

OKLAHOMA CITY UNIVERSITY SCHOOL OF LAW STUDENT CONDUCT CODE

Preamble

This Student Conduct Code is the result of several years' experience with an earlier code, faculty input, and a study of such codes at other law schools. The Code is essentially an organized delegation of authority from the President of the University and the Dean of the School of Law. As such it is binding on all students, faculty, and staff. Law students will be subject to the procedures of this Code, not the University's Student Court Procedures, in any controversy governed by the OCU School of Law Student Conduct Code.

A student code of conduct is seldom necessary in a law school. Legal education and a person's general moral development are normally sufficient protection for the ethical values embraced in such codes. But a law school also needs a professional atmosphere where a student's ethical responsibilities are reasonably clear and the procedures for the protection of the profession and the individual are fair.

Each student is expected to read and observe the Code. It is an effort to achieve the professionalism necessary for the School of Law. Each of us bears individual responsibility for its success.

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Article 1. Obligation of the Law Student

- 1.01** A law student is obligated to assist in maintaining the integrity, competence, and purpose of the law school, and to conduct himself or herself in a manner consistent with the ethics of the legal profession and the academic community.

Article 2. Violations of the Obligation

- 2.01** The following misconduct on the part of a law student is a violation of his or her obligations under the Code and shall be a cause for disciplinary action against the law student:

- a. Violating any rule, regulation or order of the law school duly promulgated by the Faculty, Dean, Associate Deans, or Assistant Dean of the law school.
- b. Violating any duly promulgated rule, regulation, or order of the University.
- c. Disrupting the normal and orderly administration or operation of the law school or other University activity or function.
- d. Giving or securing any information about an examination except as authorized by the examining professor.
- e. Processing, consulting, or copying from books, papers or notes of any kind during an examination except as authorized by the examining professor.
- f. Failing to stop writing an examination when, to the student's knowledge, the time allotted for writing the examination has elapsed.
- g. Hiding, mutilating, or destroying any materials of the library or removing any materials from the library except as authorized.
- h. Submitting plagiarized work in an academic pursuit. This conduct consists of the appropriation of the literary composition or other creative work of another, or part of passages thereof, or ideas of the same, and passing them off as the product of one's own mind.
- i. Forging or altering University documents or instruments, or failing to be truthful in statements to University or law school personnel concerning University or law school matters.
- j. Failing, after witnessing another law student violate the provisions of this Code, to seasonably report the violation to the Associate Dean for Students of the law school.
- k. Committing a criminal or fraudulent act which reflects adversely on the law student's honesty, trustworthiness, or moral and ethical fitness to be a lawyer or a law student.

- l. Committing a criminal or fraudulent act against a member of the law school or University Community.
- m. Refusing to testify at any proceeding under the Code, other than one in which he or she is the accused, as to the facts within his or her knowledge, provided that no person shall be compelled to bear witness against himself or herself.
- n. Acting contrary to accepted principles of honesty in any academic pursuit.

2.02 No statement can exhaust the possible application of a law student's obligation to conduct himself or herself in a manner consistent with this Code. Thus the enumeration of misconduct in Section 2.01 is by way of illustration and not limitation. Any conduct in violation of a law student's obligations under this Code shall constitute cause for disciplinary action in Section 2.01.

2.03 Conduct of law students living in university-controlled housing shall be subject to the standards, lease provisions, and remedial procedures promulgated by the university's Dean of Students. Disciplinary action provided by the Code shall be invoked as to a law student's conduct in university-controlled housing only insofar as such conduct shall constitute misconduct under Section 2.01 and 2.02.

Article 3. Initiation of Disciplinary Proceedings

3.01 Any person may file written charges against any student in the School of Law for conduct prohibited by the Code. The charges shall be filed with the Associate Dean for Students of the School of Law, and shall be filed with no other person or organization. If the Associate Dean for Students has personally witnessed the conduct in question, the Associate Dean for Students may personally file a written charge and proceed to notification of the Prosecutor and Dean as described in Section 3.02.

3.02 Within ten (10) calendar days of receiving the written charge, the Associate Dean for Students shall forward a copy of the written charge to (1) the Prosecutor of the Disciplinary Tribunal (the Prosecutor is a faculty member of the School of Law appointed by the Dean each year); and (2) the Dean of the School of Law.

3.03 In addition, within ten (10) calendar days of receiving the written charge, the Associate Dean for Students shall also notify the accused student that a written charge has been received and has been forwarded to the Prosecutor and the Dean. However, a copy of the written charge shall not be sent to the accused student.

- 3.04** If, after receiving notice of the written charge against a law student, the Dean determines that extraordinary circumstances exist, the Dean may suspend the student pending consideration of the case. By way of illustration and not limitation, examples of extraordinary circumstances include situations where the continued presence of the student constitutes a physical danger to the School of Law or university community or where a law student creates disruption in the educational process of the School of Law. Nothing in this paragraph prevents the Dean or appropriate University officials from suspending a student under the Dean's or appropriate University officials' inherent authority.
- 3.05** Upon the receipt of the copy of the written charge from the Associate Dean for Students, the Prosecutor shall make such investigation of the matter as he or she deems necessary. Upon completing the investigation, if the Prosecutor concludes that there is substantial evidence to support the allegation of misconduct, the Prosecutor shall draft a complaint, which will initiate formal disciplinary proceedings. The complaint shall state in plain language with reasonable particularity the date(s), place(s), and act(s) complained of and shall identify, pursuant to Article 2, the standard of conduct allegedly violated.
- 3.06** The Prosecutor shall either dismiss the charge or initiate formal disciplinary proceedings within thirty (30) calendar days after receiving the written charge from the Associate Dean for Students, unless additional time is secured from the Disciplinary Tribunal.
- 3.07** Prior to any interview with any member of the School of Law charged with investigative responsibilities under this Code, the accused student shall be advised that: (A) the student may remain silent; (B) the student may terminate the interview at any time; (C) the student may postpone the interview until he or she has had a reasonable time to consult counsel; and (D) anything the student says may be used as evidence against him or her.
- 3.08** All investigations and disciplinary proceedings conducted pursuant to the provisions of this Code shall be conducted as confidentially as possible, except as otherwise specified in 5.04 and 9.05. If reasonably practicable, the identity of the person filing the written charge shall be kept confidential from the accused student, until such time as it may become necessary to reveal it under the circumstances of the case.

Article 4. Procedural Requirements in the Event Formal Disciplinary Proceedings are Initiated

- 4.01** If the Prosecutor initiates formal disciplinary proceedings in accordance with Section 3.05, the Prosecutor shall deliver a copy of the complaint, together

with notice of the institution of proceedings and a copy of this Code, to the accused student. Copies of the complaint shall also be delivered to the Chairperson of the Disciplinary Tribunal, the Dean, and the Associate Dean for Students.

4.02 If the student wishes to oppose the charge, then within five school days after the delivery of the complaint to the student as provided in 4.01 above, the student shall respond in writing to the Chairperson of the Disciplinary Tribunal, the Prosecutor, the Associate Dean for Students, and the Dean.

4.04 Within five school days after the receipt of the accused student's response (or within five school days after delivery of the complaint, in the event that the student does not file a response), the Chairperson of the Disciplinary Tribunal shall set a time for the hearing, which shall be fixed not more than thirty days later, unless an extension is granted by the Chairperson.

4.05 If the accused student fails to timely respond to the charges contained in the complaint, the proceedings will continue as if the student had admitted the charges. The student or his or her representative will still have the right to appear at any hearing duly convened by the Chairperson of the Disciplinary Tribunal, but may not present evidence denying the factual allegations in the complaint. If the student or his or her representative fails to appear at hearings duly convened by the Chairperson of the Disciplinary Tribunal pursuant to the procedures set forth in this Code, the Disciplinary Tribunal shall thereupon proceed to enter its judgment of the accused and assess punishment if appropriate, all as if the accused were present.

4.06 The withdrawal of an accused student from law school subsequent to the date that the complaint is delivered to the student shall not terminate the jurisdiction of the Disciplinary Tribunal in the case, and the Tribunal is expressly authorized to conduct all further disciplinary proceedings specified in this Code.

4.07 In the event that the accused student informs the Prosecutor in writing that he or she wishes to admit the charges set forth in the complaint and waives any applicable rules of the Code concerning the setting of hearings, the Chairperson of the Disciplinary Tribunal may, after consultation with the student and the Prosecutor, convene the Disciplinary Tribunal at a time earlier than otherwise specified in the Code. The purpose of the hearing will be to accept the student's admission of the charges and to determine appropriate discipline pursuant to Article 5 of the Code.

- 4.08** The Prosecutor may, in appropriate circumstances, enter into plea negotiations with the accused student. If a plea negotiation agreement is reached between the Prosecutor and the accused student, and approved by the Disciplinary Tribunal, the Tribunal shall effectuate the terms of the plea negotiation and assess the punishment specified therein.
- 4.09** After the initiation of formal disciplinary proceedings and prior to the hearing specified herein, the Chairperson of the Disciplinary Tribunal shall assure that the Prosecutor reasonably provides to the accused student all information on the guilt or innocence of the accused within the possession or knowledge of the Prosecutor.
- 4.10** At any stage of the formal disciplinary proceedings, the Prosecutor retains the right to dismiss the complaint for lack of evidence, subject to the consent of the Chairperson of the Disciplinary Tribunal.

Article 5. Conduct of Hearings

- 5.01** The Chairperson of the Disciplinary Tribunal shall preside at the hearings and shall state at the commencement thereof: (1) the scope of the hearings, the charge, the identity of the accuser, and the jurisdiction of the Tribunal, (2) the procedure to be followed, (3) the possible penalties to be imposed should a violation of the Code be proven, and (4) the rights of the accused student following trial.
- 5.02** The accused student has the right not to testify at the hearing before the Disciplinary Tribunal.
- 5.03** All hearings shall be conducted in such a manner as to do substantial justice and shall not be unduly restricted by the rules of procedure or evidence. The Prosecutor must persuade the Disciplinary Tribunal by a preponderance of the evidence.
- 5.04** All hearings shall be private unless the student by seasonable written request delivered to the Chairperson before the hearing, requests that the hearing be public.
- 5.05** The accused student may be represented by a person of his or her choice. If the accused student desires representation, it is the sole responsibility of the student to obtain the same. This Code in no manner creates an obligation on the Disciplinary Tribunal, the Dean, or the law school to provide appointed representation for the accused or to provide compensation to the accused's representative.

- 5.06** All law school faculty, students, and employees shall appear as witnesses and shall produce physical or documentary evidence in their possession, or under their control, before the Disciplinary Tribunal, upon written request signed by the Chairperson and delivered to the prospective witness or his or her department head at least three days before the hearing. The Chairperson shall issue such requests upon the written petition of the Associate Dean, the Prosecutor, or the accused. The Chairperson may refuse to issue said requests if he or she determines the evidence sought is confidential or privileged under the University or law school rules or regulations. The Chairperson may amend, modify, or rescind such requests, if, after it is issued, he or she determines that the evidence sought is confidential or privileged under University or law school rules or regulations.
- 5.07** All members of the Disciplinary Tribunal must be present at any hearing, and any conviction shall require at least a two-thirds vote. Upon admission of the charge by the accused or conviction thereon, the Disciplinary Tribunal shall determine the appropriate disciplinary sanctions pursuant to Article 6. The student may present evidence in mitigation. A brief written opinion stating the tribunal's decision, its basis and judgment shall be prepared.
- 5.08** In the event that the Disciplinary Tribunal hearing results in dismissal of all charges, the Prosecutor shall ascertain that any documents, information, or reference whatsoever to the disciplinary proceedings are deleted from the accused student's file.
- 5.09** All Disciplinary Tribunal hearings shall be recorded by stenographic, mechanical, electronic, or sound photographic means. After the Disciplinary Tribunal has rendered a decision in a case, its opinion, all records and other documents pertaining to that case shall be delivered to the Office of the Dean for safekeeping for a period not less than five years, after which time said opinion, records and documents may be destroyed.
- 5.10** In the event that the hearing results in a conviction, the Chairperson, in addition to announcing the decision of the Tribunal and the disciplinary sanctions imposed, shall also advise the convicted student of his/her right to review pursuant to Article 7 of this Code.
- 5.11** The Disciplinary Tribunal may adopt any further rules or make any further regulations necessary for a fair and impartial hearing that are not inconsistent with the provisions of this Code.

Article 6. Discipline

6.01 An act of misconduct may result in the imposition of any one or a combination of the following disciplinary measures:

- a. Unwritten warning by the Dean or Associate Dean.
- b. Written reprimand not of record.
- c. Written reprimand of record.
- d. Probation.
- e. Suspension.
- f. Withdrawal of the University or law school privilege relating to the misconduct, including but not limited to termination of membership in a student organization.
- g. A monetary assessment for any damages to property.
- h. Dismissal.
- i. Granting the student an "F" or other appropriate grade in the course in question.

6.02 All discipline shall bear reasonable relationship to the severity of the misconduct, except that an offending student's record of prior misconduct (including warnings and written reprimands not of record), or the absence thereof, may be taken into account.

6.03 All discipline shall be executed by the Office of the Dean, and with the exception of 6.01 (a) and (b), shall be recorded on the student's official record.

Article 7. Review by Faculty

7.01 A written petition for review may be filed with the faculty by a student from a final judgment of conviction and assessment of discipline by the Disciplinary Tribunal. If the petition is filed during the time period commencing with the first day of class for the fall semester and ending with the last day of class for the spring semester, the petition for review will be granted upon a favorable vote of 45 percent of the full-time faculty, in the absence of which the decision of the Disciplinary Tribunal will be final. If the petition for review is

filed at any other time, the petition shall be reviewed by the Faculty Appeals Panel. The petition for review will be granted upon a favorable vote of 75 percent of the Faculty Appeals Panel, in the absence of which the decision of the Disciplinary Tribunal will be final.

7.02 Written notice of intent to file a petition for review must be filed with the Chairperson of the Disciplinary Tribunal within four days from the date of judgment. Such notice shall stay execution of the judgment until the review is denied, abandoned, or decided on the merits.

7.03 The petition for review shall enumerate with particularity the grounds for review, which shall be limited to a showing by petitioner of substantial error, bias, or a miscarriage of justice occurring at the Disciplinary Tribunal. The petition for review must be filed with the Associate Dean within ten days from the date of judgment. In the event review is granted by the faculty or the Faculty Appeals Panel under 7.01, the Prosecutor shall have ten days from the date that the petition has been granted in which to file a written answer. The date of judgment is defined as the date of the written opinion of the Disciplinary Tribunal as described in Section 5.07.

7.04 In the event review is granted, the Dean shall set a hearing date for the faculty to review the case. The hearing shall be set within a reasonable time after the Prosecutor's answer to the petition has been filed.

7.05 The review hearing shall not be a trial *de novo*. The faculty shall review the complaint, the recorded record of the hearing together with all physical or documentary evidence presented at the hearing, the written opinion stating the judgment of the Disciplinary Tribunal, the petition for review, and the answer of the Prosecutor.

7.06 Upon a finding of substantial error, bias, or a miscarriage of justice, the faculty may (A) affirm the findings but reduce the punishment, (B) reverse and remand the judgment for reconsideration by the Disciplinary Tribunal, or (C) reverse the judgment and dismiss the complaint with prejudice to further prosecution. In all other cases, the faculty will affirm the findings and discipline imposed.

7.07 Participating members of the Disciplinary Tribunal, the Prosecutor, the Associate Dean, complaining faculty members, and witnesses may not participate in the hearing, nor may they vote. Faculty action under these proceedings requires a majority vote of those faculty members in attendance at the hearing who are eligible to participate.

7.08 A brief written statement of the decision of the Faculty will be furnished to the student, the Prosecutor, the Associate Dean, and the Dean, within three days of the date of the hearing.

7.09 Failure by the accused student to comply with the review procedures set forth herein shall constitute waiver of the review right.

7.10 After final review by the faculty of the School of Law, a student who has been disciplined under the provisions of this Code has a right to appeal to the President of the University for a review of the sentence imposed. The procedure shall be as established by the President.

Article 8. Appointments

8.01 The Disciplinary Tribunal shall consist of three persons who shall serve for terms of one year, commencing May 1 and ending April 30 of the succeeding year. The appointment of the members of the Disciplinary Tribunal shall be as follows:

One member of the Student Bar Association, to be selected by the Board of Governors; two members of the Faculty to be selected, and one of them appointed Chairperson, by the Dean.

In the event that a Tribunal member is disqualified from hearing a case because of involvement, intent, bias, prejudice, or any other reason, or is otherwise unable to serve, a temporary appointment shall be made by the Dean.

8.02 The Faculty Appeals Panel shall consist of four full-time faculty members appointed by the Dean who shall serve for one term appointments, with the term commencing the last day of classes for the spring semester and ending the first day of classes for the fall semester. In the event that a Panel member is disqualified from hearing a petition for review because of involvement in the case, intent, bias, prejudice, or any other reason, a temporary appointment shall be made by the Dean.

8.03 The Prosecutor shall be a full-time faculty member appointed by the Dean. The Prosecutor shall serve for a term of one calendar year commencing with the first day of class in the fall semester and terminating the first day of class in the subsequent fall semester. In the event that the Prosecutor may be a complaining or material witness concerning a charge of student misconduct, or for any other reason cannot perform his or her function under the Code, the Dean shall appoint a full-time faculty member to serve until such time as the Prosecutor is able to fulfill his or her duties.

Article 9. Notice, Tolling, and Service

- 9.01** Any duly promulgated rule, regulation, or order of the law school, posted on the administrative bulletin board in the first floor lobby of the Sarkeys Law Center shall serve as constructive notice to the student body within 48 hours of its posting.
- 9.02** In all cases where the Code charges a person with the responsibility for the delivery of complaints, notices, statements, judgments, or any other documents whatsoever, the person making delivery thereof shall first make a reasonable attempt to serve the document in question personally upon the person entitled to receive it. If such personal service cannot be accomplished, a certified letter duly posted to the most recent address of the person as listed in law school files shall conclusively be presumed to give service required by the Code. Service will be considered complete one day after the posting of the certified letter as above set forth.
- 9.03** All time periods in this Code commence to run exclusive of the day of service, notice, or judgment.
- 9.04** All time periods in this Code shall be tolled during examination periods, school holidays, and vacations between academic terms of the law school. The summer session is considered an academic term.
- 9.05** Upon the completion of Formal Disciplinary Proceedings, the Office of the Dean shall post on the administrative bulletin board in the first floor lobby a brief statement describing (1) the misconduct charged, (2) whether the accused student was found innocent of the misconduct, admitted the misconduct, or was found to have committed the offense charged, and (3) the disciplinary measures taken. The name of the accused student will be omitted from the statement unless the student exercises his or her option to have a public hearing thereon pursuant to Section 5.04. In the event the accused student requests a public hearing, his or her name will be included in the posted statement.

Article 10. Reserved Powers

- 10.01** Nothing in this Code shall be construed to denigrate the Statement of Policy, Basic Philosophy or the Judicial System of Oklahoma City University as set forth in the Handbook for Students.
- 10.02** Nothing in this Code shall be construed to limit the authority of a faculty member or a law school organization to deal with misconduct arising in the faculty member's class or organization. Such action shall not be the basis for a plea of double jeopardy by the student involved.

Article 11. Effective Date

11.01 This Code shall become effective on the first day of the summer semester of 1984.