RULE XIII-1: CONDUCT CODE

A. Jurisdiction and Scope

1. Preamble

UNH Franklin Pierce School of Law (UNH Law) is devoted to education and research, functioning through a self-governing 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.

a. To preserve the processes of teaching and learning, and the evaluation of those results.

b. To preserve and assure the nondiscriminatory application of the decision-making processes of the institution.

c. To preserve the peace and property of UNH Law, its members and visitors.

d. 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.

e. To permit disassociation from the community of those who have committed grave wrongs.

f. To carry out nondiscretionary duties imposed by state or federal law.

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

a. The substantive rules of this Code and the special provisions for Title IX matters in Article V, D, Procedures for Responding to Sexual Violence, Sexual Harassment and Related Offenses, of the University of New Hampshire’s Students Rights, Rules & Responsibilities handbook (“Title IX Process”) apply to students of UNH Law.

b. 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 XIIIB2).

c. Title IX complaints will be reported to the Affirmative Action and Equity Office and will follow the University of New Hampshire’s Title IX process as identified above in subsection A.1.a.

B. Obligation to Know the Rules, Mental States

1. Every student 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.

2. 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

1. Plagiarism

   a. 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.

   b. 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.

   c. 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.

2. 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.

3. Negligent Disregard of Instructions

   Unreasonable failure to conform to rules or instructions for any course or activity for academic credit is a violation.

4. 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.

5. Classroom and Library Conduct

   a. 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.
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 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, 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, and UNH Law Conduct Code investigations and proceedings.

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, and UNH Law Conduct Code investigations and 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 similar 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 or any other allegedly improper or unlawful act.

E. Professional Responsibilities
   Students 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 student to create a substantial physical 
      hazard to property or persons at UNH Law.
   b. It is a violation for a student 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 
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 
may itself dismiss charges under this provision when either believes 
its 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.

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.

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.