



EMORY | LAW

**PROFESSIONAL
CONDUCT
CODE**

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THE EMORY UNIVERSITY SCHOOL OF LAW PROFESSIONAL CONDUCT CODE

1. PREAMBLE

The Emory University School of Law School Professional Conduct Code has two important elements at its core. First, it is not confined to misbehavior or dishonesty, but instead begins by emphasizing the positive: specifically, the basic values shared by the entire Law School community. This feature is reflected in the Code's title - it is a "conduct" rather than "misconduct" or "honor" Code. Second, because of its ambitious scope, this Code requires Emory's students to think beyond the boundaries of the Law School, to understand themselves as part of a larger professional context. This too is acknowledged in the title: The Code is addressed to "professionals" rather than "students".

Because these unusual features are not cosmetic, the background for this Code, as well as its purpose and direction, deserve further elaboration.

The Conduct Code reflects the Law School's strong commitment to a set of sustaining, shared values that bind all its elements -students, faculty and staff--into a true community rather than merely an accidental collection of individuals. These values are also not accidental--they are drawn from the best traditions of the practice of law: They permit us, like the membership of the legal profession generally, to remain connected and directed despite inevitable disagreement among ourselves on controversial social and legal policies. Indeed, our values cause us to welcome diversity of all kinds among us, enabling us to use it to our mutual advantage. Correspondingly, these values enable us to identify forms of behavior and interaction we will not tolerate because they are inconsistent with the mission we have all jointly set for the institution, and ourselves.

A. The Values Underlying Emory's Legal Education

The values that characterize and animate the Emory Law School are essentially the following four:

Excellence. This quality is listed first for a reason: Without a fundamental and consistent commitment to it, all other aspects of the institution unravel. In the context of a professional education, information alone is never an end in itself. What we seek is the wisdom and judgment to use information to its fullest, most appropriate potential. This means that the key, unavoidable test to be applied to any decision made by any member of our community is whether it moves that person -- and us as a whole -- in the direction of distinction rather than the merely adequate.

This value is therefore an attitude, not a result. For practicing lawyers, excellence does not mean "success" in some narrow marketplace sense of wealth; instead, it means one's dedication to one's professional craft. Similarly, for law professors, an ethic

of excellence translates to a determination to contribute to the social institution of law by enhancing as best s/he can the many ways it can be analyzed, understood and improved. Professors seek to make their classes interesting and challenging places to be, particularly as each attempts to link the perspective of his or her research to the subjects being discussed, and to draw students into generating those ambitious perspectives themselves. Excellence means that the Emory Law School faculty's standards for itself and its students must be high.

For law students, a personal ethic of excellence will not be a function of grades, although academic success often follows from adopting this value seriously. Instead, it is again a matter of attitude -- the sense of one's seriousness and dedication to this educational enterprise as a whole. That enterprise always has two parts: Law school is, of course, "school, which means that digesting vast quantities of information is inevitable; but it is also "law", making the value of excellence connect to something larger, more profound, and more demanding than just the "data" involved. A commitment to "legal" excellence, then, necessarily leads to additional fundamental principles.

Integrity. For everyone in our professional context --practicing lawyers, professors, staff and students--an ethic of integrity is essential as well. This value means much more, however, than simply honesty. It is the consistent personal application of an inner ethic of excellence.

For practitioners, integrity means remaining faithful to the bedrock elements of the "rule of law" on which the legitimacy of their work depends. This can be summarized, in large part, by the idea that at some point a lawyer's responsibility is not to do what a client demands, but instead to say "no" because the system of law itself -- and the lawyer's place within it -- will be compromised unacceptably by any lesser response. It is an uncomfortable thing to have to do.

Similarly, for law professors integrity means remaining faithful to the academic standards and scholarly perspectives on which the legitimacy of legal education depends, even when doing so becomes personally uncomfortable. Teaching, for example, must first be rigorous and thorough before it can appropriately be personable and relaxed. Although integrity requires a scholar to emphasize substance before popularity, these two qualities should, and often do, travel together. The best learning environments are not hostile and inhumane.

For law students, integrity requires a special insight: Law School is not simply an extension of undergraduate school, where students are so often encouraged to view themselves as mere consumers of education, waiting passively as others feed them agreeable morsels of information. Quite the contrary, law school demands that its students recognize that they are in different circumstances: As "professionals" rather than just "students" they must acknowledge --sometimes uncomfortably -- their own individual responsibility for important elements of their education. When the study of law becomes less than convenient, inspiring and satisfying, students in a professional

context cannot legitimately attribute these difficulties simply to the school or its instructors. Cynicism and integrity are incompatible. Rather than being victims of their surroundings, Emory's law students are expected to be full-fledged participants in their professional development.

Respect. In the context of a professional education, the ethic of respect also has a more focused meaning than its conventional moral form. While all members of the law school community should treat each other with personal respect, professional respect is dependent on a person's commitment to the values of excellence and integrity on which the institution's heritage depends. Interpersonal respect at Emory, in other words, is derived from factors such as the value each of us attributes to the law itself as a social institution, the esteem in which we hold the practice of law as a profession, and the recognition we give to those among us who exhibit the highest standards for themselves as teachers or students. As a consequence, ridicule of those who take their involvement in this educational community seriously has no place at Emory; by the same token criticism of those who lack a commitment to excellence and integrity is entirely appropriate. Law students at Emory are entitled, then, to demand the professional and educational best from its faculty and their fellow students, just as faculty are entitled to demand the same from fellow faculty and students. And when these demands are met, as we believe they overwhelmingly are at Emory, respect becomes a natural and integral part of the environment.

Service. The legal system exists not for its own sake, but to regulate and facilitate social interaction. Lawyers operate within a service industry vital to the country's entire population, providing expert assistance in sometimes difficult and controversial circumstances. Lawyers consequently have a special responsibility to see that legal assistance is as widely available in society as it can be. The Emory Law School community has long been characterized as emphasizing this ethic of professional service as a regular and expected part of legal education. We encourage faculty and students alike to participate in various activities that stretch the impact of our educational efforts well beyond Gambrell Hall, and in particular to segments of our society that have historically been underserved by the legal profession.

B. Values and Misconduct

These values in turn provide the necessary perspective for the remainder of this Code, which identifies conduct the Emory Law School community considers unacceptable, and the procedures for responding to it. For example, it is certainly clear why the Code prohibits dishonesty in all its varied forms -- lying, cheating, stealing, plagiarizing, taking unfair advantage, and so on. These actions are all fundamentally at odds with the values of excellence and integrity, and they manifest contempt for our community rather than the respect it, and all of us individually, deserve. In addition, tolerance of dishonesty becomes unacceptable, requiring those who take our values seriously to consider the painful personal responsibility of reporting those who do not. Even comportment, in and out of the classroom, becomes important as the degree to which we acknowledge the Law School's values both personally and practically.

Unacceptable conduct by students is subject to prosecution before the Professional Conduct Court (" Conduct Court ") as described in this Code.

2. JURISDICTION

All students registered at the Emory University School of Law are subject to this Code. Students include full-time and part-time students, students in degree courses in any division of the university, and special students such as visiting and transient students.

3. NOTICE

All students shall receive a copy of the Code upon matriculation.

4. PLEDGE

As a condition of registration, each student must file with the Office of the Law School registrar a copy of the following pledge signed by the student:

I, _____, as a student entering Emory University School of Law, understand that I am joining an academic community and embarking on a professional career. The Law School and the legal profession share important values that are expressed in the Emory University School of Law Professional Conduct Code. I have read the Code, I accept its terms and procedures as a condition of registration and I will conduct my academic, professional and personal life to honor those shared values.

If a student is mistakenly permitted to register without having a written pledge on file, this fact will not permit that student to contend that s/he is not subject to this Code.

5. OFFENSES

The following are acts of misconduct that will subject a student to prosecution under this Code.

(A) Academic Misconduct:

(1) Intentionally obtaining or giving information about the content of an examination, knowing that the release of that information has not been authorized; or otherwise intentionally giving or obtaining unauthorized assistance on any academic assignment or examination;

(2) Failing to report to the Dean of Students, unintentional receipt of information about the content of an examination, knowing that the release of that information has not been authorized;

(3) Plagiarizing or plagiarism, which means using, intentionally or not, a written document or electronic record reflecting the ideas or words of another as one's own without proper attribution to the source of those ideas or words;

(4) Intentionally using, giving, or obtaining unauthorized assistance on any academic assignment or examination;

(5) Intentionally misshelving, hiding, or damaging library property or intentionally removing library property without authorization;

(6) Intentionally misappropriating another student's books, notes, outlines, papers or study materials without permission;

(7) Intentionally giving false or misleading information to any member of the Law School community or a committee thereof for the purpose of gaining academic advantage or influencing a decision on an academic matter; and

(8) Intentionally violating the Law School's administrative policies or those of any of its programs including but not limited to moot court, the law journals, the law library, the field placement program, the first year legal writing program, the Kessler-Eidson Trial Techniques Program and Career Services with the intent of gaining unfair advantage or evading previously assumed obligations.

(B) Unlawful conduct:

(1) Intentionally violating University rules and regulations applicable to law students;

(2) Deception in University matters including, but not limited to, knowingly furnishing false information to the University or to third parties regarding academic performance at the University or at any academic institution previously attended; counterfeiting, forging or altering any University document, record, registration or identification; knowingly furnishing false or misleading information to the University or its agents for the purpose of gaining financial assistance or avoiding payment of financial obligations; falsely holding oneself out to be an employee of the University or an officer of a student organization;

(3) Abusing the person or property of another, including conduct occurring on University property that threatens the personal safety or the property or the physical or mental health of a member of the University community; stealing or misappropriating another person's property while that person is on University property; and

(4) Conviction for breach of the law of the United States or any state.

(C) Unethical conduct:

(1) In the context of any field placement or any employment situation in which local legal ethics rules would apply if the student were a member of the local Bar, engaging in conduct that would be sanctionable under those local rules;

(2) Intentionally breaching the confidentiality of proceedings under this Code;

(3) Giving false information or testimony to the Conduct Court;

(4) Failing to report to the Dean of Students, conduct that would subject a student to prosecution under this Code; and

(5) Acting in a manner not otherwise directly covered in this Section that shows an intentional disregard for the ethical standards of the legal profession or the fundamental values of the Emory Law School community.

6. SUMMARY SANCTION FOR MINOR OFFENSES

Offenses that do not rise to the level of professional misconduct, but which nevertheless merit sanction, may be summarily sanctioned by the faculty member or senior staff person who discovers the misconduct. Examples of this kind of misconduct include violation of course rules that do not involve academic dishonesty and violation of rules relating to decorum in the Law School or Law Library.

The faculty member or senior staff person sanctioning the conduct will provide in writing to the Dean of Students the name of the student, the offense sanctioned and the sanction imposed. Summary sanctions will not become a part of the student's academic file. They may be considered by the Conduct Court only in determining the appropriate sanction should the student be convicted of a subsequent violation of this Code. Information about summary sanctions is not subject to the confidentiality requirements for proceedings under this Code.

Any student who is dissatisfied with the imposition of a summary sanction may appeal by contacting the Dean of Students and requesting that the sanction be vacated and that prosecution under this Code be undertaken.

7. NEGOTIATED RESOLUTION

Any prosecution may be resolved through a negotiated resolution. Resolution discussions may be initiated by the accused student, the complaining party or the Dean of Students at any time prior to the meeting of the Conduct Court to hear the charge. Negotiations for the resolution of a dispute must be undertaken promptly and shall not be allowed to cause a substantial delay in the proceedings of the Court. If the negotiating parties fail to reach agreement within a reasonable period of time, prosecution of the offense shall proceed as described in this Code.

The parties to a negotiated resolution shall include the accused, the prosecutor and the complaining party. Resolution discussions may take place only with the unanimous consent of all the negotiating parties. If parties consent to the negotiations, the prosecutor shall inform the Dean of Students who will convene the negotiation session. If the complaining party is not a member of the faculty or senior staff, the Dean of Students shall recruit a member of the faculty to participate as a negotiating party.

Any sanction permitted under this Code may be imposed by agreement. All resolution agreements must include a short statement of the circumstances of the negotiated resolution. All parties must read and approve the statement before the resolution can be considered final. Any negotiated resolution must be approved by the Dean.

The statement will be maintained in the files of the Dean and will be kept confidential, except that it must be disclosed to negotiating parties in any future resolution negotiations relating to the same accused student or in any prosecution of the same accused student for a further offense under this Code. The Dean shall notify the law school community generally of the fact of a negotiated resolution without revealing identifying information about the accused.

8. THE PROFESSIONAL CONDUCT COURT

Offenses will be prosecuted before the Professional Conduct Court. The Conduct Court will have five members.

Two members of the Court will be Law School faculty members appointed by the Dean. Appointments will be made no later than April of each year to run for twelve months. One faculty member shall be designated by the Dean as Chief Justice of the Court.

Two members of the Court will be law students elected from the student body. Elections will be held no later than April of each year with the term of office to be twelve months.

One member of the Court will be a member of the Emory Law Advisory Board. This member will be appointed by the Chief Justice of the Court on a case by case basis. The Advisory Board member appointed must be a law school graduate and must not be an employee of Emory University.

9. INVESTIGATION

The Dean of Students shall investigate complaints under this Code. If the Dean of Students is personally a party or otherwise unavailable to serve in a particular case, the Dean shall appoint a substitute from the faculty of the Law School to investigate the case.

When a complaint of misconduct is made to the Dean of Students, s/he will investigate the complaint as expeditiously as possible and if s/he finds reasonable cause to believe that an offense has been committed, s/he will formally notify the accused of the charge and refer the charge to the prosecutor. The accused will be notified of the charge in writing by delivery of a sealed envelope in person or to his/her student mail file. A notice will be sent to the student by e-mail to check his/her mail file.

10. PROSECUTION

The student body shall elect a rising third year student for the purpose of serving as prosecutor under the Code. Elections will be held not later than April of each year with the term of office to be twelve months.

The student body shall also elect a rising second year student as deputy prosecutor for the purpose of assisting the prosecutor as requested on a case by case basis and serving as prosecutor in the event that the prosecutor is a party or otherwise unavailable to serve in a particular case.

The deputy prosecutor shall be elected for a term of office of twelve months to run concurrently with the term of the prosecutor. The deputy prosecutor will be encouraged, but is not required, to run for election as prosecutor as a third year student.

If for any reason, both the prosecutor and deputy prosecutor are unable to serve in a particular case, the responsibilities of prosecution in that case will fall to the President of the Student Bar Association or his/her designee.

Concurrently with the election of the prosecutor, the student body shall elect a rising third year student to serve as defense counsel in prosecutions under this Code. This student will be available to serve as defense counsel for any student accused of an offense under this Code if the student so requests.

11. CONFIDENTIALITY

All proceedings, except summary sanctions, up to the final resolution of the charge shall be kept confidential by all participants unless the accused chooses to waive confidentiality, in which case all parties are relieved of the responsibility of confidentiality. The accused shall not be presumed to have waived confidentiality by speaking to potential witnesses or student defense counsel about the allegation while preparing his/her defense. Confidentiality requirements also do not prevent an accused student from discussing his/her situation with his/her parent or guardian. Any breach of confidentiality shall be brought to the attention of the Court.

Information on summary sanctions may be shared amongst faculty and senior staff but not with students.

12. PROCEDURE

The prosecutor will ask the Chief Justice to convene the Court to hear the charge. The Chief Justice will convene the Court as promptly as possible but in any event, during the academic term in which the offense occurred or was discovered, except that, if the offense occurs or is discovered any time within 14 days of the beginning of, or during, the examination period, the hearing may be deferred until the beginning of the next semester.

If the accused is a student in his/her final semester, his/her diploma will be withheld pending resolution of the charge.

If a member of the Court is a party to the case, or otherwise unavailable to serve, the Dean or the President of the Student Bar Association, as appropriate, will appoint a substitute to hear the case.

13. THE HEARING

The accused may admit the charge. If the accused does so, the prosecutor will inform the Court of this admission and may make recommendations as to an appropriate sanction. The Court will then proceed to consider sanctions.

If there is no admission, the prosecutor will prosecute the charge before the Court.

All members of the Court must be present to constitute a quorum.

The accused may represent him/herself or s/he may ask another member of the Law School student body or the elected defense counsel to represent him/her at the hearing. All cases brought before the Court will be prosecuted and defended by members of the student body.

The prosecutor and the accused may present any relevant information, including witness testimony.

Hearings shall be closed.

The Court shall have the authority to maintain an orderly and efficient hearing.

The burden of proof for conviction shall be by clear and convincing evidence. Conviction must be by vote of at least four of the five members of the Court.

The Chief Justice shall inform the accused orally of the Court's decision immediately after a decision is reached.

If the accused is acquitted, the Chief Justice will notify the Dean of the acquittal as soon as possible. The Dean will make known the final resolution of the case to the

Law School community. The accused shall have the option of having the Dean publish his/her name along with the fact of his/her acquittal.

If the accused is convicted, the Court shall then consider sanctions. A vote of at least four of five members of the Court is required to adopt a sanction or sanctions except that a vote to expel a student must be unanimous.

14. SANCTIONS

One or more of the following sanctions may be imposed:

- (a) an oral reprimand to be administered by the Dean;
- (b) a written reprimand placed in the student's permanent file and reported to any Bar to which the student seeks admission;
- (c) suspension for not less than one semester nor more than four semesters, with a written reprimand in the student's permanent file to be reported to any Bar to which the student seeks admission;
- (d) delay in graduation for a specified period of time after normal completion of degree requirements with a written reprimand in the student's permanent file to be reported to any Bar to which the student seeks admission;
- (e) expulsion with a written reprimand in the student's permanent file to be reported to any Bar to which the student seeks admission;
- (f) other sanctions may be imposed in the appropriate case such as, for example, termination from the staff of a law journal or a failing grade (F). If a student is convicted of cheating or plagiarism, a grade of F in the course is presumed to be the appropriate sanction in addition to any other sanctions.

15. POST-CONVICTION

The Chief Justice will communicate the Court's decision and sanctions to the accused orally immediately after the decision is reached. S/he will also notify the Dean of the Court's decision and sanction(s) in writing as soon as possible after the hearing. S/he will forward to the Dean the verdict, the findings of fact, and any documentary evidence, notes or tape recordings of the proceedings. Copies shall be provided to the accused.

The Chief Justice will also inform the accused that s/he has 10 calendar days from the date of the hearing in which to appeal the conviction and/or the sanction to the Dean. If the Dean is unavailable to hear the appeal, the appeal will be to the Associate Dean with responsibility for Academic Affairs.

Appeals must be in writing. If the Dean does not receive a written appeal within 10 calendar days after the hearing, the conviction will stand and the sanction(s) of the Court will be imposed. This will be the final resolution of the case.

If the accused does appeal, the Dean shall have a further 15 calendar days after receipt of the written appeal to consider the appeal. S/he may grant the appeal and overturn the conviction or confirm the conviction and impose the sanction(s) or confirm the conviction and impose a lesser sanction. The Dean's decision on the appeal will be communicated to the Chief Justice and to the accused student in writing. The Dean's decision shall be final and not subject to further appeal.

The Dean will then notify the Law School community generally of the final resolution of the charge. If the accused student is convicted of a charge for which a period of suspension or expulsion, or delay of graduation is imposed, the notice to the community will include the name of the convicted student.

The functions of the Dean under this subsection may be fulfilled by his/her designee.

16. AMENDMENTS

This Code may be amended by majority vote of the Law School faculty. Amendments will be proposed by a committee composed of faculty and students.

17. EFFECTIVE DATE

This Code supercedes the Student Honor Code adopted in August 1984. It has an effective date of March 1, 2000.

Selected Policy References

(last updated July 2014)

Library:

<http://library.law.emory.edu/about-the-library/using-the-library.html>

Under "Policies for using our Library"

Information Technology:

<http://www.law.emory.edu/about/administration/departments/information-technology.html>

Click on "Policies"