

Law School Standards of Conduct and Commentary

THE STANDARDS

University of Michigan Law School students are expected to maintain high standards of:

Academic conduct in all academic relationships with the Law School and the University, from the application for admission through graduation;

Professional conduct while functioning in a lawyer-like capacity at any time between matriculation as a Law School student and graduation; and

Personal conduct in all matters that touch or affect the Law School, the University, and any member or guest of the Law School or University communities.

These standards apply without regard to possible civil and criminal liability for the same conduct. But an adjudication of civil or criminal liability may establish or support a finding that a student has engaged in misconduct.

A standard may be violated by an unsuccessful attempt to engage in conduct that would be a violation if completed. Assisting another person's violation or attempting to conceal it also may be a violation.

ENFORCEMENT

Departures from these standards of conduct are subject to discipline under the Law School Student Disciplinary Procedures and also under the University Statement of Student Rights and Responsibilities, accessible at <http://www.oscr.umich.edu/statement/>.

COMMENTARY

These Standards of Conduct are expressed in general terms, not as defined rules. A standard often will be given specific content by more detailed rules and policies adopted by the University, offices and programs within the Law School, individual members of the Law School faculty, or the courts and bar associations that regulate lawyers. Beyond such rules and policies, the Standards depend on tradition and an understanding of shared academic and professional values. Most forms of academic and personal misconduct are readily recognized by an honest person exercising common sense and ordinary understanding.

The same conduct may violate more than one standard. Violation of library rules, for example, may in some circumstances violate the academic conduct standard as well as the personal conduct standard. And conduct that violates any one standard may give rise to concerns about fitness to practice law that will be reported to bar authorities.

Academic Conduct

The most readily recognized forms of academic misconduct include these:

Presenting another's work as a student's own.

Submitting substantially the same work for credit in more than one course without informed permission from the instructor for each course.

Plagiarism. Plagiarism most commonly consists of restating, without attribution, either the exact words or the substantive ideas of another person. When in doubt, it is better to cite too much than too little.

Violating the rules for an examination or another academic performance.

Giving information to — or copying or receiving information from — another person in answering an examination question unless the conduct is authorized by the rules for the examination.

Falsification of research information.

Falsification of an official or unofficial Law School transcript.

Misrepresentations, or omissions of material facts, in seeking admission or financial aid, in claiming academic or extracurricular accomplishments, in seeking action by a member of the faculty or administration, or in seeking employment.

Refusal to comply with — or misuse of — the Law School Student Disciplinary Procedures. Misuse most commonly involves knowingly false or malicious reports of misconduct or making knowingly false statements.

Any other conduct intended to put another student at an unfair disadvantage in competing for grades, honors, journal memberships, advancement in competitions, participation in activities open to limited numbers of students, or employment.

The academic conduct standard reaches misconduct in work undertaken outside the Law School for Law School credit.

Professional Misconduct

Professional misconduct while working in a Law School clinic or similar program is measured primarily by the Michigan Rules of Professional Conduct. Professional misconduct in other activities undertaken before graduation — such as paid or unpaid work for a law firm, government office, judge, or other organization that provides legal services — is measured by the rules of professional conduct that apply to lawyers and the rules of judicial conduct that apply to judicial assistants acting where the student conduct occurs.

Personal Misconduct

The University Statement of Student Rights and Responsibilities governs law students and provides examples of personal misconduct. Violations of rules or policies adopted by any University or Law School office or organization (including a recognized student organization) — and any conduct that foreseeably harms another member of the Law School or University community — may be personal misconduct or academic misconduct.

Adopted by Faculty April 16, 2010.

Law School Student Disciplinary Procedures

These Disciplinary Procedures govern determinations whether a Law School student has violated the Law School Standards of Conduct. They reflect the Law School's primary mission to educate students, recognizing that preparing students to practice law entails responsibility to assist bar authorities in determining the character and fitness of applicants for admission to the bar. They do not govern a faculty member's determination that a student has not satisfied academic requirements.

The disciplinary procedures include three stages. The first is administrative investigation and consultation with a student who may have engaged in misconduct. The purpose of this stage is to undertake a preliminary assessment of the facts and to seek a mutually acceptable resolution if the facts indicate misconduct. If resolution is not achieved at the administrative stage, the second stage is a hearing and decision by the Law School Student Discipline Committee. The third stage is discretionary review by the Dean.

ADMINISTRATIVE INVESTIGATION AND RESOLUTION

The Assistant Dean for Student Affairs or another member of the Law School administration designated by the Dean is responsible for investigating and attempting to resolve a report that a student has violated the Law School Standards of Conduct.

A faculty member may not impose discipline for violating the Standards of Conduct. But a faculty member may — without determining whether a student has violated the Standards of Conduct — determine that work is not entitled to academic credit and assign the grade for work that does receive academic credit.

Any person may report to the Assistant Dean that a student may have violated the Standards of Conduct. A member of the Law School faculty, an administrator, or a student shall make a report if there is cause to believe that a student has committed a serious violation. The initial report may be oral or written.

When a report of possible student misconduct is made, the Assistant Dean should undertake an initial inquiry. The Assistant Dean, after conferring with the person who made the report, may determine that an administrative investigation is not warranted. An administrative investigation may be pursued only on written complaint.

The Assistant Dean must inform the student of the complaint by written notice. The notice must:

include the written complaint;

inform the student that the student may meet with the Assistant Dean or may elect to bypass further administrative investigation by requesting a hearing before the Law School Student Discipline Committee;

inform the student that the student may refuse to discuss the complaint, and that anything the student says during the administrative investigation becomes part of the investigation record and may be reported to the Student Discipline Committee;

inform the student that if the complaint is set for hearing by the Student Discipline Committee the student must elect whether to proceed through the Track 1 hearing procedure or the Track 2 hearing procedure; and

include copies of the Law School Standards of Conduct and Disciplinary Procedures.

If the student elects to participate in the Assistant Dean's administrative investigation, the student and the Assistant Dean may meet to pursue the investigation as many times as the student and the Assistant Dean agree may be helpful to develop the facts and to consider a possible resolution. Ordinarily the Assistant Dean should disclose to the student facts that the Assistant Dean believes bear on resolution of the complaint.

At any time during the initial investigation the Assistant Dean may, in consultation with the Dean, temporarily suspend a student from participation in the Law School and may temporarily exclude the student from Law School property or — with the concurrence of University officials — the Lawyer's Club or University property. Temporary suspension or exclusion should be ordered only when in the judgment of the Assistant Dean suspension or exclusion is essential to protect persons or property or to prevent disruption of the normal functioning of the Law School.

The administrative investigation concludes when the Assistant Dean and student agree on a resolution or when either the Assistant Dean or the student gives written notice to the Student Discipline Committee requesting a hearing before the Committee. An agreed resolution may exonerate the student, conclude the inquiry without sanctions, or state that the student accepts responsibility and impose any sanction that could be imposed by the Committee.

When an administrative investigation concludes by agreement of the Assistant Dean and the student, the Assistant Dean must prepare a written report signed by the Assistant Dean and the student. The Assistant Dean must give a copy of the report to the student and to the Associate Dean. The Associate Dean may approve the report, recommend that the Assistant Dean resume negotiations with the student, or direct the Assistant Dean to initiate a hearing before the Committee. If the Associate Dean approves the report he or she must deliver the report to the Dean. The report is confidential to the same extent as a Committee report issued after a Committee hearing.

LAW SCHOOL STUDENT DISCIPLINE COMMITTEE

The Law School Student Discipline Committee consists of three faculty members and two student members. Faculty members are appointed annually by the Dean, who also appoints two alternates who may serve to replace a faculty member who is disqualified or unable to serve. Student members are appointed annually by the Law School Student Senate, which also appoints two alternates who may serve to replace a student member who is disqualified or unable to serve.

The Committee acts in all matters by majority vote but when the Committee consists of five members, suspension or expulsion may be ordered only on vote of four members.

A student who is the subject of a Discipline Committee hearing may elect by written notice to proceed with a Committee that consists of faculty members only, excluding student members from playing any part in the hearing.

A hearing before the Student Discipline Committee is initiated by a written notice from the Assistant Dean or a student who has been named in an administrative investigation under the Law School Standards of Conduct. A notice from the Assistant Dean must be sent to the Committee and student and must include a statement of the conduct investigated by the Assistant Dean, a clear statement of the charges, notice of the student's obligation to elect Track 1 procedures or Track 2 procedures, and a summary of the information considered relevant by the Assistant Dean. A notice from the student must be sent to the Committee and Assistant Dean. The notice may include a summary of the information considered relevant by the student and state the issues the student wants the Committee to consider. Within a reasonable time after receiving the student's notice the Assistant Dean must respond by a statement that accepts the issues identified by the student or provides a counterstatement of the issues and that includes a summary of the relevant available information.

A Student Discipline Committee hearing may follow Track 1 procedures or Track 2 procedures. The rules for these Tracks are set out below. In Track 2 both the student and the Law School have the right to active participation by a representative. Participating representatives are not allowed in Track 1; the student may have an adviser who may not otherwise participate in the hearing, and the Committee chair organizes information bearing on the complained-of misconduct.

A student charged with misconduct must elect Track 1 procedures or Track 2 procedures in the student's written notice requesting a hearing or by written notice delivered to the Committee chair within ten business days after receiving the Assistant Dean's written notice requesting a hearing. Track 1 procedures apply if the student does not make a timely election.

The Assistant Dean and the student may agree on a resolution after a written notice has initiated proceedings before the Student Discipline Committee. The Assistant Dean must immediately report a resolution to the Committee. The Committee need not suspend proceedings while the Assistant Dean and student seek a resolution. The Associate Dean may review a resolution report at any point in the proceedings.

The purpose of the hearing is to determine whether a student has departed from the Law School Standards of Conduct and to determine whether a sanction should be imposed for any misconduct that has occurred. The Student Discipline Committee conducts all proceedings in an informal and non-adversarial manner. The Committee does not observe the rules of procedure and evidence that apply in judicial proceedings.

A hearing before the Student Discipline Committee should be held within a reasonable time after the Committee receives a notice initiating Committee proceedings from the Assistant Dean

or from the student. The student must be given reasonable notice of the time and place of the hearing.

The chair of the Student Discipline Committee presides at the hearing. The hearing must be recorded verbatim by audio, video, or other means directed by the Committee. The hearing is closed to the public, but the complainant may attend and at the request of the student charged with misconduct the Committee may permit attendance by one or more observers.

The Committee must hear the information supporting the complaint even if the student charged with misconduct fails to appear for the hearing.

The Student Discipline Committee must decide the issues presented at the hearing by a report that includes a written statement of facts. The Committee must issue its report within a reasonable time — ordinarily no more than 14 calendar days — after the hearing concludes. If the Committee concludes that the information presented to it does not establish that the student has violated the Standards of Conduct, its statement should dismiss the charges. If the Committee concludes that a possible violation does not warrant a sanction, it may dismiss the proceeding without determining whether misconduct occurred. If the Committee finds it more likely than not that the student has violated the Standards of Conduct the Committee should impose one or more sanctions. Possible sanctions include:

A declaration of misconduct;

A formal apology;

A formal or informal reprimand;

A direction to stop specified conduct that is contrary to the Standards of Conduct;

Restitution;

Eviction from the Lawyers Club;

Denial of academic credit for one or more courses;

Suspension for one or more semesters;

Expulsion; or

Other reasonable measures designed to rehabilitate the student and reinforce community values.

If the Student Discipline Committee finds misconduct it must report its finding to the Dean.

Ordinarily the Dean or the Dean's delegate will report a finding of misconduct to bar admission authorities but may exercise discretion to the extent permitted by the specific question those authorities ask.

The Student Discipline Committee's report and record of proceedings are confidential and may be disclosed only as required by law or as needed for bar admission reports. An exoneration, however, may be made public at the student's request. The report and record of proceedings must be retained by the Dean during the student's lifetime.

TRACK 1 PROCEDURES

The Student Discipline Committee chair organizes information bearing on the complained-of misconduct for consideration at a hearing before the Committee. The chair may consult with the student charged with misconduct and with the complainant in determining what information should be presented. The Committee chair may request the Assistant Dean to help schedule the hearing at a time suitable for attendance by persons designated by the chair and by the student charged with misconduct.

The Student Discipline Committee chair should, at a reasonable time before the hearing, give the student charged with misconduct a written summary of any information to be presented that was not summarized in the Assistant Dean's notice or response.

A student charged with misconduct may participate in the hearing before the Committee by hearing the information presented to show misconduct, by questioning the persons who provide the information, and by presenting information in person and through others. The student may be advised by a person chosen by the student, but the adviser may not otherwise participate in the hearing. The student has primary responsibility for arranging timely attendance by other persons the student wishes to present, but the Committee may, if the student reasonably so requests, require attendance by Law School students, faculty members, administrators, or staff members.

A student complainant may choose an adviser to attend the hearing with the complainant, but the adviser may not otherwise participate in the hearing.

When feasible the Student Discipline Committee chair should arrange for persons presenting non-documentary information to attend the hearing in person or by contemporaneous electronic transmission that permits responses to questions asked by participants in the hearing. The initial presentation of information may be in narrative form. All Committee members and the student charged with misconduct may ask questions of any person who gives information at the hearing. The Committee chair determines the sequence in which participants ask questions and may allow any participant more than one opportunity to ask questions of the same person.

At the conclusion of a hearing before the Student Discipline Committee the student may make an oral statement as to the facts and possible sanctions.

TRACK 2 PROCEDURES

Information bearing on the complained-of misconduct is presented at a hearing before the Student Discipline Committee by the Presenter, who is a member of the Law School faculty or administration designated by the Dean on an annual basis. The person who conducted the administrative investigation may not serve as Presenter. The Presenter is responsible for organizing and presenting to the Committee information that supports the complaint. But the Presenter may also present information favorable to the student charged with misconduct or offer nonbinding advice that there is no substantial reason to find misconduct. The Presenter may argue the weight of the information presented by all participants and propose sanctions.

The Presenter should, at a reasonable time before the hearing, give the student charged with misconduct a written summary of any information to be presented that was not summarized in the Assistant Dean's notice or response.

A student charged with misconduct may participate in the hearing before the Committee by hearing the information presented to show misconduct, by questioning the persons who provide the information, and by presenting information in person and through others. The student may be represented by a person chosen by the student. If the student asks to be represented by a member of the Law School faculty or administration, the Assistant Dean or Committee chair should ordinarily encourage a person designated by the student to accept the representation. The student's representative may participate fully in the hearing. The student has primary responsibility for arranging timely attendance by other persons the student wishes to present, but the Committee may, if the student reasonably so requests, require attendance by Law School students, faculty members, administrators, or staff members.

A student complainant may choose an adviser to attend the hearing with the complainant, but the adviser may not otherwise participate in the hearing.

When practicable the Presenter and student should arrange for persons presenting non-documentary information supporting their positions to attend the hearing in person or by contemporaneous electronic transmission that permits responses to questions asked by participants in the hearing. The initial presentation of information may be in narrative form. All Committee members, the Presenter, the student charged with misconduct, and the student's representative may ask questions of the student and of any person who gives information at the hearing. The Committee chair determines the sequence in which participants ask questions and may allow any participant more than one opportunity to ask questions of the same person.

At the conclusion of a hearing before the Student Discipline Committee the Presenter, the student charged with misconduct, and the student's representative may make an oral statement as to the facts and possible sanctions.

REVIEW BY THE DEAN

A student found to have engaged in misconduct may ask the Dean to review the Student Discipline Committee report. The request for review must be made in writing no later than seven days after the Committee report is delivered to the student. A request for review will be considered only on the following grounds:

The Committee failed to follow the Law School's Student Disciplinary Procedures.

There is insufficient support for the Committee's decision (i.e., The facts presented, even if believed, are not sufficient to support the Committee's decision.).

The sanction imposed is inappropriate or excessive.

There is new information not reasonably available at the time of hearing – but only if the Dean believes the Committee would have been likely to reach a different decision if it had had such information at the time of the hearing.

One or more Committee members were biased (i.e., incapable of impartially making a determination in the student's case).

The Dean must grant a request for review made on one or more of these grounds when the Committee imposed a sanction of suspension or expulsion; if the Committee imposed any lesser penalty, the Dean has discretion whether to grant a request for review. If the Dean reviews the report, the Dean may:

uphold the Committee's decision;

direct the Committee to conduct a completely new hearing with proper procedures, or with biased members replaced by alternates;

direct the Committee to conduct a further hearing on particular issues;

determine that the facts presented, if believed, do not show that the student engaged in misconduct; or

determine that the facts presented, if believed, show that the student engaged in less serious misconduct than that found by the Committee.

If the Dean determines that the student engaged in either the misconduct found by the Committee or in less serious conduct, the Dean may uphold the sanction imposed on the student by the Committee or impose different sanctions from the ones imposed by the Committee, either more or less severe.

The Dean may not review the Committee's decision to believe or disbelieve any statement of fact presented to the Committee.

Adopted by Faculty April 16, 2010.