

**UNIVERSITY OF WINDSOR  
WINDSOR, ONTARIO**

**FACULTY OF LAW**

**POLICY STATEMENT ON STUDENT DISCIPLINE**

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The Faculty of Law is bound by and adheres to the University Policy on Student Affairs. It subscribes to the objects and purposes of the University set forth in the University of Windsor Act (1962-63):

- (a) the advancement of learning and the dissemination of knowledge;
- (b) the intellectual, spiritual, moral, social and physical development of its members and students and the betterment of society.

However, with the approval of the Student Affairs Committee, the Faculty of Law hereby establishes a Faculty of Law Policy Statement on Student Discipline which governs the students enrolled in the Faculty of Law, and in the case of conflict between the two policy statements, this policy statement of the Faculty of Law prevails.

In addition to the objects and purposes of the University as a whole, the study and practice of law demand from law students and lawyers those high qualities of character encompassed by the word “integrity”<sup>1</sup>. Law is an honourable discipline, and lawyers are members of an honourable profession. It is fundamental to the legal profession that the members thereof must discharge their duties to their clients, the courts, the public and their fellow members with integrity. In the same way, it is fundamental to the study of law and to the maintenance and betterment of the community of scholarship which is the Law School that the faculty and students adhere to and foster the highest standards of integrity including trustworthiness, truthfulness, fair dealing, uprightness, honesty and sincerity. Any student at the Faculty of Law whose conduct is improper in that it exhibits a lack of integrity touching the educational and professional objectives of the University, the Law School, or the profession must be appropriately disciplined in the interests of safeguarding and upholding these standards.

It is desirable to define further and identify the standards demanded of each law student in the interests of educational and professional integrity. Enumerated below are illustrations of, examples of, and comments on improper conduct which would lead to an inference of lack of integrity. These are illustrative only and shall not be taken as in any way limiting the generality of high standards of conduct required by the precept of integrity.

**PLAGIARISM**

Plagiarism is defined by Black’s Law Dictionary (revised 4<sup>th</sup> edition):

The act of appropriating the literary composition of another or parts of passages of his writing, or the ideas or language of the same, and passing them off as the product of one’s own mind.

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<sup>1</sup>The term “integrity” and its expression herein is drawn from the Canadian Bar Association Code of Professional Conduct. ch. 1, which has been adopted by the Law Society of Upper Canada. The spirit and intent of the Code which requires civility, candor, honesty and adherence to sound moral principle shall be observed by all law students in their personal and academic behaviour to the end that credit shall be reflected upon the Law School and the legal profession.

The Oxford English dictionary defines plagiarism:

the wrongful appropriation or purloining, and publication as one's own, of the ideas or the expression of the ideas (literary, artistic, musical, mechanical, etc.) of another.

**Comment:** Merely taking the ideas or expression of another is not in itself plagiarism. The substance of plagiarism is that the plagiarist passes off the ideas or expression of another as his or her own. Thus, the application of the precepts and practices learned in legal writing, particularly the full acknowledgement of sources, is the best safeguard against plagiarism. When a student is in doubt as to the proper treatment and acknowledgement of the ideas or expressions of another, the best course of conduct is to consult the professor for whom the work is being prepared. Plagiarism will be presumed in any case of appropriating the expression or ideas of another without full acknowledgement of sources.

**Examples:**

- (a) submitting as his or her own work an exam or other piece of academic work which has been authored or prepared either wholly or partly by someone else;
- (b) submitting academic work containing passages taken either verbatim or with occasional word changes from the works of others where such passages are not properly acknowledged;
- (c) submitting a paper or other academic work which adopts the ideas of other authors without giving appropriate acknowledgement.

**IMPROPER CONDUCT RELATING TO EXAMINATIONS**

**Comment:** Improper conduct relating to examinations is generally subsumed under the colloquial term of "cheating." The Oxford English Dictionary defines "to cheat" in this context as:

to defraud, to deprive of by deceit, to deceive, impost upon, trick, to deal fraudulently, practice deceit.

The term "examination" should be read in its widest sense and includes any paper, memorandum, exercise, project, research, or other piece of work written, prepared, or done in the course of a law student's studies or activities at the Law School.

In any examination a student must rely upon only those resources and materials which the instructor has specifically permitted to be used during the examination. Also, a student must complete the examination in the time authorized. For a student to go beyond the resources, materials, or time authorized without prior approval of the instructor or invigilator indicates fraud, deceit, and trickery, and an intent to deceive will be presumed. Such conduct is improper and offensive to the standard of integrity and fair dealing demanded of law students.

It is also improper for a student to employ any means intended to mislead or deceive anyone concerning the work done during the course of an examination. Employing such means leads to an inference that the student is seeking to deceive the examiner and to gain an unfair and dishonest advantage over fellow students.

It is also improper for a student to employ any other means to gain an unfair advantage in the course of examinations. For example, a student marking his or her examination in such a manner that the identity of the student would be known to the examiner, unless otherwise authorized, would lead to the inference that the student was employing such means to gain an unfair advantage.

For the further guidance of the conduct of students relating to examinations, the Discipline Committee of the Faculty of Law shall from time to time establish and publish a set of rules relating to examinations and examination procedures. Contravention of such rules by a student will lead to an inference of improper conduct.

**Examples:**

- (a) consulting or copying from the examination of another student during an examination;
- (b) taking unauthorized material, or material in excess of that authorized, into an examination room;
- (c) consulting or copying from unauthorized material during the course of the examination;
- (d) communicating with anyone concerning the subject matter of the examination in an unauthorized manner during

- the course of an examination;
- (e) in cases where the same examination is being written at different times, communicating with another student concerning the subject matter of the examination where the result of such communication may be to give any student an unfair advantage in the examination;
  - (f) falsely representing that all or part of a course requirement or examination has been fulfilled or submitted;
  - (g) failing to submit an examination immediately upon the expiration of the time authorized for its completion;
  - (h) intentionally providing the means or the opportunity for another student to engage an improper conduct relating to examinations.

### **IMPROPER CONDUCT CONCERNING THE FULFILLMENT OF COURSE REQUIREMENTS**

#### **Comment:**

Under regulations of the Law Society of Upper Canada, the study of law leading to an LL.B. degree recognized by the Law Society and only be undertaken by a student on a full-time basis. It follows, and it is the policy of the Faculty of Law, that work done by a law student to gain a course credit towards the LL.B. degree must be work done within the term for which the course credit is sought. Therefore, law students who have previously studied in the subject area of Law School courses must not take unfair and dishonest advantage of any previous work or studies in order to satisfy the requirements of a Law School course. It is also improper conduct to take unfair and dishonest advantage of work done for one Law School course in order to gain credit in another Law School course. However, it is acknowledged and recognized as proper that a student will build upon knowledge previously gained and work previously done, both in and out of Law School, in order to meet the requirements of Law School courses. The substance of improper conduct concerning the fulfillment of course requirements is the dishonest, undisclosed, and unfair advantage gained by a student who has previously studied or worked in the subject area. Accordingly, it is the duty of a law student who has previously worked or studied in a subject area to consult with and fully disclose the nature and extent of such previous work and study to the instructor from whom he or she seeks a credit for a Law School course. The student is responsible for making the appropriate disclosures at the beginning of the term in which the course credit is being sought.

#### **Examples:**

- (a) a student who has a work or study background which includes accounting would be acting improperly in enrolling in a legal accounting course without fully disclosing the accounting background to the instructor at the earliest opportunity;
- (b) a student who has prepared a paper for a taxation course on the tax aspects of international business transactions would be acting improperly in using the paper prepared for the tax course in preparing a paper for International Law without fully disclosing the previous work and study to the international law instructor at the earliest opportunity.

### **IMPROPER CONDUCT RELATING TO THE USE OF THE LAW LIBRARY OR THE UNIVERSITY LIBRARY**

#### **Comment:**

The study of law requires intensive utilization of Library Resources, and the library is one of the greatest, most precious, and most permanent assets of the University and the Law School. The standard of integrity demanded of each law student dictates fair, honest, careful and cooperative use of the library resources of the University and the Law School.

Information concerning the University Library and the Paul Martin Law Library and the conditions under which materials may be borrowed is communicated to the students by notices on the library bulletin boards. Breach of any rules so communicated is improper conduct and may be the subject of discipline proceedings.

### **IMPROPER CONDUCT RELATING TO THE PHYSICAL FACILITIES, ADMINISTRATIVE STAFF, ACADEMIC FACULTY, PROFESSIONAL LIBRARIANS AND ADMINISTRATIVE PROCEDURES OF THE UNIVERSITY AND THE LAW SCHOOL**

#### **Comment:**

There is no doubt that damage to, or misuse of, physical facilities may be the subject of criminal proceedings. Such conduct may also be the subject of internal discipline proceedings of the Law School whether the conduct amounts to

a criminal offence or not. Similarly, conduct which threatens, endangers, harasses, or abuses the staff, faculty or students of the University or the Law School is improper and may be the subject of internal discipline proceedings. The following are the relevant provisions of the University Policy regarding Student Affairs which illustrate such improper conduct:

- (a) dishonesty such as... knowingly furnishing false information to the University;
- (b) forgery, alteration, or use of University documents, records or instruments of identification with intent to defraud;
- (c) intentional obstruction or destruction of teaching, research administration, disciplinary proceedings or other University activities, including public service functions and other authorized activities on University premises;
- (d) malicious abuse of any person on University premises or at University-sponsored or University-supervised functions or malicious conduct which threatens, endangers or harasses any such person;
- (e) theft from or deliberate damage to University premises or theft from or deliberate damage to property of a member of the University community on University premises;
- (f) failure to comply with directions of members of the University administration or of the teaching staff acting in the proper performance of their particular duties;
- (g) violation of published University regulations, including regulations relating to entry and use of University facilities;
- (h) violation of published rules governing University residence halls.

#### **IMPROPER CONDUCT IN THE COURSE OF PROVIDING LEGAL SERVICES OR IN THE COURSE OF ACTIVITIES ANALAGOUS TO THE PRACTICE OF LAW**

The Code of Professional Conduct adopted by the Council of the Canadian Bar Association on August 25, 1974, and subsequently adopted by the Law Society of Upper Canada, sets forth rules of professional conduct and ethical principles for the guidance of lawyers. The rules set out therein shall be observed by law students and others engaged in the provision of legal services in connection with the Clinical Education Program of the Law School (Legal Assistance of Windsor), or the Student Legal Aid Society, or otherwise. In addition, the rules of the Code of Professional Conduct shall be observed by law students engaged in activities analagous to the practice of law such as mock trials and mootng.

#### **OTHER ILLUSTRATIONS OF IMPROPER CONDUCT**

It is improper for a student to misrepresent an academic record. (For example, instances have occurred where students have falsely represented the grades attained or courses taken in an attempt to obtain employment.)

It is improper for a student to hold out falsely to have the authority to or in any way represent the University or the Law School. (For example, it would be improper conduct for a student to pretend to represent the Law School in order to obtain secretarial services).

#### **THE DISCIPLINE COMMITTEE OF THE FACULTY OF LAW**

In order to uphold and safeguard the objects, purposes, and standards of the University, the Law School, and the Legal Profession a committee shall be established known as the "Discipline Committee of the Faculty of Law" (hereinafter referred to as the Committee). The Committee shall be selected at the commencement of each academic year and shall consist of six voting members. Four of said members shall be students enrolled at the Faculty of Law; one shall be elected by and from the students of Law I, one shall be elected by and from the students of Law II, one shall be elected by and from the students of Law III, and one shall be the President of the Student Law Society. The remaining two members of the Committee shall be elected by and from the full time members of the faculty of the Law School.

The Committee shall choose a Chairperson from among its members. The said Chairperson shall be entitled to participate in all proceedings of the Committee and shall have the same voting rights as each other voting member of the Committee and shall not be entitled to a second or casting vote.

The Committee shall hear and decide each case in which it is alleged that a law student has engaged in improper conduct as defined in this policy statement.

## **PROCEDURES**

The procedures of the Committee shall be governed by the following provisions and by the Statutory Powers Procedure Act, 1971, S.O, Vol. 2, ch. 47, as amended:

1. Any academic or administrative official of the University, any faculty member, any professional librarian, or any student of the University may lodge a written complaint alleging improper conduct against any student enrolled at the Law School. Each such complaint shall be lodged with the Associate Dean of the Faculty of Law.
2. The Associate Dean shall cause an investigation to be made concerning the complaint and shall prepare a report setting out the details of the alleged improper conduct and the results of the investigation. Should the Associate Dean so request, the Executive of the Student Law Society shall appoint a law student to assist the Associate Dean in the investigation of the complaint.
3. Upon completion of the investigation and report, the Associate Dean shall deliver a copy of the said report to the Chairperson of the Committee and to the student against whom the complaint is made. It shall be good and sufficient delivery of such report to the said student if the Associate Dean personally delivers the report to the said student, or in the alternative, forwards the report by registered mail to the said student's last known address. At the same time, and in the same manner, the Associate Dean shall deliver a copy of the Faculty of Law Policy Statement on Student Discipline to the said student.
4. If the Associate Dean is of the opinion that there is sufficient evidence to merit a hearing of the complaint, this shall be so stated in the said report. If the Associate Dean is of the opinion that there is insufficient evidence to merit a hearing, or that the complaint is frivolous, this shall be so stated in the said report.
5. Upon receipt of the Associate Dean's report and, after permitting the complainant to make representations if he or she wishes, the Committee shall decide whether or not to hold a hearing.
6. The hearing of the complaint by the Committee shall take place at as early a convenient time as may be arranged by the Chairperson of the Committee. The student against whom the complaint is made shall be given at least seven clear days' notice of the time and place of the hearing.
7. In exceptional cases of improper conduct which threatens to continue and to seriously disrupt or obstruct the orderly continuation of the activities of the University or the Law School, the committee shall have the power, without prior notification to the student, to make a suspension order against any law student about whom a report has been received from the Associate Dean in accordance with the foregoing provisions. In such cases the time and place of the hearing shall be set by the Chairperson of the Committee and all due speed in light of the circumstances, but the suspended student shall, nevertheless, be entitled to at least seven clear days' notice of the time and place of the hearing unless he or she waives such right. The Committee shall have the power to reinstate before, during, or after the hearing any student who has been suspended under the provisions of this paragraph.

## **CONDUCT OF HEARINGS**

1. The following persons shall have standing before the Committee:
  - (a) The Associate Dean;
  - (b) The student against whom the complaint is made or his or her counsel or agent; and
  - (c) The complainant or his or her counsel or agent.
2. Upon request of a complainant the Associate Dean shall present the complaint and the supporting evidence to the Committee except where:
  - (a) in his or her opinion the interest of the University requires that the hearing proceed on a tripartite basis, or
  - (b) the Committee determines that justice requires that the hearing proceed on a tripartite basis.
3. The hearing shall be held in camera unless otherwise requested by the student against whom the complaint is made, in which case the Committee shall order the hearing to be opened to the public, except where the Committee is of the opinion that intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the Committee may hold the hearing concerning any such matters in camera.

4. The Committee shall not be bound by, but shall give due consideration to, its past practice and decisions.

#### **SANCTIONS AND DEFINITIONS**

1. After hearing a complaint and the supporting evidence, the Committee shall either dismiss the complaint or impose one or more of the following sanctions upon the student against whom the complaint is made:
  - (a) **caution:** oral notice that the Committee has found the student's conduct to be improper. A caution may be considered appropriate in a case where the student's improper conduct is not considered to offend seriously against the standards set forth in this policy statement.
  - (b) **reprimand:** a written notice that the Committee has found the student's conduct to be improper to the extent of warranting an official rebuke. A reprimand may be considered appropriate in circumstances of a more serious nature than those in which a caution would be appropriate.
  - (c) **cessure:** notice in writing to the said student that the conduct which is the subject of the complaint is improper and beneath the standards of integrity demanded of law students and that any repetition or continuance of such conduct may be cause for more serious disciplinary action by the Committee.
  - (d) **disciplinary probation:** exclusion for a specified period of time from participation in extra curricular or social functions of the University and/or the Law School as set forth in the decision of the Committee.
  - (e) **restitution order:** an order directing that a sum of money be paid as compensation for damage to or misappropriation of property.
  - (f) **suspension order:** an order excluding the said student from classes and all other privileges and activities of the University and Law School for a specified period of time.
  - (g) **expulsion order:** an order terminating the status of the said student at the Faculty of Law for an indefinite period of time, with or without conditions of readmission.
2. Where a sanction has been imposed by the Committee a note shall be made on the student's file setting out the circumstances of the case and the sanction imposed subject in appropriate cases to such provisions for removal as the Committee may, in its discretion, determine.
3. In addition to, or in lieu of, the sanctions set out above the Committee may make findings of fact relating to the academic standing of the student against whom the complaint is made and may submit the findings and any recommendations arising therefrom to the Committee of Faculty as a whole, (For example, the Committee might find that a paper was plagiarized and, in addition to, or in lieu of, any disciplinary sanction imposed, recommend to the Committee of the Faculty as a whole that the paper be treated as not fulfilling the requirements of the course for which it was submitted or that a grade of F- be assigned.)
4. The decision of the majority of the voting members of the Committee shall be the decision of the Committee. Four of the voting members of the Committee shall constitute a quorum, provided that at least one of the four is a member of faculty. Any member of the Committee participating in a decision of the Committee shall have been present throughout the hearing. In the event of a tie vote by members of the Committee entitled to vote upon a motion, the motion shall fail.

#### **APPEAL**

Decision of the Discipline Committee of the Faculty of Law may be appealed to the Discipline Appeal Committee in the manner prescribed by the Faculty of Law Policy Statement on Student Discipline and Section C of Bylaw 31 of the Senate.

#### **MISCELLANEOUS**

In cases where hearing of the Committee are held in camera, each of the members of the Committee shall be bound by obligations of the strictest confidentiality and secrecy concerning all matters disclosed, discussed, or decided at the hearings except to the extent necessary to make recommendations to the Committee of the Faculty as a whole.