the Conduct Code Procedures, the Conduct Code Officer may decline to bring charges under this provision and the Code Officer or the Conduct Council itself may dismiss charges under this provision when either believes it to be in the interests of justice and the best interests of UNH Law. Such decision shall be in writing and reported to the Dean or Assistant Dean of Students. The Dean may, nonetheless, with or without the request of any alleged victim or member of UNH Law, reinstate the charges or direct that charges be prosecuted. In such case, the regular Conduct Code Procedures shall be followed, with such substitutions of personnel as may be necessary due to any recusals.

## H. Federal and State Duties

It is a violation to commit any act which UNH Law is required by state or federal law to prohibit and which has been the subject of reasonably available publication or notices within UNH Law. Sexual harassment may be a violation of the Conduct Code; allegations of sexual harassment which do not come under the Conduct Code are exclusively subject to the Sexual Harassment Policy.

## I. Complicity

To purposefully, knowingly or recklessly solicit or aid in commission or concealment of a violation of these rules is itself a violation.

## J. Defenses

Whenever a violation is defined with reference to some other body of rules or law, only substantive (and not procedural) affirmative defenses or mitigation permitted by that body of rules or law may be employed in proceedings under this Code.

## K. Penalties

1. Sanctions For Students in Their Capacity as Students
  - a. Range
 

Penalties for violation of the Conduct Code include, but are not limited to, that:

    - i Nothing else be done;
    - ii A private letter of reprimand be issued;
    - iii The accused receive an F (Fail) in any course work involved in the charges;
    - iv The accused be suspended from UNH Law for a specified period of time;
    - v A letter fully setting out the facts of the case be made a part of the accused's official transcript;
    - vi The accused be expelled from UNH Law;
    - vii Any degree granted by UNH Law be revoked;
    - viii The accused make monetary restitution for damages caused;
    - ix The accused perform some labor or service reasonably calculated to restore the victims of the wrongdoing or to remedy or prevent analogous wrongs to others, or otherwise

related to the nature of the violation in a way reasonably calculated to induce understanding of the proper standard of conduct;

- x The accused make a public or private apology to any victim or to UNH Law as a community;
- xi The accused be subjected to a combination of any of the above sanctions.

b. Guidelines

- i In the absence of a particularized finding of aggravating circumstances, the Conduct Council will not impose suspension or expulsion for a first offense committed through negligence.
- ii In the absence of a particularized finding of mitigating circumstances, the Conduct Council will impose expulsion for any knowing or purposeful plagiarism, other cheating, misrepresentation, breach of fiduciary duties, or violence against persons.

2. Sanctions for Faculty, Staff and Students in Their Capacity as Employees or Agents Subject to any other relevant provision of UNH Law policy (including those governing tenured faculty), contractual obligations, and state or federal law, sanctions for violation of this Code by employees or agents of UNH Law may include, but are not limited to, suspension or probation (with or without pay), reduction in pay, discharge, or any sanction or remedy for misconduct or breach of contract permitted by law to an employer or principal.

## **L. Reserved Powers of the Dean and UNH Law**

1. Nothing in these or other rules shall limit the power of UNH Law, through the Dean or Dean's designee, to require the immediate departure or removal of any person from its premises if, in the sole discretion of the Dean or designee, such removal is in the best interests of UNH Law. Return of a member of UNH Law may be delayed or conditioned on any terms, pending appropriate proceedings before any court or UNH Law body or officer having jurisdiction in the circumstances. Nothing in these rules shall limit the authority or discretion of UNH Law officers and administrators over the presence or removal of persons who are not members of UNH Law.
2. Nothing in these or other rules shall limit the power of UNH Law to withhold grades, transcripts, degrees, pay or other items on account of outstanding indebtedness or failure to perform required duties.