

NOTICE OF PROPOSED REGULATION

Date: July 30, 2008

REGULATION TITLE:
Law School Honor System

REGULATION NO.:
6C1-4.0434

SUMMARY: This regulation states that a student who accepts responsibility for an alleged violation may choose to have the sanctions determined by the Director of Student Conduct and Conflict Resolution or designee. The regulation also clarifies that a student’s failure to appear or present information at a sanctioning hearing shall not require a delay or affect the validity of the hearing. Likewise, failure of an involved faculty member to appear, present information, or recommend a sanction at the hearing shall not require a delay or affect the validity of the hearing. Finally, this regulation allows the Review Board to adopt, reject or modify the committee’s findings and recommendations in a proceeding conducted hereunder.

AUTHORITY: BOG Resolution dated January 7, 2003.

COMMENTS CONCERNING THE PROPOSED REGULATION SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation you are commenting on.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION IS: Rebecca J. Holt, Administrative Assistant, 123 Tigert Hall, Post Office Box 113125, University of Florida, Gainesville, Florida 32611, 352-392-1358 office, 352-392-4387 facsimile, regulations@ufl.edu.

NAME OF PERSON WHO APPROVED THE PROPOSED REGULATION: Patricia Telles-Irvin, Vice President for Student Affairs.

THE FULL TEXT OF THE PROPOSED REGULATION IS ATTACHED TO THIS NOTICE.

REGULATIONS OF
UNIVERSITY OF FLORIDA

6C1-4.0434 Law School Honor System.

(1) STATEMENT OF PHILOSOPHY AND DEFINITIONS.

(a) The University of Florida College of Law Honor System (hereinafter “Honor Code”), a part of the University of Florida Student Honor Code, represents a commitment by students to adhere to the highest degree of ethical integrity. Each student who joins the College of Law community is assumed to be trustworthy unless and until proven otherwise.

(b) Students at the College of Law benefit from the Student Honor Code because teaching and learning flourish best in an environment where mutual trust and respect form the bedrock of relationships within the community. The Student Honor Code helps create a community in which students can maximize their intellectual and academic potential.

(c) The Student Honor Code reminds all members of the law school community that success obtained through dishonest means is no success at all. Moreover, attendance at the College of Law is every student's first step in becoming a member of the legal profession. Essential to the well being of the legal profession is the presence of a sense of honor and ethical integrity among its members. The Student Honor Code is therefore an integral part of proper and complete professional training.

(d) The Student Honor Code furthers the goal of the College of Law to serve the public and the profession by producing attorneys dedicated to promoting justice, excellence, and respect for the law. The success of the Student Honor Code depends upon the diligence with

which members of the College of Law community ensure that they, as well as others, uphold the letter and spirit of the Student Honor Code.

(e) The Student Honor Code at the University of Florida College of Law addresses seven main issues: Violations of the Honor Student Code, the Honor Committee, Student Honor Code Proceedings, Sanctioning Guidelines, Review and Imposition of Sanctions; Review of the Hearing Process; and Final Appeal by Student to the University of Florida Office of the Vice President for Student Affairs.

(f) Definitions.

As used in the Student Honor Code, the following words have the following meanings:

1. “Academic Activity” shall mean: [i] any assigned work or project used to determine academic credit, including (but not limited to) an examination, writing project, take-home test, or other project; or [ii] any competition, activity, or project sponsored or sanctioned by the University in which the student participates for the purpose of gaining an academic advantage.

2. “Academic advantage” shall mean [i] any potential benefit to a student’s academic or professional standing or to the student’s prestige within the University community, including (but not limited to) academic credit or honors, or an award or other recognition of excellence in a particular academic or professional field or endeavor (including selection for membership in an organization related to the field or profession); or [ii] or a waiver, extension, release, or excuse from academic requirements, sanctions, or penalties.

3. “Accusation” shall mean a report of an alleged violation which has been determined to fall within the scope of the Student Honor Code and which merits further action by the Honor Committee.

4. “Appropriate Sanction” shall mean a sanction or combination of sanctions that is specifically designed to be appropriate to a specific violation of the Student Honor Code according to the guidelines of Section (5).

5. “Bad Faith” shall mean intentional falsity of a statement or reckless or careless indifference to the truth or falsity of a statement.

6. “Chair” shall mean the Chairperson of the Student Honor Committee or, if the Chair is unable to act, the Vice-Chair and the Secretary in succession.

7. “Faculty Advisor” shall mean the faculty representative appointed by the Dean to serve on the Student Honor Committee.

8. “Faculty Member” shall mean a person engaged in teaching a course at the College of Law and includes an adjunct faculty member.

9. “Full Restitution” shall mean compensation to the University for the actual cost of repair or replacement of damaged property or for other monetary loss caused by the student’s violation of the Student Honor Code.

10. “Student Honor Code Proceeding” shall mean a proceeding governed by the Student Honor Code, and includes a review pursuant to Section (6).

11. “Student Honor Code Violation” shall mean prohibited conduct as defined in 6C1-4.015.

12. “Student Honor Committee” shall mean the committee of individuals who administer the Student Honor Code as defined in Section (3).

13. “Material” shall mean any material related to a specific academic or co-curricular activity (including, but not limited to, course notes, textbooks, treatises, course packets, briefs, annotated statutes, or articles in a review or journal) whether published or unpublished and

whether authored by a student or another person and includes academic material available only in digital format or through the internet.

14. “Procedure Manual” shall mean the documents consisting of the administrative and procedural regulations promulgated by the Student Honor Committee.

15. “Reported violation” shall mean an unproven allegation of misconduct received by the Student Honor Committee or the College of Law.

16. “Resource” shall mean any device or technology providing access to information, including (but not limited to) a device such as a computer, computer program, radio, video or audio recording device, calculator or communication device; or any document or publication providing information, including (but not limited to) a printed or electronic publication or website.

17. “Review Board” shall mean the group of individuals charged with reviewing certain actions of the Student Honor Committee as described in Section (6).

18. “Representation” shall mean any written or oral statement or any act by a student signifying a response in circumstances in which a response is expected or required.

19. “Student” or “Students” shall mean a student at the College of Law.

(2) VIOLATIONS OF THE STUDENT HONOR CODE AND SANCTIONS.

(a) Conduct Prohibited by the Student Honor Code. Students are prohibited from engaging in conduct that violates the Student Honor Code as set forth in Regulation 6C1-4.042. Actions identified in the University of Florida Student Honor Code are violations of the Law School Honor Code.

(b) Consequences of Student Honor Code Violation. The following shall be consequences of a Student Honor Code violation:

1. Imposition of Sanctions. If a student is adjudicated responsible for a violation of the Student Honor Code or accepts responsibility for a violation, the student becomes subject to the sanctions authorized by 6C1-4.047.

2. Bar Notification. If a student is adjudicated responsible for an Student Honor Code violation or accepts responsibility for a violation, the College of Law shall provide this information to any state or federal bar to which the College of Law becomes aware that the student has applied.

3. Flagging of Student's Records. If a student adjudicated responsible for an Student Honor Code violation or accepts responsibility for a violation, College of Law Student Affairs shall include this information and make a record of the proceedings against the student a permanent part of the student's file.

(3) THE STUDENT HONOR COMMITTEE.

(a) Purpose of the Student Honor Committee. The Student Honor Committee administers the University of Florida Student Honor Code (6C1-4.042) within the College of Law. In this capacity and at all times observing confidentiality requirements imposed by law, the Student Honor Committee has the authority to do all actions which are necessary to the proper administration of the Student Honor Code, including the authority to promulgate a Procedure Manual.

(b) Composition of the Student Honor Committee. The Student Honor Committee shall consist of the following members:

1. Student members elected as representatives to the Committee pursuant to the provisions herein and according to the procedures designated in the Procedure Manual.

2. Two faculty advisors appointed by the Dean of the College of Law.

3. An Administrative Member (the Associate Dean for Student Affairs or, if the Associate Dean for Student Affairs is unable to serve, the Assistant Dean for Student Affairs).

4. A faculty member from another college within the University of Florida appointed by the Dean of the College of Law.

5. The University's administrative liaison from the Office of Student Conduct and Conflict Resolution.

(c) Student Members of the Student Honor Committee.

1. Eligibility and Duties. Students are eligible to serve on the Student Honor Committee if they meet University requirements for full participation in campus activities. A student who serves on the Student Honor Committee undertakes to make a good faith effort to perform the duties of a student member as set forth in the Procedure Manual.

2. Removal of Student Honor Committee Members. The Student Honor Committee may remove a student member by a 2/3 vote of all the voting members for good cause shown. Good cause includes (but is not limited to) any failure of a student member to make a good faith effort to perform the duties of a student member as set forth in the Procedure Manual.

3. Student Honor Committee Officers. The Committee shall select from its student members a Chair, a Vice-Chair, and a Secretary. Officers serve at the pleasure of the Committee. The Committee can remove any officer at any time and for any reason by a vote of 2/3 of all the Committee's voting members.

(d) Voting Rights of Committee Members.

The University's administrative liaison from the Office of Student Conduct and Conflict Resolution does not vote on Committee matters. All other members of the Student Honor Committee have an equal vote as to any matter that is before the Student Honor Committee.

(4) STUDENT HONOR CODE PROCEEDINGS.

(a) Rights of Students in a Student Honor Code Proceeding.

Students accused of a violation of the Student Honor Code shall be accorded the rights as listed in 6C1-4.041. If the student believes that a Committee member has a conflict of interest, the student has the right to request recusal of the Committee member.

(b) Report of Suspected Violation. A student or faculty member who in good faith believes that a student has violated the Student Honor Code shall report the violation to the Student Honor Committee. Any person who believes in good faith that a student may have violated the Student Honor Code may report the violation to the Student Honor Committee.

(c) Procedure for Resolution of Alleged Student Honor Code Violation.

1. Determination of the Committee's Jurisdiction to Act on the Report. The Administrative Member and the Director of Student Conduct and Conflict Resolution or designee have the authority to determine if the alleged conduct (1) warrants an accusation against the person or persons identified in the report, and (2) falls within the scope of the Student Honor Code. If both conditions are met, the Student Honor Committee has jurisdiction. A reported violation constitutes an accusation only where the allegations contain sufficient merit to warrant further action. If it is determined that the alleged conduct does not fall within the scope of the Student Honor Code, but does warrant action under the University of Florida Student Conduct Code, the Committee shall refer the matter to Student Conduct and Conflict Resolution. In all cases, the Administrative Member and Director of Student Conduct and Conflict Resolution shall have the authority to conduct all investigations necessary for these determinations.

2. Determination of the Alleged Violation.

a. Following notice of the charges, the student shall select one of the following two methods of resolving the issue:

- i. Accepting responsibility and proceeding directly to sanctioning, or;
- ii. Denying responsibility and requesting a hearing before the Student Honor Committee.

b. If the student accepts responsibility for the alleged violation, the Chair shall appoint a committee to conduct a sanctioning hearing or the student may choose to have the sanctions determined by the Director of Student Conduct and Conflict Resolution or designee. At the sanctioning hearing, the committee shall pursuant to Section (5) determine an appropriate sanction to be recommended to the Review Board.

3. Adjudication by the Student Honor Committee.

a. The Student Honor Committee Chair shall appoint a committee of three disinterested committee members to conduct the hearing. At the Student Honor Committee hearing, the student has the rights set forth in Regulation 6C1-4.042. The Student Honor Committee determination shall be made on the basis of whether based upon the evidence presented to the Student Honor Committee it is more likely than not that the accused student violated the Student Honor Code.

b. If it determines that the student has violated the Student Honor Code, the committee shall, pursuant to Section (5), determine an appropriate sanction to be recommended to the Review Board.

(d) Failure of the Student to Participate in Resolving the Alleged Violation.

1. Voluntary Withdrawal of the Student from the University Following Report of an Alleged Violation. If the student withdraws from the University of Florida following the report

of the student's alleged violation of the Student Honor Code, the Chair shall proceed as provided in subsection (4)(c)1. If charges are issued, the Student Honor Code proceeding is stayed and the records are filed with College of Law Student Affairs and the Director of Student Conduct and Conflict Resolution. The transcript and registration of the student are flagged in accordance with 6C1-4.050. The University of Florida shall retain a copy of the flagged transcript.

2. Failure of the Student to Appear at a Hearing. A student who fails to notify the Chair of his or her choice either to accept responsibility or to deny responsibility within the period of time outlined in the letter of charges will be deemed to have chosen the option of denying responsibility and requesting a Student Honor Committee hearing. The Chair shall, pursuant to subsection (4)(c)3, appoint a committee to adjudicate the matter. If the student is duly notified of the hearing and fails to appear, the committee may proceed in the absence of the student.

(5) SANCTIONING GUIDELINES.

(a) Rights of Student or Involved Faculty Member at a Sanctioning Hearing.

1. A student who has accepted responsibility for a Student Honor Code violation or who has been adjudicated responsible for a Student Honor Code violation has the right to be present at the sanctioning hearing. At the sanctioning hearing, the student has the right to present to the committee any mitigating circumstances that the student wishes the committee to consider. A student's failure to appear or present information at a sanctioning hearing shall not require a delay or affect the validity of the hearing.

2. An involved faculty member has the right to be present at the sanctioning hearing and to present to the committee any mitigating or aggravating circumstances of which the faculty member is aware. Alternatively, an involved faculty member may provide to the committee a

written statement concerning any mitigating or aggravating circumstances of which the faculty member is aware.

3. In addition, an involved faculty member has the right to recommend an appropriate sanction. Failure of such faculty member to appear, present information, or recommend a sanction at the sanctioning hearing shall not require a delay or affect the validity of the hearing.

(a) Determination of Appropriate Sanction.

In determining the appropriate sanction to be recommended to the Review Board, the committee shall consider any mitigating and aggravating circumstances which may be presented by the student or by an involved faculty member, or which are clearly reflected in the record.

1. Mitigating circumstances include (but are not limited to):

a. A student's voluntary report of the student's own violation of the Student Honor Code.

b. A student's acceptance of responsibility prior to adjudication of the Student Honor Code violation.

c. Any other circumstance which in the judgment of any member of the committee may constitute a mitigating circumstance.

2. Aggravating circumstances include:

a. Any injury that the student's Student Honor Code violation has caused to any person affected by the Student Honor Code violation, including (but not limited to) a faculty member or other student.

b. A prior adjudication for violation of the Student Honor Code.

c. Any other circumstance that in the judgment of any member of the committee may constitute an aggravating circumstance.

(b) Notice to Student of the Committee's Determination.

Following a determination of the appropriate sanction to be recommended to the Review Board, the committee shall notify the student of the sanction or sanctions to be recommended. An appropriate sanction is any sanction or combination of sanctions authorized in 6C1-4.047.

(c) Notice to the Faculty of Record.

Following a determination of the appropriate sanction to be recommended to the Review Board, the committee shall notify the faculty member of record in the course in which the violation occurred of any sanction or combination of sanctions to be recommended.

(6) REVIEW AND IMPOSITION OF SANCTIONS; REVIEW OF ADJUDICATION.

(a) The Review Board consists of the Dean of the College of Law; the University of Florida Dean of Students or his or her designee; and the Chair of the Student Honor Code Committee.

(b) The Review Board shall review the record and all sanctions recommended by the committee. The Review Board may adopt, reject or modify the committee's findings and recommendations.

(c) If a student petitions the Review Board for review of the student's adjudication of a Student Honor Code violation, the Review Board shall review the record to determine whether the record supports the adjudication. To petition, the student must submit written notice to the Dean of the College of Law no later than the 5th business day after the sanction has been imposed.

(d) If at any time subsequent to a student's adjudication of a Student Honor Code violation the student discovers substantial new evidence tending to refute the judgment, the student may petition the Review Board to determine whether further proceedings are warranted. "Substantial new evidence" means evidence that was not available to the student during the original Student Honor Code proceedings through the exercise of reasonable diligence.

(7) FINAL APPEAL.

(a) If the Review Board affirms the adjudication or approves the sanctions imposed by the committee, the student may appeal the adjudication or the sanctions to the University of Florida Vice President for Student Affairs or designee. To present an appeal, the student must submit a written notice to the University of Florida Office of Student Affairs no later than the 10th business day following the day on which the student receives notice of the Review Board's final determination.

Specific Authority: BOG Resolution dated January 7, 2003.

History: New _____, Formerly 6C1-4.0212.