

STUDENT HANDBOOK

**Western New England University
School of Law**

2012-2013

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PROCEDURES AND PRACTICES

INTRODUCTION

This section of the Student Handbook is intended as a description of the procedures and practices of the Law School, compiled here for student convenience, and not as an official compilation of these practices and procedures. While every effort has been made to describe the Law School's procedures and practices with accuracy, any variation between the procedures or practices here described and those mandated by law or by the official rules and regulations of the Law School shall be resolved in favor of those mandated by law or the Law School's official rules. Neither this Handbook nor the rules and regulations of the Law School should be regarded as creating a binding contract between the student and the school. The School of Law reserves the right to change any of the requirements and regulations of the school at any time without prior notice. This includes the right to modify requirements for graduation; to change tuition and other fees; to alter any regulation affecting the student body; and to dismiss any student at any time should it be in the interest of the school or the student to do so.

COURSEWORK AND RESIDENCY

I. ADVANCED RESEARCH

Advanced Research may be done for two or three credits by agreement with and the supervision of two or three faculty members and permission of the Associate Dean for Academic Affairs. The research must result in a substantial and innovative scholarly paper that is presented to a panel of the supervising faculty upon completion. For further information and the Advanced Research form, see the Registrar's Office.

II. AUDITS

A student may audit a law school course if the course is not fully enrolled and the appropriate prerequisites have been satisfied. No credit will be received for the course, and the audit must be approved by the faculty member teaching the course and the Associate Dean for Academic Affairs. For further information see the Academic Standards, Part F.II.

III. JURIS DOCTOR DEGREE REQUIREMENTS

Eighty-eight academic credits, six residency credits, and minimum cumulative average of 70.0 or above are required for graduation. Also required is the successful completion of ten required courses taken in sequence, Professional Responsibility, a Professional Skills course, and a Qualifying Writing Course. If these criteria have been met and the student is in good standing, the degree of Juris Doctor will be awarded. For more information please consult the Academic Standards, Parts B and C.

IV. GRADING SYSTEM

The School of Law records numerical grades, except where the nature of the course makes a numerical grade impractical. The range of numerical grades and the traditional letter equivalents are as follows:

A 93-99	B+ 87-89	C+ 77-79	D+ 67-69	F 55-59
A- 90-92	B 83-86	C 73-76	D 60-66	
	B- 80-82	C- 70-72		

In certain designated courses, a grade of *P* (Pass) is assigned if the course is satisfactorily completed. *P* does not have a grade point equivalent.

Your final Legal Research and Writing grade will appear on your transcript and will be factored into your cumulative average and class rank for all purposes other than determining academic dismissal after the first year. For further information, please see Academic Standards Part C. I. C.

Any required course with a grade of below 60 or F must be repeated. If the failing grade is in a course which is the prerequisite to an advanced course, the prerequisite course must be repeated successfully before the advanced course is taken.

A grade of 60 is passing. However, an overall grade point average of 70 must be maintained in order to continue in law school from year to year.

Courses taken at another law school for credit have no effect on a student's cumulative grade point average at this School of Law.

1. Grading. The current policy requires that the mean and median grades for required courses and traditional large-enrollment electives be between 78 and 82 on a 55-99 scale. In the 2011-2012 academic year, for all 1L courses where there is a final exam, a mandatory curve will be imposed in which grades given are required to fall within the following ranges and percentages:

90-99 - 5-15%
80-89 - 25-40%
70-79 - 25-45%
55-69 - 10-20%

This curve is broadly similar to those used by many other schools. The Associate Dean for Academic Affairs has the authority to reject grades submitted by faculty members who do not comply with the curve. With a showing of good cause, the Associate Dean for Academic Affairs and the Dean of the School of Law can authorize minor deviations; such exceptions should be authorized only when the faculty member can demonstrate that the curve in that case does not reflect fairly the performance of the class (e.g., the class, even though a required class, is small and thus less likely to be well-represented by a curve.) Many courses have multiple items that are part of the final grade; some of those items are combined by the Registrar's office. If the final grades do not comply with the curve, the grades, still anonymized, will be given to the faculty member with a direction to re-scale them to comply with the curve.

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2. Grading: Mandatory Mean

- A. A mean (average) final grade of 80.0 ± 2 shall be required for all first-year (currently Civil Procedure, Constitutional Law, Contracts, Criminal Law, Legal Research and Writing, Property, and Torts) and second year required courses (currently Business Organizations, Evidence, and Income Tax I) graded on a 55-99 scale.
- B. A mean (average) final grade of 80.0 ± 5 shall be required for all other courses regardless of size with the exception of clinics, professional skills courses, qualifying writing courses, externships, independent studies, and any course graded pass-fail.
- C. A faculty member's grades are compliant with the grading policy described in paragraphs (1) and (2) above if either (a) the final grades awarded in a course conform to the required grading range OR (b) in courses where a student's grade is based on more than a single final exam and those additional components account for a percentage of the final grade, each grading component that contributes to the final grades conforms to the required grading range. In courses where points are added to the final grade for class participation or completion of additional projects, the faculty member shall make a good faith effort to reduce the grades awarded prior to the addition of those added points so that the final grades remain within the required grading range.
- D. The Associate Dean for Academic Affairs has the authority to reject grades submitted by faculty that do not conform to the required grading range. Faculty must then resubmit conforming grades. The Associate Dean for Academic Affairs can allow minor deviations from the requirement (less than 1 point) in appropriate circumstances, but more

significant deviations will usually not be permitted. In unusual circumstances where faculty members refuse to resubmit their grades to conform to the required grading range, the Associate Dean has the authority to adjust the grades to fall with the required grading range.

3. Academic Warning.

Beginning in the 2011-12 academic year, all students below a first-year cumulative grade point average of 76 or with a single first-year grade below 70 will be placed on a new status, "academic warning" at the end of their first year; this status will remain in effect through graduation. Students on academic warning will be required to (a) take academic success courses, (b) take a school-provided bar preparation course during the final year of their respective studies, (c) have their course selections for all subsequent semesters approved by the Associate Dean for Academic Affairs or her delegate, to ensure that the chosen curriculum provides an academically rigorous education and improves the likelihood of bar success, (d) meet regularly with the Academic Success Dean to strategize for success and (e) not serve as an officer in any student organization without prior approval of the Associate Dean for Academic Affairs or her designate. Failure to comply with these conditions will lead to dismissal or withdrawal. For dismissal policies and procedures, please refer to the Academic Standards section of the Student Handbook (Academic Standards, Part C, I-IV).

V. INCOMPLETE GRADES

If the professor has granted an incomplete grade, the work for the course must be completed by the day grades are due in the following academic-year semester. An I (Incomplete) will appear on the student's transcript until the grade is submitted to the Registrar's Office. If work is not completed by the deadline, a failing grade may be given.

VI. EXTERNSHIPS

A student may earn four credits for a judicial or public interest externship and two credits for any other approved externship while attending the School of Law. These externships provide valuable opportunities to experience particular aspects of law practice. A student may take two externships for credit as part of his or her law curriculum. To be eligible, a student must have completed either one year of full-time study or two years of part-time study. Judicial and public interest externships for four credits include a seminar component and are supervised by the professor teaching that seminar. All other two credit externships must be supervised by a full-time faculty member and the Associate Dean, and it is up to the students to arrange for such faculty supervision. If an

externship has not been approved for credit, it must have prior approval by the Associate Dean for Academic Affairs to be taken for credit. Approved externships for the fall semester are arranged through the summer registration process and for the spring semester through an announced registration process in the fall, both in conjunction with the Career Services Office. The form for a 907 Externship is available in the Registrar's Office.

VII. RESIDENCY REQUIREMENTS

Residency requirements prevent students from early graduation from the School of Law. To earn the required six residence credits, a full-time student must pass a minimum of 12 credits in at least six semesters, and a part-time student must pass 9-10 credits in at least eight semesters. For further information see the Academic Standards, Part B.II.

VIII. STUDENT PRACTICE

Massachusetts: 3:03 Certification

Supreme Judicial Court Rule 3:03 allows a student of senior status to practice in certain circumstances in both civil and criminal cases in a Massachusetts court under the direction of a Massachusetts attorney. A second-to-last year student may practice civil cases if participating in a law school clinical instruction program. Such student practice is generally limited to government practice or representation of indigent persons and must be done without compensation. To be eligible, the student must be in good standing, of good character, and have successfully completed or be currently enrolled in LAW 553, Evidence, or LAW 681, Trial Methods. A part-time student may participate as a senior when he or she has completed 56 academic credits.

If you are eligible and wish to be certified under Rule 3:03, bring the name, address, and Board of Bar Overseers Number of the supervising attorney to the Registrar's Office for transmission to the Supreme Judicial Court. A response is usually received within one week.

Connecticut: Rule 75

A student may practice in Connecticut under Rule 75 under the guidance of a practicing attorney in the State of Connecticut if the student has completed two full semesters in an ABA accredited law school. If, as is so for students attending Western New England University School of Law, the student attends a non-Connecticut law school, the student must be eligible for student practice in the state where the student ends law school. If you are eligible to practice in Massachusetts under Rule 3:03, then certification in Connecticut should be possible.

Rhode Island: Rule 9

Rule 9 requires a student to have senior status (completed 2 years in a 3-year law school program or completed 3 years in a 4-year law school program) in

a law school accredited by the ABA. The student needs to be currently enrolled in or have completed a trial practice course or evidence course before completing his/her second year of law school. Students must have written verification from the Dean of their law school that they are in good standing, have sound character, and have the proper legal ability and training. Placements for Rule 9 candidates will be within the Office of Public Defender, the Criminal Division of the Attorney General's Office, a city or town Solicitor's Office, or District, Family, or Superior Court (with the presiding Judge's consent). The Registrar's Office is unable to send a certifying letter unless all of the above requirements have been met.

IX. TRANSFERRING

Students wishing to transfer to another institution should contact the school of interest to obtain transfer information. Every school is different, but generally most law schools allow students to transfer after their first year of courses. Typically, first-year law students cannot transfer mid-year because most of the courses taken are year-long courses. Requests for transcripts and letters of good standing from the dean may be obtained through the Registrar's Office. For more information, contact the Associate Dean of Student Affairs or the Associate Dean for Academic Affairs.

X. INDEPENDENT TUTORIAL STUDY

One or more students may study a topic of choice under the instruction of a full-time faculty member for one to three academic credits and either a numeric or pass/fail grade. The student(s) meet with the instructor on a regular basis. See the Registrar's Office for more information.

XI. VISITING ANOTHER LAW SCHOOL

Under certain, relatively narrow circumstances, a student may visit another law school during the academic year if the school is ABA accredited and AALS approved. Visits at ABA accredited and AALS approved law schools during summer sessions, including sessions abroad, are more widely authorized. For either kind of visit, prior approval must be obtained from the Associate Dean for Academic Affairs. The Request to Visit Form is available in the Registrar's Office, and information about summer visits abroad is available through the Career Services Office. Requests for summer visits are processed on a rolling basis throughout the spring semester. Requests for visits during the academic year must be submitted to the Associate Dean by March 1st of the spring term before such visit is requested. For full details on visiting another law school, see the Academic Standards, Part D.

XII. WITHDRAWALS

If a student drops a class during the add/drop period, no record of a withdrawal will appear on the student's transcript. If the student drops a class after the last day to add or drop, a grade of *W* will appear on the student's transcript. A student may withdraw without prior permission from any elective course through the last day of classes for a semester, *unless dropping the course will cause the student to fall below the minimum number of credits for a semester. In that case, a student may drop an elective course only with the permission of the Associate Dean for Academic Affairs.* Students are not permitted to withdraw from required courses absent extraordinary circumstances, and then only with permission of the Associate Dean for Academic Affairs or the Academic Standards and Student Petitions Committee. For full details, please consult the Academic Standards, Part A.VI.

EXAMINATIONS

I. EXAM CONFLICTS

A student shall be granted a departure from the examination schedule for a conflict. A conflict in the examination schedule is defined as: (A) two examinations simultaneously; (B) two examinations in successive examination periods (including night-morning but excluding Saturday-Monday); (C) two examinations on the same day; (D) three examinations on three successive evenings for part-time students employed full-time who certify that they cannot obtain time off during the examination period; (E) four examinations on four consecutive calendar days, unless the student has a reading period of four consecutive calendar days (or five non-consecutive calendar days) between his or her last day of classes and the first of his or her four consecutive exams; (F) four examinations on four consecutive calendar days in any semester in which the exam schedule was not published by the end of the fifth day of classes.

The exam schedule is published each semester, after online registration but before the add/drop period ends. The exam schedule can be found online at www.law.wne.edu.

The Registrar's Office will make conflict forms available. If a student wants to reschedule one of the exams in conflict, a conflict form must be filed in the Registrar's Office by the deadline specified at the top of the exam schedule. The conflict(s) will be resolved by the Registrar's Office, and the student will be informed of the date, time, and room where the make-up exam will be given. It is important to file the conflict form on time and to notify the Registrar's Office promptly if the student intends to take his/her exams as originally scheduled.

Each instructor is notified of the number of make-up exams to expect and the date and time they are scheduled. The instructor has the option of giving a

different exam. Students should NEVER inform their instructor when they have a conflict or a make-up exam. For full details, please consult the provisions of the Honor Code and the Academic Standards.

II. EXAM NUMBERS

All examinations are graded anonymously. The exams are proctored and exam numbers are used to identify the student in lieu of his/her name.

A different exam number is assigned to each student each semester and these are available online on the student's schedule for the appropriate semester as viewed through ASAP (Administrative Systems Access Point) before the end of classes and throughout the exam period. Students should identify themselves only by exam number on their exams and exam answers. The possible consequences of using any identifying information on an exam other than the assigned exam number e.g., Social Security number or "Graduating Senior" include having the grade withheld, a failing grade, or having the matter reviewed by the Honor Committee. For full details, please refer to the Honor Code.

Any additional points that are assigned by name are submitted to the Registrar's Office to be integrated with the exam grade for a final course grade.

III. EXAM PROCEDURES

Examinations are given at the end of each semester. Students may type or write their answers. Blue books are provided at the exam for those students writing their answers. Exams given in December for year-long courses are midterm exams and count 20% of the final grade.

At the beginning of each exam, the proctor reads both the general rules and the rules relating specifically to that exam. Students should pay close attention to these rules.

In the event of an emergency that would prevent a student from taking an exam as scheduled, only the Associate Dean for Academic Affairs has authority to allow the exam to be rescheduled. Students **should not** contact their professors about such a conflict or emergency but should notify the Associate Dean (413-782-1622) or the Registrar's Office (413-782-1402) as soon as possible. In the case of illness, a note from the attending physician is required documenting when the student was seen, the diagnosis, and treatment as it relates to when the student can and cannot take the exam. If an exam needs to be postponed because of a death or illness in the family, documentation may be required. When part-time students who work full-time are required to be somewhere else because of their work, a letter from the student's employer on company letterhead is required specifying that the student must be at work or

traveling at the time the exam is scheduled. In each of these cases, the exam must be rescheduled as soon as possible. For full details, please consult the Honor Code and the Academic Standards.

IV. LAPTOP EXAMS AND EXAM ACCOMMODATIONS

Students may type their examination answers, but they must provide their own lap-tops and arrange through the Registrar's Office to down-load the blocking software that temporarily prevents access to everything in the computer but the typing function. Each semester, The Registrar's Office posts notices informing students of the procedures to down-load the software, and interested students should watch for this information beginning sometime mid-semester.

Any student who has a disability that requires special facilities in the taking of his or her exam should see the Associate Dean for Law Student Affairs as set forth in the ***Academic Policies, Accommodations for Disabilities*** section of this Handbook. It is important for a student with a disability to meet with the Associate Dean for Student Affairs as early in the semester as possible; if a student delays, he or she may miss the deadline for documenting the disability and arranging an appropriate accommodation.

V. EXAM RESULTS

Exam results are available online through the ASAP site. No results are given out by telephone or email.

The faculty have one month from the end of the exam period to submit grades. Updated transcripts are available to the student when all of his/her grades have been received. All grades can be accessed through the ASAP site at <http://yogi.wne.edu/general/welcome.htm>.

VI. REVIEWING BLUEBOOKS

Bluebooks for the immediately preceding exam period are available for review by students. Bluebooks for day courses are kept by the faculty assistants and bluebooks for evening courses are kept in the Registrar's Office. Bluebooks can be signed out for 24 hours only by the student who owns them. They can be photocopied by the student, if desired. When a student has an appointment to review his/her answers with the instructor who gave the exam, the instructor may request the bluebooks.

Bluebooks are kept for one year following the exam period. After one year, they are kept in secure storage off-site.

REGISTRATION

I. ON-LINE REGISTRATION

Returning students register on-line for the upcoming academic year during the month of July. Each student will receive instructions in late June on how to access the course schedules and descriptions and how to register for both fall and spring courses. Registration is not a “first-come, first-served” process. We use a system of waiting lists and lotteries to allocate seats in limited enrollment courses. We do our best to honor and accommodate student schedule requests and preferences. It is important, however, to notify the Registrar’s Office of **alternative courses** in case the first choice is not available. This is done through an email to registration@law.wne.edu. Failure to provide alternate course choices may result in an incomplete schedule. If the Registrar’s Office is unable to put a student into a first choice course, the student is placed on a waiting list for that course. If a seat opens, a lottery will be held among the names on the initial waiting list. Day students have priority for day courses and evening students have priority for evening courses, followed by graduating seniors. Other waiting lists will be started as needed during in-person registration. The Registrar’s Office will send an email during the last week of July to confirm all schedules.

Students who neglected to register in July or those with an incomplete fall or spring schedule are eligible to participate in in-person registration which is held just prior to the first day of classes. The first day of in-person registration is exclusively for Senior Students. Schedules cannot be changed by phone. The Drop/Add period begins on the first day of classes each semester and ends on the tenth day of classes.

II. IN-PERSON REGISTRATION

In-person registration is designed for those students who are left with an incomplete schedule the week prior to the beginning of school. Any student who is missing at least one course from his/her schedule is eligible for in-person registration.

The first day of in-person registration will be reserved for graduating seniors and the second day will be for all returning students. A list of closed courses and waiting lists for those courses will be available during in-person registration.

If scheduling changes are desired but the student's schedule is what he/she originally requested, the student must wait until the add/drop period begins on the first day of classes.

III. ADD/DROP/WITHDRAWAL

The first ten (10) days of classes each semester and the first three (3) days of the summer session are reserved for add/drop. No student may drop a required course or fall below the minimum number of credits without permission from the Associate Dean for Academic Affairs.

Courses dropped after the add/drop period will remain on the academic record and a *W* (Withdrawal) will be recorded. The last day to withdraw from a course is the last day of classes.

IV. SCHEDULE CHANGE

In November, the Registrar's Office will schedule one week to change course schedules for the spring semester. The first two days are strictly for graduating seniors. This is the only time other than the add/drop period in which changes can be made to the spring schedule. The dates for schedule changes will be made available by the Registrar's Office.

V. SUMMER SCHOOL

Summer school is designed primarily for part-time students who want to graduate in four years. Two to three summers taking eight to ten credits total are necessary for part-time students to graduate in four years.

Students may take up to five credits during each summer session. Permission must be received from the Associate Dean for Academic Affairs for more than five credits.

Part-time students do not pay tuition for summer courses because it is included in their annual tuition. A per credit tuition fee plus a general service and registration fee is required for full-time students. A registration fee and the general service fee will be charged to all student accounts regardless of status. Please contact Student Administrative Services (SAS) for any issues or explanations regarding billing, fees, or financial aid.

VI. EMAIL ACCOUNTS

You should check your law school email account regularly because **you are responsible for any information the school sends through the school email account provided to you.**

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ADDITIONAL ACADEMIC POLICIES

I. ABSENCE DICTATED BY RELIGIOUS BELIEFS

The General Laws of Massachusetts, Chapter 151C, Section 2B, provide that:

Any student in an educational or vocational training institution, other than a religious or denominational educational or vocational training institution, who is unable, because of his (or her) religious beliefs to attend classes or to participate in any examination, study, or work requirement on a particular day shall be excused from any such examination or study or work requirement which he (or she) may have missed because of such absence on any particular day; provided, however, that such makeup examination or work shall not create an unreasonable burden upon such school.

If due to religious belief you are unable to take a scheduled exam or participate in any other required activity, please see the Associate Dean for Academic Affairs.

II. ALCOHOL POLICY

The legal age for consumption of alcoholic beverages in Massachusetts is 21. The University upholds this law through provisions in the ***Student Conduct Code***, which governs all use of alcohol on campus and at all University-sponsored events. Alcohol may not be served at a University-sponsored event without applying for and receiving prior permission through the Associate Dean for Law Student Affairs. When permission is granted to serve alcohol, it is limited to beer and wine, and there are other restrictions on the circumstances and manner of service. For more information, contact the Assistant Dean of Student Affairs.

III. ACCOMMODATIONS FOR DISABILITIES

Title III of the Americans with Disabilities Act, 42 U.S.C. §12182(a), provides that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation. As a place of public accommodation the University adheres to the requirements of the Act.

The School of Law provides an accessible entry on the side of the building. An elevator is available for access between floors. Special arrangements will be made depending on student needs for classroom work and exams. ***It is the student's responsibility to notify the Associate Dean for Law Student Affairs to request special arrangements or accommodations.***

This notification must be made within the first month of each semester of each year of law school.

Students requesting accommodations and/or support services under the Americans with Disabilities Act (ADA) and/or Section 504 of the Rehabilitation Act of 1973 must provide documentation of the existence of a learning disability which substantially limits a major life activity. In order to accurately determine the appropriate accommodations, the documentation should be current, within three years. It may be appropriate to extend the testing limit to five years if the testing is reflective of the adult's current functioning. In all cases, the documentation should be appropriate to the anticipated setting.

The Office of Student Affairs will help arrange the services you need to transition to law school and succeed as a law student. In order to access these services, you must first provide the Office of Student Affairs with current and relevant documentation. The guidelines below are consistent with those suggested by the Association of Higher Education and Disability (AHEAD) best practices.

General Guidelines

1. States a specific diagnosis according to the DSM-IV
2. Is current (for those with learning disabilities, documentation is usually current within three years or, five years for students out of high school for two or more years. (IEP's do not qualify as documentation)).
3. Describes the presenting problem(s) and developmental history, including relevant educational and medical history.
4. Describes the comprehensive assessments (neuropsychological or psycho-educational evaluations) including evaluation dates used to arrive at the diagnosis.
5. Describes functional limitations resulting from the disability, as supported by the test results.
6. Describes specific recommended accommodations and provides a rationale explaining how these specific accommodations address functional limitations.
7. Establishes the professional credentials of the evaluator, including information about licensure or certification, education or specialization.

Note: Specific guidelines may vary depending upon an individual's disability status and/or extenuating circumstances.

Grievance Procedure

The School of Law has adopted a grievance procedure providing for prompt resolution of complaints by persons who believe they have been subjected to discrimination based upon their disability. The procedure set out is the exclusive method of appeal within the School of Law. Appeals as permitted herein will be considered only if they are filed in a timely manner.

1. A person who requests an accommodation and who believes that the accommodation has been impermissibly denied or that the granted accommodation is not sufficient shall first bring the matter to the attention of the Associate Dean of Academic Affairs.

The Associate Dean for Academic Affairs, after consideration of the student's concerns and review of the documentation provided, shall present the student in writing, with this decision

2. If unsatisfied with the decision of the Associate Dean, the student may file an appeal with the Chair of the Academic Standards Committee. The appeal must be filed within ten (10) working days of receipt of the decision and it must state in writing the grounds for appeal. All complaints must be in writing. The Academic Standards Committee shall prepare in writing a decision on the appeal as expeditiously as is feasible. Absent extraordinary circumstances, the decision will be issued no later than thirty (30) working days of the receipt of the grievance. The decision of the Committee is final.
3. The School of Law reserves the right to amend or modify this grievance procedure at any time.

IV. CONFIDENTIALITY OF REGISTRAR'S

The Family Educational Rights and Privacy Act of 1974 assures each student the right to inspect and review all law school records, files, and data directly related to the student with the exception of medical and psychiatric records, confidential recommendations submitted before January 1, 1975, records to which the student has waived the right of access, and financial records of the student's parents or guardians.

The Privacy Act also prohibits the distribution of grades to parents or guardians without the student's prior written consent or a statement of dependency from the student's parent or guardian when the student is a dependent as defined under the Internal Revenue Code.

The Family Education Rights and Privacy Act of 1974 provides the University with the right to make public at the University's discretion, without prior

authorization from the individual student, the following personally identifiable information, known as “Directory Information”:

- **Name of student;**
- **Class year;**
- **Local and permanent addresses and telephone numbers; (including cellular telephone numbers);**
- **Email addresses;**
- **Enrollment status (i.e. full-time or part-time);**
- **Date and place of birth;**
- **Dates of attendance at Western New England University;**
- **Dates of degree, honors, and awards received;**

A student may prevent the release of the above information by filing a Directory Information Waiver Form with Student Records Office. ***Students should be aware that completing this Directory Information Waiver Form may result in the following consequences (this list is NOT exhaustive): missed mailings, messages and announcements, non-verification of enrollment or degree status, and non-inclusion in the campus directory, Commencement program, and other University publications.***

V. CONTROLLED SUBSTANCES ACT

Part of the federal omnibus drug legislation enacted November 18, 1988, is the Drug-Free Work Place Act of 1988. Under the provisions of this legislation, direct recipients of federal grants or contracts must certify that they will provide drug-free workplaces. Individuals receiving funding directly from the federal government will also have to certify that their conduct will be drug-free. In the case of University’s and universities, the Department of Education has said that individual Pell Grant recipients will have to certify that they are drug-free to receive their student aid awards.

If universities do not promote drug-free workplaces, drug-free awareness programs, or establish procedures for reporting violations, they are subject to sanctions, including suspension of payments, suspension or termination of grants, or debarment, thus becoming ineligible to receive grants or awards from any federal agency during the term of debarment.

Students applying for financial aid involving federal funding must certify that they are drug-free and that they will remain drug-free in order to receive such federally funded student aid awards. Appropriate forms for such certification are available in the Financial Aid Office of the University.

VI. FIREARMS POSSESSION

The General Laws of the Commonwealth of Massachusetts prohibit the unauthorized possession of any firearm on the campus of any University or university within the Commonwealth. Students should be aware that the Commonwealth of Massachusetts strictly enforces its firearm law. In Massachusetts, conviction for the illegal possession of a firearm carries a mandatory one-year jail sentence.

VII. IMMUNIZATION REQUIREMENTS

The laws of the Commonwealth of Massachusetts require full-time students born on or after January 1, 1957, to present evidence of immunization against measles, mumps, rubella, diphtheria, and tetanus as a condition of registration for classes. Such immunization may be evidenced: (1) through an appropriate letter of verification from a licensed physician; or (2) by completion of the Immunization History section of the *Report of Medical History* form, required of all new students entering the University; or (3) in the case of students who graduate from high school in Massachusetts, by forwarding a copy of the immunization transcript provided by Massachusetts high schools to students at the time of their graduation.

While in some cases lack of immunization may be temporarily accepted, subsequent registration requires that immunization be obtained within ten days of the first day of classes. All students are urged, therefore, to satisfy the immunization requirements as soon as possible, preferably prior to registration.

In any circumstance, no full-time student born in 1957 or after may continue beyond ten days after the first day of classes without the required verification.

VIII. NON-DISCRIMINATION POLICY

Western New England University does not discriminate on the basis of race, religion, color, creed, national origin, age, sex, sexual orientation, gender identity, gender expression, veteran status, or disability in admission to, access to, treatment in, or employment in its programs and activities. The following person has been designated to handle inquiries regarding the non-discrimination policies:

Assistant Vice President and Director of Human Resources
Western New England University
1215 Wilbraham Road
Springfield, MA 01119
(413) 782-3111

Inquiries concerning the application of non-discrimination policies may also be referred to the Regional Director, Office for Civil Rights, U.S. Department of Education, J. W. McCormack P.O.C.H., Room 222, Boston, MA 02109-4557.

IX. DISCRIMINATION AND HARASSMENT POLICY AND PROCEDURES

The University's Discrimination and Harassment Policy can be found later (Page 71) in this Student Handbook. It is the policy of the University to maintain a working and educational environment free from all forms of discrimination, harassment or intimidation. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are serious violations of University policy and will not be condoned or tolerated. Not only is sexual harassment a violation of University policy, but it may also violate Title VII of the Civil Rights Act.

Any employee or student who is subjected to sexual harassment or intimidation should immediately contact the Executive Director of Human Resources in the case of an employee, or the Assistant Dean of Law Student Affairs in the case of a student. All complaints of sexual harassment will be investigated promptly and confidentially.

Any employee or student who violates this policy will be subject to appropriate disciplinary action up to and including dismissal from the University.

X. Procedure for Student Complaints Concerning the Program of Legal Education:

As an American Bar Association accredited law school, Western New England University School of Law is subject to the ABA Standards for Approval of Law Schools. The ABA Standards may be found at http://www.americanbar.org/groups/legal_education/resources/standards.html.

Any student at the law school who wishes to bring a formal complaint to the administration of the law school alleging a significant problem that directly implicates the law school's program of legal education and its compliance with the ABA Standards should do the following:

1. Submit the complaint in writing to the Associate Dean for Academic Affairs or the Associate Dean of Student Affairs. The writing may consist of an e-mail, U.S. mail, or fax.
2. The writing should describe in detail the behavior, program, process, or other matter that is the subject of the complaint, and should explain how the matter implicates the law school's program of legal education and its compliance with a specific, identified ABA Standard(s).

3. The writing must provide the name, e-mail address, phone number, and a street address of the complaining student, for further communication about the complaint.

Within three weeks after the receipt of the complaint, or if the complaint is received within three weeks before the last day of classes in a semester, within three weeks of the beginning of the next semester, the administrator, or the administrator's designee, will either meet with the complaining student or respond to the substance of the complaint in writing. In this meeting, or in this writing, the student will either receive a substantive response to the complaint or information about what steps are being taken by the law school to address the complaint or to further investigate the complaint. If further investigation is needed, after the completion of the investigation, the student will be provided with either a substantive response to the complaint or information about what steps are being taken by the law school to address the complaint.

Within two weeks after being advised of any action the law school is taking to address the matter, the student who filed the initial complaint, may appeal the decision regarding the complaint, to the Dean of the law school, or if the Dean decided the merits of the complaint, to the Provost Vice President of Academic Affairs of the University. Any decision made on appeal by the Dean, or by the Provost shall be final.

A copy of the complaint and a summary of the resolution of the complaint will be kept in the office of the Dean for a period of seven years from the date of final resolution of the complaint.

ACADEMIC STANDARDS

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ACADEMIC STANDARDS

PART A. FULL AND PART-TIME STUDENTS: COURSE LOAD; OUTSIDE EMPLOYMENT; DROPPING A COURSE; AND LAST DAY OF ENROLLMENT

I. FULL-TIME STUDENTS

A. *Definition.* A full-time student is one who devotes substantially all of the student's working hours to the study of law and who is enrolled in 12 or more academic credit hours of course work.

1. *Normal Full-Time Program.* The normal academic course load for a full-time program is 16 academic credit hours per semester (or 32 academic credit hours per year) in the first year, and 14 academic credit hours per semester (or 28 semester hours per year) in the years other than the first year.

2. *Variation From Normal Course Load.* A full-time student is not permitted to enroll in fewer than 12 or more than 16 academic credit hours without special permission from the Dean or the Dean's delegate. Normally a request for this permission shall not be considered unless the reasons for the request are stated in writing so that, if the request is granted, the reasons for that action can be included in the student's personal file.

II. PART-TIME STUDENTS

A. *Definition.* A part-time student is one who, as a general matter, is enrolled in fewer than 12 academic credit hours of course work.

1. *Normal Part-Time Evening Program:* The normal first year academic load is a total of 20 credits and 9 or 10 credits in the semesters that follow.

2. *Variations From Normal Course Load For Part-Time Evening Students:* A part-time evening student is not permitted to enroll in fewer than 9 or more than 10 academic credit hours without special permission from the Dean or the Dean's delegate. Normally, a request for this permission shall not be considered unless the reasons for the request are stated in writing so that, if the request is granted, the reasons for that action can be included in the student's personal file.

3. *Normal Part-Time Day Program:* The normal first year academic load is 10.8 credits in the fall semester and 9.2 credits in the spring semester for a total of 20 credits for the year. However, with the permission of the Dean or the Dean's delegate, part-time day students may request in writing permission to add Constitutional Law to their spring semester course load for a total of 13.2 credits. This request must be made between October 1 and December 15. Students who make such a request and have the request granted are permitted to withdraw from Constitutional Law at any time up until the tenth day or classes of the spring semester without consequence. In subsequent years, part-time day students will take 9 or 10 credits per semester.
4. *Variations from Normal Course Load for Part-Time Day Students:* Except as described in II.3., a part-time day student is not permitted to enroll in fewer than 9 or more than 10 academic credit hours without special permission from the Dean or the Dean's delegate. Normally, a request for this permission shall not be considered unless the reasons for the request are stated in writing so that, if the request is granted, the reasons for that action can be included in the student's personal file.

III. CHANGE OF STATUS

Under the academic rules, students are permitted, with permission from the Associate Dean for Academic Affairs, to change from part-time status to full-time status, or vice versa. The minimum number of years in which a student who has changed status can graduate will depend upon how quickly the student can earn the required academic credits and residence credits. Since the possible combinations of full-time, part-time, and summer sessions are numerous, any student who is contemplating a change of status should discuss such a change with the Associate Dean for Academic Affairs.

IV. OTHER ACADEMIC PROGRAMS

No student may earn academic credit in a program outside the Law School, except for combined degree programs or articulation agreements established between the School of Law and other institutions.

V. LAST DAY OF ENROLLMENT

No student may enroll for a course after the close of business on the tenth day of classes of a regular semester or, in the case of summer school, the close of business on the third day of classes for the summer school session.

VI. DROPPING A COURSE

- A. *Required Courses.* All students are expected to take all required courses in the years and semester to which these courses have been assigned. Students are not permitted to drop required courses.
- B. *Restricted Withdrawal Courses.* No student is permitted to drop restricted withdrawal courses subsequent to the second class of the semester. A course is a restricted withdrawal course if the course instructor (with the approval of the Dean or the Dean's delegate) either designates the course as restricted withdrawal in the registration material or gives notice at least one week prior to the start of the course.
- C. *Elective Courses, Fall and Spring Semesters, Full-Time Program.* A student in the full-time program may withdraw from an elective course, other than a restricted withdrawal course, prior to the close of business on the last day of regularly scheduled classes for the semester, provided that the withdrawal does not reduce the student's academic load to less than 12 academic credit hours that semester.
- D. *Elective Courses, Fall and Spring Semesters, Part-Time Program.* A student in the part-time program may withdraw from an elective course, other than a restricted withdrawal course, prior to the close of business on the last day of regularly scheduled classes for the semester, provided that the withdrawal does not reduce the student's academic load to less than 9 academic credit hours for that semester.
- E. *Elective Courses, Summer School.* A student in the summer program may withdraw from an elective course, other than a restricted withdrawal course prior to the close of business on the day of regularly scheduled classes for summer school.
- F. *Procedure.* A form to withdraw from a course is available from the Registrar's Office. A student who wishes to drop a course, other than a restricted withdrawal course, must complete and submit this form to the Registrar's Office prior to the close of business on the last day of regularly scheduled classes for the semester. A student who wishes to drop a restricted withdrawal course must complete and submit this form to the Registrar's Office prior to the second class of the semester.

VII. OUTSIDE EMPLOYMENT

- A. *Statement of Policy.* The Law School has the responsibility to monitor the amount of a student's outside employment to assure itself that a

proper balance exists between the amount of outside employment and the amount of academic obligation that a student has undertaken.

1. *Full-Time Students.* A full-time student cannot exceed 20 hours of outside employment a week and is advised not to exceed 10 hours of outside employment a week.
2. *Part-Time Students.* The Law School considers that a minimum of 3 hours of preparation time is necessary for each class hour taken (the number of class hours in a week being the same as the number of academic credit hours taken). Part-time students should adjust their outside employment and course loads accordingly.

VIII. AUTHORIZED VARIATIONS

Except for Section VII, *Outside Employment*, the Dean or the Dean's delegate is authorized to grant variances from the Rules of this Part in cases of substantial hardship or exceptional merit. All variances shall be within American Bar Association Standard 305. An informational report of variances granted shall be made periodically by the Dean or the Dean's delegate to the Academic Standards and Student Petitions Committee.

Requests for variances from Section VII shall initially be addressed to the Academic Standards and Student Petitions Committee for a recommendation which shall be forwarded to the faculty for a final determination. The faculty is authorized to grant variances from Section VII in cases of substantial hardship which is not foreseeable at the time of enrollment or in cases of exceptional merit. All variances shall be within American Bar Association Standard 305.

PART B. ACADEMIC AND RESIDENCE CREDIT; LENGTH OF STAY LIMITATIONS; HONORS

I. DEFINITIONS

- A. An academic year consists of two consecutive semesters beginning with the fall semester. A "semester" is the fall semester or the spring semester. The summer session is not a semester.
- B. A "completed credit hour" is one which is passed with the grade of 60 or higher.

II. RESIDENCE CREDITS REQUIRED FOR GRADUATION

A student must earn at least six residence credits over the course of at least six semesters in order to graduate. However, a student who has earned

residence credits solely as a part-time student must earn residence credits in at least eight semesters in order to graduate. Most part-time students wishing to complete the program in 4 years must also attend summer school twice.

- A. *Full-Time Students.* To be considered a full-time student for the purpose of residence credit, a student must receive a passing grade in at least 12 academic credit hours during a semester. One residence credit is given for such a semester.
- B. *Part-Time Students.* Students who receive a passing grade in fewer than 12 academic credit hours in a semester are considered part-time students during that semester for the purpose of residence credit. If a student completes 9 to 11 academic credit hours, $\frac{3}{4}$ of a residence credit is given for the semester. Upon completion of 8 academic credit hours, $\frac{2}{3}$ of a residence credit is given for the semester. Should a student fail to complete 8 semester hours, fractional residence credit shall be given in the ratio that the number of completed hours bears to 12 hours.
- C. *Summer School.* The maximum residence credit which can be earned in one summer session is $\frac{5}{12}$ of one credit which will be granted upon completion of 5 or more academic credit hours. Lesser course loads will receive proportional credit upon completion.

III. FIRST YEAR STUDENTS

Because the first-year curriculum is prescribed, it is necessary for an entering student to select either part-time or full-time status for the entire academic year. If entering in a full-time status, the student shall be enrolled for the whole first year in a section pursuing the full-time first-year curriculum. A student entering in a part-time status will be enrolled for the whole first academic year in a section pursuing the part-time first-year curriculum.

IV. YEARS ALLOWED FOR COMPLETION OF DEGREE REQUIREMENTS

A student who has taken at least 12 academic credit hours for 2 or more of the semesters in which the student is enrolled in the Law School must complete the degree requirements within 4 years after matriculation. A student who has taken less than 12 academic credit hours for each semester in which the student is enrolled in the Law School must complete the degree requirements within 5 years after matriculation. All other students must complete the degree requirements within 4 $\frac{1}{2}$ years after matriculation.

V. ACADEMIC AND WRITING CREDITS REQUIRED FOR GRADUATION

A. A student must earn 88 academic credits, no fewer than 65 of which must be earned in courses that meet in regularly scheduled class sessions at the Law School, and also satisfactorily complete all required courses and all other requirements, including upper level writing, pro bono, and professional skills requirements, in order to graduate. In addition, a student must abide by all restrictions on enrollment as described in Subsection B unless waived as described in Subsection D.

B. The law school imposes a variety of limitations on enrollment in specific courses or combinations of courses. These are described below:

1. A student must successfully complete 32 hours of law studies before enrollment in a clinic or externship.
2. A student may not simultaneously enroll in more than one clinic, more than one externship, or a clinic and an externship.
3. A student may not take more than two externships for a maximum of six academic credits. If a student takes two externships, the two externships must be substantially different from each other.
4. A student who has successfully completed 43 credit hours of law studies may take an independent study course with the approval of the Associate Dean for Academic Affairs. Independent study courses include LAW 951: Tutorial Study, LAW 952: Advanced Research, and any other course listed as an independent study course.
5. A student may not take more than a total of three independent study courses. A student may not simultaneously enroll in more than two independent study courses. A student may not take more than one independent study course under the sole guidance of any one faculty member.

C. In addition to the limitations described in the prior section, individual instructors, in consultation with the Associate Dean for Academic Affairs, can impose additional restrictions as a condition for enrollment.

D. The requirements in Subsection A may not be waived by the Dean or the Dean's delegate. However, the Dean or the Dean's delegate is authorized to grant variances from the limitations described in Subsection B as provided in Part B, Section VII.

VI. HONORS

Degrees with honors are awarded at graduation for superior scholastic attainment. Students will be recommended for honors if they have completed a minimum of 58 credit hours at Western New England University School of Law. Academic honors will be granted upon graduation to those students whose cumulative grade point average is within the highest 15% of the graduating class, provided that no honors will be granted to any student whose cumulative grade point average is below 80.

- A. *Summa Cum Laude*. Any student who would otherwise receive magna cum laude honors upon graduation may be graduated summa cum laude, if, in the opinion of the Academic Standards and Student Petitions Committee, the student has achieved unusually outstanding academic excellence as indicated by the student's cumulative grade point average.
- B. *Magna Cum Laude*. Any student, other than a summa cum laude graduate, whose cumulative grade point average is included within the highest 3% of the cumulative grade point averages in any graduating class will receive magna cum laude honors upon graduation.
- C. *Cum Laude*. Any student, other than summa cum laude and magna cum laude graduates, who is entitled to graduate with honors, will receive cum laude honors upon graduation.
- D. *Dean's List*. *The Dean's List consists of the top 15% of each class grouped by expected graduation date based on the semester average. First-year students and part-time second-year students are not eligible for the Dean's List until the end of the academic year because of year-long classes. Non-degree students are not eligible for Dean's List. The Dean's List was implemented in the Fall 1999 semester and is not retroactive.*

VII. AUTHORIZED VARIATIONS

Except for Part B, Sections IV, V and VI, the Dean or the Dean's delegate is authorized to grant variances from the Rule of this Part in cases of substantial hardship or exceptional merit. Request for variances from Part B, Section IV shall be reviewed and acted upon by the Academic Standards and Student Petitions Committee, which is authorized to grant variances from Section IV for good cause. The Committee is not authorized to grant variances from Section V and VI. All variances shall be within American Bar Association Standard 304. An information report of variances granted by the Dean or the Dean's delegate is to be made periodically by them to the Academic Standards and Student Petitions Committee.

PART C. ACADEMIC WARNING AND DISMISSAL; REINSTATEMENT

I. ACADEMIC WARNING AND DISMISSAL OF STUDENTS

A. *Reporting of Grades.* Grades are reported by number and averages are calculated by number. A cumulative average is calculated for a student at the end of the second semester in the Law School, and at the end of each successive semester.

B. *Academic Warning.*

1. *Imposition.* Starting in the 2011-12 academic year, at the end of every spring semester, the Registrar will review the transcripts of all first-year full-time students and first- and second-year part-time students. A student will be placed on academic warning if either of the following conditions exist: (a) the student's cumulative final grade point average for all of the following courses taken as of that date is below 76: Constitutional Law, Contracts, Criminal Law, Civil Procedure, Property, and Torts, or (b) the student has one or more final grades below 70 in Constitutional Law, Contracts, Criminal Law, Civil Procedure, Property, or Torts. The "academic warning" status is internal only and is not noted on students' transcripts. Also, at the end of every fall semester, the Assistant Dean for Academic Success or her or his delegate may notify all students who have received a final grade below 70 in Constitutional Law, Criminal Law, or Torts, that they will be put on academic warning at the end of the academic year and require those students to meet with the Assistant Dean for Academic Success or her or his delegate, and to participate in academic success programs as determined.

2. *Requirements of Students on Academic Warning.* Each student on academic warning is required to (a) enroll in and complete the academic success program, (b) take a school-provided bar preparation course during the final year of her or his law studies, (c) have her or his course selections for all subsequent semesters approved by the Associate Dean for Academic Affairs or her or his delegate to ensure that the chosen curriculum provides an academically rigorous education and improves the likelihood of academic and bar success, (d) meet regularly with the Academic Success Dean or her or her delegate to strategize for success and (e) not serve as an officer in any student organization without prior approval of the Associate Dean for Academic Affairs or her delegate.

Comment [bdc3]: Omit footnote??

3. *Penalty for noncompliance.* Failure to comply with the conditions identified in Part C. I (B)(2), above, as determined by the Assistant Dean for Academic Success at any time, will lead to academic dismissal for poor scholarship: the Assistant Dean for Academic Success will report non-compliance to the Associate Dean for Academic Affairs, who, in consultation with the Dean and the Dean of Students, will determine whether dismissal is appropriate; upon such determination, the Associate Dean for Academic Affairs will direct the Registrar to academically withdraw the student from the School of Law. The student may petition the ASSP Committee for Reinstatement as noted in Part C. II below.
4. *Petitioning for the Removal of Academic Warning Status.* Academic warning status will remain in effect throughout a student's enrollment at the School of Law. A student on academic warning can petition the Assistant Dean for Academic Success for the removal of that status no earlier than one semester after the status has been imposed. The Assistant Dean may consider any relevant information in evaluating the petition. If the Assistant Dean concludes that, in an exceptional circumstance, the academic warning status is no longer necessary for the student, the Assistant Dean shall make that recommendation to the Associate Dean for Academic Affairs, who, in consultation with the Dean and the Dean of Students, may decide to remove the student from academic warning. This decision is non-reviewable.

C. *Dismissal for Poor Scholarship.* A student will be dismissed for poor scholarship if the student's cumulative grade point average at the end of the spring semester of the first-year, exclusive of the Legal Research and Writing grade, is less than 70.0. After the completion of the first-year, a student will be dismissed for poor scholarship if the student's cumulative grade point average at the end of the spring semester of any academic year is less than 70.0. A student is not eligible to graduate if the student's cumulative average on all work completed is less than 70.0.

II. **PROCEDURE RELATING TO PETITION FOR REINSTATEMENT AFTER ACADEMIC FAILURE**

A. *Notice of Failure.* At the close of each spring semester, the Law School Registrar shall be notified of those students whose grade point averages are below the standards set forth in Part C, Section I. The Law School Registrar shall also be notified of those students who have not complied with the requirements for students on academic warning

as set forth in Part C, Section I. The Law School Registrar shall send the list of students to be dismissed to the Associate Dean for Academic Affairs, who shall then send a written notice of dismissal to each such student. The notice shall be accompanied by a statement of the Academic Standards relating to dismissal and reinstatement, and an outline of the procedure for filing a petition for reinstatement.

B. *Petition Procedure.* The procedure for filing a petition for reinstatement is as follows:

1. *Time for Petition.* A petitioning student must file a petition for reinstatement within 15 days after the date of mailing of the notice of dismissal. The petition shall be filed with the Associate Dean for Academic Affairs.

2. *Form and Style of Petition.* A petition for reinstatement shall be typewritten and submitted in quadruplicate. It shall be headed "Petition for an Exception to the Rules for Academic Dismissal."

3. *Filing Fee.* A petitioning student shall submit to the Law School with the petition a \$25.00 filing fee.

C. *Reference to Academic Standards and Student Petitions Committee.* The Associate Dean for Academic Affairs shall refer any petition filed under Part C, Section II.B to the Academic Standards and Student Petitions Committee for review.

III. GUIDELINES FOR REVIEW BY ACADEMIC STANDARDS AND STUDENT PETITIONS COMMITTEE

A. *General.* The Academic Standards and Student Petitions Committee sitting without student members, unless the petitioning student elects otherwise, shall review any petition for reinstatement filed under Part C, Section II.B. In reaching its determination, it shall be guided by the considerations stated in subsections (B) and (C) below.

B. *Specifications of Reason for Academic Failure.* The petitioning student must allege and prove that student possesses the requisite ability and that the prior disqualification does not indicate a lack of capacity to complete studies at the Law School. The petitioning student must also state any extraordinary circumstances beyond the student's control, which rebut the presumption raised by the student's record, and which establish that the deficiency was not due to lack of ability or failure to apply himself or herself diligently to the study of law. If the circumstances are related to physical or psychological incapacity in the

course of a semester or before or during an examination, convincing medical proof must accompany the petition.

C. *Scope of Relief.* The Academic Standards and Student Petitions Committee is authorized to:

1. deny the petition; or
2. grant the petition, upon terms and conditions stated by the Committee.

D. *Guidelines for Readmitted Student.*

1. In the case of students who are dismissed for academic insufficiency and are then reinstated to retake the entire first year by the Academic Standards and Student Petitions Committee, the grades received by the student in the year(s) prior to readmission being repeated shall not be computed in determining class rank or grade point average, but such grades shall be retained upon the student's transcript. However, for purposes of advancement from year to year and graduation, the Law School shall, for internal use, average together all grades in order to establish a combined average which shall then be used in each subsequent averaging. In the case of such student, the following notation shall appear on the transcript: "By faculty action this student was readmitted to the first year for good cause after being dismissed for academic deficiencies. For purposes of computing the student's academic average and class rank on this transcript, only the grades received after readmission are included."
2. In all other cases of readmission the Academic Standards and Student Petitions Committee shall determine on an individual basis the terms and conditions for readmission including, but not limited to, the disposition of grades earned prior to readmission. Such students shall have the option of accepting readmission as granted or of being readmitted to the first year in accordance with subsection (D)(l).

E. *Faculty Review of Decisions by Academic Standards and Student Petitions Committee.* The Academic Standards and Student Petitions Committee shall notify the petitioning student in writing of its decision and of the availability of full faculty review of an adverse decision. The faculty, sitting without student members, unless the petitioning student elects otherwise, shall review the Committee's decision at the request of (1) any full-time faculty member in the case of petitions for reinstatement under Part C, sections II or IV, and (2) three full-time faculty members in the case of all other student petitions. The

petitioning student may appear before the faculty meeting only if the faculty so requests. The faculty shall affirm the decision of the Academic Standards and Student Petitions Committee unless, upon review of the available information, the faculty is convinced that the decision is clearly erroneous.

IV. EFFECT OF ACADEMIC DISMISSAL

- A. *Attendance and Refund.* If a student receives notice of dismissal for poor scholarship while the student is in attendance at the Law School during the next succeeding academic session, the student is eligible to take any final examination or submit any papers or projects for grades for that academic session. However, the student may instead elect to withdraw, in which event the Law School will recommend to the Vice President for Finance of Western New England University that an appropriate refund of tuition be made to any student who is dismissed for poor scholarship during the next succeeding academic session.
- B. *Eligibility to Petition for Reconsideration.* Any former student dismissed for poor scholarship who is not reinstated immediately following dismissal may petition the Associate Dean for Academic Affairs according to the rules outlined in Part C, Sections II and III subject to the following limitations:
1. the petition must be filed not later than 90 days prior to the date upon which the former student wishes to return as a student;
 2. the petition must request reentry at a date when at least two years have elapsed after dismissal;
 3. the petition must allege and substantiate that the nature of the former student's work, activity, or studies during the interim indicate a stronger potential for law study than that which existed upon dismissal;
 4. this provision applies both to students who filed a petition for reinstatement at the time of dismissal, and also to those students dismissed for poor scholarship who did not file such petition immediately after dismissal; and
 5. the petition shall be reviewed and acted upon by the Academic Standards and Student Petitions Committee.

PART D. VISITING STATUS

- A. *Permission to Visit.* A law student may attend another law school approved by the American Bar Association and the American Association of Law Schools while remaining a candidate for a degree at the Law School, subject to the prior approval of the Associate Dean for Academic Affairs.
- B. *Grounds for Approval of Request to Visit During Summer School.* The Associate Dean for Academic Affairs may approve the petition of a student requesting visiting student privileges if the student's requested course load is no heavier than that offered by the Law School in its summer session and the courses offered by the law school to be visited are similar to those offered by the Law School.
- C. *Grounds for Approval of Request to Visit During Academic Year.* The Associate Dean for Academic Affairs may approve the petition of a student requesting visiting student privileges if the visit would serve the best interests of both the student and the school and if either:
1. the petitioner has a special interest in taking a concentration of courses in a defined subject matter, and the Law School will not be able to offer that concentration of courses during the petitioner's period of attendance at the Law School, and the petitioner's cumulative grade point average in the Law School is 73.0 or higher; or
 2. the petitioner shows that hardship will result if visiting status is not granted.
- D. *Transfer of Credits.* The Law School will accept the transfer of credit received from another law school during an approved visitation as follows:
1. The Law School will transfer credit only for courses in which the grade received is equal to or higher than the grade point average required for graduation at the law school visited.
 2. All grades for which credit is transferred will be reported as "Pass" for purposes of computing academic averages of students at the Law School. The student's transcript will also include the course name and grade for all courses taken during the visit, including any reported course for which transfer credit is not received. Courses for which transfer credit is not received will be accompanied by the notation "No Credit."

3. No more than 32 academic credits will be accepted for transfer for any student during the student's career at the Law School.
- E. *Advanced Standing.* In the case of admittance with advanced standing, the Associate Dean for Academic Affairs will determine the residence and academic credit to be awarded towards the Law School's degree.
- F. *Miscellaneous Provisions.*
1. *Course Load During Visitation.* A student may not take a course load in another law school during visitation which exceeds the maximum authorized by the Law School's Academic Standards.
 2. *Unapproved Visitation.* The Law School does not accept the transfer of credit taken as a visiting student at another law school unless the program of studies was approved in accordance with the provision of this Part D, *Visiting Status.*

PART E. EXAMINATION AND GRADING

I. THE GRADING SYSTEM

- A. *General.* The Law School records numerical grades in courses, except where the nature of the course makes a numerical grade impractical. The numerical range of grades is 55 to 99. Academic credit is granted for a final grade of 60 or higher. If a student receives a failing final grade in a course, the grade is included in the calculation of grade point average, but the failed course is not included in calculating either the total credits completed for graduation or residence credit.
- B. *Pass-Fail Courses.* In certain designated courses, a grade of *P* (Pass) is assigned if the course is satisfactorily completed. A grade of *F* (Fail) is assigned if the course is not satisfactorily completed. *P* or *F* does not have a grade point or letter grade equivalent.
- C. *Required Courses in Which a Failing Grade is Received.* Any required course in which a failing grade has been received must be repeated in the next academic period in which the course is offered unless the Associate Dean for Academic Affairs approves an alternate schedule. In the case of a failing final grade being received in a course which is a prerequisite to an advance course, the prerequisite must be satisfied before the advanced course may be taken. If a student is required to repeat a course because of a failing final grade, the original grade is included in the calculation a "completed" work for purposes of grade

average calculation, even though the failed course is not used in calculating the total credits required for graduation.

II. THE EXAMINATION PROCESS

A. *Materials Permitted at the Examination.* Each instructor shall state those materials which are to be permitted in the examination in the instructor's course. It is the policy of the Law School that an item or material is not to be authorized unless its content is necessary to a proper analysis and solution of one or more problems on the examination, such as a statute on which the problem is based.

B. *Take-Home Examination: Requirements*

1. An instructor may give a take-home examination under such conditions as he or she deems appropriate in consultation with the Associate Dean for Academic Affairs.
2. The anonymous grading system shall apply to take-home examinations.
3. If an instructor decides to use a take-home examination, notice should be given to the Associate Dean for Academic Affairs as soon as possible.

C. *Rules for Examinations.* The Dean or the Dean's delegate shall be responsible for establishing rules to govern the examination process. Those rules shall include, but not be limited to, the following:

1. Not more than one student at a time may leave the room: Students must sign out on the pad on the proctor's desk and cross off their names upon returning. Students are not allowed to take examinations from the room.
2. No conversation is allowed during the examination. If a student has a question, the student shall write the question on scrap paper and give the question to the proctor.
3. No smoking or drinking alcohol is allowed in the classroom.
4. When, at the end of the examination, the proctor announces that the time is up, all students shall stop writing immediately. It is a violation of the Honor Code to continue writing after the examination is over.

5. When finished, students shall turn in their examination questions and scrap paper together. All students must cross their names off the roster, and leave the room quietly.
6. Students who type their examinations shall return them to the proctor from whom they secured the examinations.
7. Late arrivals do not get extra time. Proctors shall ask them if they are willing to take the reduced time. If they are unwilling, these students shall report to the Registrar's Office.

D. *Submission of Papers in Lieu of Final Examinations: Restrictions and Requirements.*

1. Standard 303(b) of the American Bar Association states that scholastic achievement of students must be evaluated. Interpretation 303-2 addresses the issue of evaluation by examination:

The evaluation of scholastic achievement shall include a written examination of suitable length and complexity in every course for which credit is given, except:

(1) Clinical and simulation courses; and

(2) Courses involving extensive written work, such as moot court, legal writing and drafting, seminars, and individual research projects. (August 1996).

2. The examination specified in D.1, above, should be by either written examination or term paper. The examination should not be an oral examination, nor should it be a progress report graded by fellow students. The intent is to have a meaningful faculty assessment of the student's work product.

E. *Departure from Examination Schedules.* No instructor has the authority to grant to a student a departure from the examination schedule. Any student who desires a departure from the examination schedule shall not make such a request to the instructor but shall instead make the request to the Associate Dean for Academic Affairs at the time or times designated:

1. A student shall be granted a departure from the examination schedule for a conflict. In that event, the make up examinations must be taken in the next regularly scheduled examination period that does not constitute a conflict. Conflict forms are available in the Registrar's Office and must be submitted prior to the

examination period. A conflict in the examination schedule is defined as:

- a. two examinations simultaneously;
 - b. two examinations in successive examination periods (including night-morning but excluding Saturday-Monday);
 - c. two examinations on the same day;
 - d. three examinations on three successive evenings for part-time students employed full-time who certify that they cannot obtain time off during the examination period.
 - e. four examinations on four consecutive calendar days, unless the student has a reading period of four consecutive calendar days (or five non-consecutive calendar days) between his or her last day of classes and the first of his or her four consecutive exams;
 - f. four examinations on four consecutive calendar days in any semester in which the exam schedule was not published by the end of the fifth day of classes.
2. A student may be granted a departure from the examination schedule for an emergency at any time by the Associate Dean for Academic Affairs.
- F. *Reporting Grades.* Unless otherwise announced by the Dean, the following procedure applies:
1. Instructors shall report all course grades to the Dean after the close of the final examination period.
 2. In the case of graduating seniors, graduating seniors shall not mark "Graduating Senior" on their examination books. Such books shall be graded and reported at the time specified by the Director of Registrar's. The Director of Registrar's shall effect such procedures necessary to permit grading to be finished on time.
 3. The Dean shall review all course grades submitted. After review, course grades shall be posted by the Director of Registrar's by course and examination number.
 4. Course grades shall be recorded as part of each student's academic record by the Director of Registrar's at the same time course grades are released.

G. *Examination in First Year Courses.*

1. *First-Year Practice Examinations.* First-year practice examinations may be scheduled during the first semester in each first year course. Practice examinations should be similar in content to actual examinations. Practice examinations are preliminary introductions to the Law School examination process.
2. *First-Year Examinations.* Proctored examinations shall be given in both semesters of all year-long, first-year required courses. First semester grades on such proctored examinations shall be counted as 20% of the final grade in the course, and second semester grades on such proctored examinations shall be counted as at least 60% of the grade. This rule does not apply to year-long courses in the second year of the part-time program.

H. *Illness Before Examination.* If a student becomes ill before commencing an examination, the student must attempt to notify the Dean or the Associate Dean for Academic Affairs prior to the commencement of the examination to obtain permission to reschedule the examination. When the Dean and Associate Dean for Academic Affairs are unavailable, the ill student shall have the right to decide not to take the examination, but must notify the Dean or the Associate Dean for Academic Affairs of the illness as soon as possible following the examination. If a student leaves an examination for illness or for any other reason, the examination will be graded.

III. INTEGRATION OF NON-ANONYMOUS GRADES WITH ANONYMOUS GRADES

- A. *Integration of Projects with Anonymous Examination Grades.* If an instructor uses projects or other like programs as part of the course grade, the instructor shall submit a list of students by name, showing their project or program grades at the same time as submission of anonymous examination grades by examination number. The instructor shall also state the percent of course grade attributable to the project or program. The Director of Registrar's shall integrate the grades according to the instructor's formula.
- B. *Integration of Points for Classroom Participation with Anonymous Examination Grades.* An instructor may choose to recognize superior classroom performance by individual students by adding from one to three points to the student's course grade. The following procedures apply to granting points for classroom participation:
 1. No instructor may award points for classroom participation unless the instructor has announced the intention to do so in a regular

meeting of the class within the first three weeks that the class meets.

2. To make an addition to the grades of individual students, the instructor shall submit a list of the names of those students whose course grades are to be benefited by the practice at the same time that the instructor submits the list of final examination grades by student examination number.
3. The Registrar's Office shall integrate the classroom participation points with examination grades and project scores, if any.

IV. ANONYMOUS GRADING POLICY

A. *Preference for Anonymous Grading.* The Law School uses an anonymous grading system for the determination of a student's grade on the final examination and for the course with the following exceptions:

1. *Clinical Work, Moot Court, Practice Court, Legal Research and Writing, Seminars, Simulation Courses and Individual Research Projects.* Although it is impractical in these instances to employ an anonymous grading system, objective grading should be adhered to by the faculty.
2. *Individual Projects or Interim Examinations.* Individual projects or interim examinations may be used by instructors to be evaluated toward the course grade.

An individual project should not constitute more than one-third of the course grade in those courses in which American Bar Association Standard 304(b) requires a final examination. If interim examinations will constitute more than one-third of the course grade (in a one semester course) or more than one-fourth of the course grade (in a two semester course), the instructor should make arrangements with the Registrar's Office to guarantee that students' examinations will be graded anonymously.

B. *File of Examinations.* The Law School shall keep an official file of all examinations administered to students. At least two copies of each examination that counts toward the final grade shall be given to the Registrar's Office by each instructor.

C. *Preservation of Blue Books.* Each instructor shall deliver to the Registrar's Office all examination books to be kept on file for one year after the examination has been graded.

V. FACULTY REQUESTS FOR CHANGE OF COURSE GRADE

The Dean must receive all requests by faculty for grade changes. The Dean may approve all such changes which are required solely to correct arithmetic error. The Dean shall submit all other requests by the faculty to the Academic Standards and Student Petitions Committee where there shall be a presumption against approving that recommendation. The faculty member shall bear the burden of overcoming that presumption.

PART F. ATTENDANCE

I. General

- a. **Standard.** It is the policy of the Law School that regular and punctual class attendance is mandatory, as required by the American Bar Association. This policy reflects the belief that dependability is an essential characteristic of a good lawyer. The objectives of the policy are to ensure academic success, of which attendance is a major component, and to develop good professional standards.
- b. **Implementation.**
 - i. Faculty members will monitor attendance in their classes, choosing an adequate methodology. Any student who is tardy, or who leaves class early, may, in the discretion of the faculty member, be marked absent.
 - ii. Any student who fails to attend at least 80% of the regularly scheduled class meetings, without excuse acceptable to the faculty member, has not met this Standard. All students are responsible for knowing and complying with this Standard and its implementation.
 - iii. Any faculty member may adopt a more stringent attendance standard than that in subsection ii above by communicating it to the class in writing before the end of the first class meeting. A student who fails to comply with such policy has not met this Standard.
 - iv. A faculty member must send a student a written warning when the student is at least one absence away from triggering the faculty member's request for administrative withdrawal.
 - v. Whenever a student fails to meet this Standard, a faculty

member shall notify the Associate Dean and may request that the student be administratively withdrawn from the course.

- vi. Upon receiving a request from a faculty member that a student be administratively withdrawn from a course, the Associate Dean shall do so unless the Associate Dean determines, after consultation with the faculty member, there is good cause not to withdraw the student.

II. AUDITING OF COURSES

- A. *Statement of Policy.* An auditing student is not obligated to prepare for class on a day-to-day basis, but in turn is not authorized to take up classroom time. The student is expected to acquire the materials for the course, and shall be held to the same attendance regulations as all other students.

If the conditions of permission to audit, including regular attendance, are satisfied, the course is entered on the student's academic record and the word Audit is entered where academic credit and grade would normally be entered.

- B. *Auditing Fees.* Students granted permission to audit a course must pay the regular tuition and fees which apply to the course if such students are not candidates for a Law School degree. Degree candidates may audit a course, and the credits will not be counted in the normal full-time academic course load.

PART G. ASSOCIATE DEAN FOR ACADEMIC AFFAIRS

I. GENERAL

The Associate Dean for Academic Affairs is appointed by the Dean for an indefinite term. The Associate Dean for Academic Affairs responsibilities include, without limitation, the following duties:

- A. to develop and manage the curriculum;
- B. to administer academic standards as applied to individual students, including requests for exception to the Academic Standards; and
- C. to develop and manage an effective system of academic and career counseling.

II. RELATIONSHIP BETWEEN ASSOCIATE DEAN FOR ACADEMIC AFFAIRS AND ACADEMIC STANDARDS AND STUDENT PETITIONS COMMITTEE

- A. *Petitions for Exceptions to Rules.* All petitions filed for exceptions to the Academic Standards must be filed with the Associate Dean for Academic Affairs.
- B. *Reference to Academic Standards and Student Petitions Committee.*
1. The Associate Dean for Academic Affairs shall refer to the Academic Standards and Student Petitions Committee any petition for:
 - a. readmission; or
 - b. reinstatement after suspension or dismissal from class for poor attendance.
 2. The Associate Dean for Academic Affairs shall refer any other petition for exception to the Academic Standards to the Academic Standards and Student Petitions Committee.
- C. Any student who is dissatisfied with the application of these Academic Standards may pursue the matter with the Associate Dean for Academic Affairs. Thereafter, if the student is still dissatisfied, the student may pursue the matter further by petition to the Academic Standards and Student Petitions Committee.

PART H. MISCELLANEOUS

I. UNIVERSITY REGULATIONS AND PROCEDURES

The following regulations apply to all physical facilities at Western New England University, including the Law School:

- a. Unless otherwise clearly marked, smoking is prohibited;
- b. Beverages and food in the classroom are prohibited;
- c. All persons shall avoid creating noise in hallways and areas designated for study;
- d. No one may enter buildings without footwear;

- e. All persons must maintain a standard of cleanliness on the premises. This includes proper disposal of food and beverage containers inside and outside buildings;
- f. No animals are permitted in buildings, except as necessary to aid disabled persons;
- g. The use of all facilities and appropriate services for conferences, meeting rooms, dinners, and special functions shall be scheduled through the office of the Associate Dean for Law Student Affairs;
- h. The use of audio-visual equipment shall be scheduled through the Director of Audio-Visual Services whose office is in Sleith Hall; and
- i. *Withdrawals and Refunds.* The University operates on an academic term basis by which commitments are made in advance to teaching staff and to others whose services are essential to the operation of the University.

Refunds are made to students based on the following schedule:

100 percent refund of the tuition charge, less the tuition deposit, when notice of withdrawal is received prior to the first day of classes;

75 percent will be refunded when notice of withdrawal is received during the first week of classes;

66 $\frac{2}{3}$ percent will be refunded when notice of withdrawal is received during the second week of classes;

33 $\frac{1}{3}$ percent will be refunded when notice of withdrawal is received during the third week of classes;

25 percent will be refunded when notice of withdrawal is received during the fourth week of classes;

No refund will be granted after the fourth week of classes.

Students who withdraw from a class or from the University must notify the Registrar's Office in writing at the time of withdrawal. Approved refunds will be computed on the basis of the date appearing on the official withdrawal form. Absence from class does not constitute withdrawal from a course.

No refunds will be made on fees other than tuition.

Students who use the deferred tuition payment plan are obligated to pay in accordance with the above schedule. If, at the end of a semester, a student has not paid the accrued charges for that semester, the student will be designated "not in good standing" until the charges are paid.

Students who withdraw with an unpaid balance will be financially liable for any amount remaining unpaid after a refund credit has been applied to the balance.

No student may withdraw in good standing from the University unless all financial obligations have been met.

II. LAW SCHOOL REGULATIONS AND PROCEDURES

A. *Classroom Use.* Use of Law School classrooms is subject to administrative regulations. Normally, upon completion of the night classes, the classrooms shall not be available for use.

B. *Use of Recording Devices in Class.* No person shall use a recording device in any instructional situation in the Law School without the prior consent of the instructor.

C. *Registrar's: Files and Information.*

1. *Student Information.* Each student is requested to complete a form at registration that provides the Law School with the student's local address, telephone number, emergency contact, and information concerning the student's employment while the student is enrolled. Maintenance of the accuracy of the form is the responsibility of each student.

2. *Access to File.* Under the Family Education Rights and Privacy Act of 1974 (the Act), a student may inspect and review any and all official records, files, and data directly related to the student in the student's status as a student. The student is also offered an opportunity for a hearing to challenge the content of the records to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.

a. The opportunity to inspect and review records under the Act shall be afforded only in the presence of and under the supervision of a member of the staff of the Law School.

- b. A student who desires to exercise the opportunity to inspect and review must file a written request to do so.
 - c. Subsequent to the receipt of the request, but within the 45 day period specified in the Act, the Law School will designate a time and place for the inspection and review of the records and the member of the staff who will be present.
 - d. The Law School will give notice of this information to the student on the basis of the address or telephone information provided on the request form.
 - e. If, after the inspection and review, the student desires an opportunity for a hearing to challenge the contents of the records, the student must file a request for a hearing on a form that has been created for this purpose.
3. *Confidentiality of Registrar's.* The Privacy Act assures students the right to inspect and review all Law School records, files and data directly related to them with the exception of medical and psychiatric records, confidential recommendations submitted before January 1, 1974, records to which they have waived the right to access, and financial records of their parents or guardians.

The Privacy Act also prohibits the distribution of grades to parents or guardians without a student's prior written consent, or a statement of dependency from a parent or guardian when the student is a dependent as defined under the Internal Revenue Code.

However, the Law School may make public at its discretion, without prior approval, the following information: class year, home address, telephone number, University address and telephone number, major field, date and place of birth, dates of attendance at the Law School, degree honors, awards received, and previous educational institutions most recently attended. A student may limit the release of the discretionary information by filing a special form with the Vice President for Academic Affairs of the University each year.

- D. *Faculty Evaluations.* Students shall be afforded the opportunity to evaluate each faculty member in each course in an effort to identify effective and ineffective teachers and to develop quality in the program of the Law School by providing constructive criticism.
- E. *Description of Faculty Committees.* The Dean shall provide to the Student Bar Association a description of the charge and jurisdiction of each faculty committee for which students are eligible for membership.

A student may file with the Student Bar Association a request for appointment to one or more faculty committees, stating the student's preference, but a student is not eligible to serve on more than one faculty committee. The Student Bar Association shall announce a deadline for the receipt of student requests for faculty committee appointments. The Student Bar Association shall then certify the names of students to serve on each faculty committee to the Dean. The Dean shall then announce the names of the faculty and the student members on each faculty committee.

- F. *Registration with State Bar.* Some states require that a student, shortly after beginning the study of law, register with the Board of Bar Examiners in the state in which the student plans to practice. It is the student's responsibility to ascertain the rules of the state(s) in which he or she may wish to practice.

III. INTERPRETATION

The headings used in these Academic Standards are for convenience only and are not to be considered a part of these standards. The information in this publication is not to be regarded as creating a binding contract between the student and the Law School. Western New England University reserves the right to change any of the requirements and regulations of the Law School at any time without prior notice. This includes, but is not limited to, the right to modify requirements or admission or graduation; to change the arrangement or content of the courses, the instructional materials used, and tuition and other fees; to alter any regulation affecting the student body; to refuse admission or readmission of any student at any time; or to dismiss any student at any time should it be in the interest of the Law School or the student to do so.

PROCEDURAL RULES FOR THE ACADEMIC STANDARDS AND STUDENT PETITIONS COMMITTEE

I. PETITIONS TO THE COMMITTEE

A. Meetings with the Committee.

1. *Initial Readmission Petitions.* An individual who petitions the Committee for readmission to the Law School shall have the right to a meeting with the Committee with respect to the initial petition. Only the student and the Committee may be present at such a meeting.
2. *Other Petitions.* The Committee may grant, in the Committee's discretion, personal meetings for all other petitions.

- B. *Student Members.* The petitioner may elect to include or exclude student members of the Committee from consideration and/or decision of the petition. Such an election is to be made in writing. If no election is made, student members will not participate in consideration or decision of the petition.
- C. *Record of Meetings.* All personal meetings before the Committee shall be recorded on tape and retained by the Committee.
- D. *Additional Information to the Committee.* The Committee may request such additional information it deems necessary or helpful in order to act on a petition. The petitioners shall present all relevant material and information in their written petitions.

II. PETITIONS FOR RECONSIDERATION

- A. *New or Additional Information.* The Committee shall review a petition for reconsideration of a prior petition only to determine if the reconsideration petition contains new or additional information which was not available or which could not reasonably have been available at the time of the original petition. If the Committee determines that the reconsideration petition contains such new information, then the Committee will reconsider its prior determination in light of this new or additional information. If the Committee determines that such reconsideration petition does not contain such new or additional information, the reconsideration will be denied.
- B. *Action By Committee.* The Committee may, in the Committee's discretion, meet with the petitioner during the reconsideration process; however, the petitioner shall not be entitled to such a meeting as a matter of right.

III. MISCELLANEOUS RULES

- A. *Communications with the Committee.* Students or persons acting on the behalf of any student should communicate only with the Chair of the Committee with respect to any petition.
- B. *Notice of Decision.* All notices of decision shall be issued by the Chair of the Committee. The decisions of the Committee shall be communicated in writing to the petitioner. The notice of the decision shall be sent to the mailing address of the petitioner as listed on the petition. The petitioner may request that the written notice be held for him/her in the Registrar's Office of the Law School.

APPENDIX

PETITION FORM

WESTERN NEW ENGLAND UNIVERSITY School of Law

ELECTION TO INCLUDE OR EXCLUDE THE STUDENT MEMBERS OF THE ACADEMIC STANDARDS AND STUDENT PETITIONS COMMITTEE FROM CONSIDERING AN INDIVIDUAL PETITION

CHECK ONE:

1. I request that the student members of the Academic Standards and Student Petitions Committee participate in the deliberation of my petition and vote on its merits.
2. I request that the student members of the Academic Standards and Student Petitions Committee participate in the deliberation of my petition, but not vote on its merits.
3. I request that the student members of the Academic Standards and Student Petitions Committee **NOT** participate in the deliberation of my petition.

REQUEST FOR PERSONAL APPEARANCE BEFORE THE ACADEMIC STANDARDS AND STUDENT PETITIONS COMMITTEE BY THE PETITIONER FOR AN EXCEPTION FROM THE ACADEMIC RULES

CHECK ONE:

1. I request to appear before the Academic Standards and Student Petitions Committee and present an oral statement in support of my petition.
2. I do **NOT** request to appear before the Academic Standards and Student Petitions Committee and present an oral statement in support of my petition.

PRINT NAME: _____

ADDRESS: _____

TELEPHONE: _____

SIGNATURE: _____ DATE: _____

HONOR CODE

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HONOR CODE

PART 1: GENERAL PROVISIONS

- 1.1. **Scope.** All provisions of this Code, except for Section 2.3(f), apply to the conduct of all students at Western New England University School of Law (the "Law School") during the time they are enrolled in the Law School. Section 2.3(f) applies to the conduct of all students during the time they are applicants for admission to the Law School. A student is subject to disciplinary action for violations of Section 2.3(f) only upon enrolling in the Law School. A student is subject to disciplinary action for violations of this Code, even though the offending student is no longer enrolled in the Law School, subject to the time limitation set out in Section 4.10.
- 1.2. **Purpose.** The purposes of this Code are:
 - a. to establish standards of honorable conduct expected and required of students at Western New England University School of Law;
 - b. to constitute and define the authority of the Honor Committee; and
 - c. to provide appropriate procedure by which the Honor Committee and faculty enforce the standards this Code establishes.
- 1.3. **Duties.**
 - a. All students have the duty to know the contents of this Code and to conform their conduct to it. All students are presumed to know the contents of this Code. See §2.1(b).
 - b. The Law School has the duty to make copies of this Code available to students within one week of their matriculation. In addition, copies of this Code, copies of advisory opinions issued pursuant to §3.5(b), and copies of public records created pursuant to Part 7 shall be made available in the Registrar's Office and the Law Library. All students are bound by this Code even in the event that a copy of the Code has not been provided to them by the Law School.
 - c. As members of the law school community, students should notify the Dean, the Associate Dean, or the Honor Code Committee of conduct that the student reasonably believes constitutes a violation of this Code. However, failing to give notice of such a suspected violation is not itself a violation of this Code.

- 1.4. **Definition of Faculty.** For purposes of this Code, the faculty shall consist of members of the full-time faculty and the student representatives to the faculty meeting.
- 1.5. **Construction of Code Provision.** The provisions of this Code shall be construed to further the general purpose of the Code, see §1.2(a), and the specific purposes of the particular provision involved.

PART 2: STANDARDS OF CONDUCT

- 2.1 **Culpability.** Unless a particular Standard of Conduct otherwise provides, a student violates a Standard of Conduct set forth in this Code if the student intentionally, knowingly, or recklessly engages in the prohibited conduct.
 - a. **Definitions:** As used in this Code, the following terms shall have these respective meanings:
 1. **Intentional:** A student intentionally violates a Standard of Conduct when it is the student's conscious object to engage in conduct of that nature.
 2. **Knowing:** A student knowingly violates a Standard of Conduct when the student is aware or is practically certain that the student's conduct is of that nature.
 3. **Reckless:** A student recklessly violates a Standard of Conduct when the student is aware of a substantial risk that the student's conduct is of that nature but the student nevertheless acts in conscious disregard of that risk. A risk is substantial for this purpose if it would be a substantial deviation from reasonable conduct, given the student's level of academic experience, to engage in that conduct in conscious disregard of that risk.
 4. **Negligent:** A student negligently violates a Standard of Conduct when the student reasonably should be aware of a substantial risk that the student's conduct is of that nature. A risk is substantial for this purpose if it would be a gross deviation from a reasonable standard of care for a law student at the student's level of academic experience and engaged in the student's conduct to be unaware of it.
 - b. **Knowledge of Code:** Every student is presumed to know the contents of this Code, and ignorance of its contents or ignorance of that particular conduct is prohibited under its provisions is not a defense to any violation of the Code.

- c. *Intoxication*: If a student is found to have been voluntarily intoxicated at the time the student acted in violation of a Standard of Conduct, that student shall be deemed by virtue of that intoxication to have acted recklessly with respect to each such violation. If the Standard of Conduct in question requires proof of knowledge or intent, the Committee fact finders may consider evidence of intoxication insofar as it is relevant to whether or not the required knowledge or intent has been proven.

Explanation: This section establishes recklessness as the minimal standard of culpability for all offenses under this Code, subject to the imposition of a higher standard of culpability for individual offense within particular sections of the Code. This section rejects the idea that negligent behavior can constitute violation of the standards of conduct, or that a violation can be found solely on the basis of the effects of the student's actions (strict liability). The requirement of culpability is consistent with an Honor Code's purpose of delineating standards of honorable behavior and punishing only dishonorable conduct rather than punishing any actions that lead to harm.

This section also makes clear that ignorance of the Code is no defense to a charged violation. This rule is consonant with the fact that this is an Honor Code which represents the ethical intuitions of all members of the community, rather than a technical set of directives.

2.2. Academic Standards. The following conduct of a student relating to any Law School course (including Law Review, independent studies, tutorials, internships, moot court, and clinics), in intramural or interscholastic lawyering skills competition, or research assistant services is a violation of this Code.

a. *Plagiarism*.

1. *Definition*. Plagiarism is the written representation of the written words or ideas of another as one's own. Written words or ideas include all representations in tangible media, including audio and video recordings of oral presentations.
2. *Inference*. A student's representation of the words or ideas of another without providing appropriate citation or attribution at the point of the presentation of such words or ideas is sufficient to permit an inference of plagiarism.

3. *Presumption.* The Committee shall presume that the student has plagiarized if the student represented the verbatim or substantially identical words of another as the student's own words by failing to use quotation marks. This presumption shifts to the student the burden of persuading the Committee that the presentation of these words without quotation marks was not intentional, knowing or reckless.

Explanation: To represent as one's own the written words or ideas of another is dishonest. Such presentation nearly always violates the integrity of the person whose words or ideas are misappropriated. Plagiarism also violates the legitimate expectation of an instructor that written work offered by someone as his or her own was truly prepared solely by that person and not in whole or in part by someone else.

In order to be sure of avoiding plagiarism, a student who uses the written words or ideas of another person, whether they are found in a published or unpublished work, or are produced through a collaborative effort with another student, must, for each instance of usage, indicate the source by way of a footnote or textual reference, and must enclose any passages taken directly from the source within quotation marks. A student may not slightly alter the written words of another and then simply provide a textual attribution to the source; in this case the student is required either to place the verbatim words of another within quotation marks, or substantially change the words by paraphrasing. Using the unwritten words or ideas of another student (e.g. receiving that student's assistance in preparing an assignment when assistance is not permitted) is not plagiarism, but may constitute a violation of this Code under Section 2.2(b)(3).

A student commits plagiarism only if the student acts intentionally, knowingly or recklessly. See §2.1. The provision makes clear that representing the words or ideas of another without proper citation or attribution is sufficient conduct from which to draw an inference of intent, knowledge or recklessness, and that such inference is sufficient to support a finding of plagiarism.

In those cases where a student has used another's words verbatim, or with minimal paraphrasing, without using quotation marks, the permissible inference becomes a mandatory presumption. This means that a student must be found to have plagiarized these words unless the student persuades the Committee that the use was not intentional, knowing or reckless.

An instructor may authorize conduct that otherwise fits within the definition of plagiarism, as for example by permitting students in a,

simulation class to utilize standard interrogatories from form books as part of a drafting exercise. A student may raise the question of authority as an affirmative defense. However, in a dispute between the instructor and the student as to whether authorization was given, the student bears the burden of proof. See §2.4.

- b. *Cheating.* Cheating in connection with an assignment or examination is:
1. Acquiring information concerning an examination or assignment, without the instructor's authorization;
 2. Taking an examination for another student in whole or in part, permitting another student to take one's own examination in whole or in part, or collaborating with another student by taking an examination jointly, without the instructor's authorization;
 3. Preparing an assignment for another student in whole or in part, permitting another student to prepare one's own assignment in whole or in part, or collaborating with another student by preparing an assignment jointly, without the instructor's authorization;
 4. Removing an examination from the examination room in order to give or receive assistance on the examination;
 5. Using materials not authorized by the instructor while taking an examination or completing an assignment;
 6. Failing to follow instructions concerning the administration of an examination, including the instruction to stop writing;
 7. Breaching the anonymity of an anonymously graded examination or assignment;
 8. Discussing any aspect of an examination or assignment that one has taken or is currently taking with any person who is currently or will later be taking the same examination or assignment, without the instructor's authorization;
 9. Submitting work previously submitted for any other purpose, without authorization;
 10. Falsely claiming sickness or disability to secure a deferred examination or assignment due date; and

11. Assisting another student with legal research for any writing assignment, or receiving such assistance, without the instructor's authorization. Providing or receiving general assistance with generic research skills or strategies is not cheating unless this manner of assistance has been prohibited by the instructor.
- c. *Unauthorized Taking of Academic Materials.* An unauthorized taking of academic materials occurs when a student takes any academic materials (notes, books, papers, outlines, computer disks, or other work product) from any other student who owns or is using such materials, without that other student's consent.
 - d. *Library Misconduct.* Library misconduct includes:
 1. Defacing, mutilating, or destroying library material or equipment;
 2. Hiding or knowingly misfiling library material;
 3. Knowingly removing library material from the library without checking out the materials;
 4. Intentionally using any computerized research services covered by a contract to which the Law School or its Library is a party in a manner that violates such a contract. Generally, permitted uses include: work for Law School courses, work in connection with other activities listed in Section 2.2, work as a research assistant to a faculty member, and authorized research regarding employment opportunities; and
 5. Creating disturbances that are inconsistent with the rights of others to a quiet study environment.

2.3. Non-Academic Standards. The following conduct by a student is a violation of this Code:

- a. *Violence on Campus.* Violence on campus is the use of physical force or violence, or the threat thereof, to harass, abuse, intimidate, coerce, or injure any person on the premises of Western New England University, except as may be necessary in self-defense.
- b. *Harassment.* Harassment is persistent conduct, including oral or written communications, directed at a specific member of the Law School community for the purpose of placing such person in fear of physical harm or of causing such person severe emotional distress.

- c. *Property Interference.* Property interference is the theft, destruction, defacement, or other interference with the use of property located on the premises of Western New England University, property of Western New England University, or property of a member of the Law School community.
- d. *Misconduct in Seeking Admission.* Misconduct in seeking admission is knowingly providing false or misleading information to any person to gain an advantage in securing admission to the Law School.
- e. *Misconduct in Seeking Employment.* Misconduct in seeking employment is knowingly providing false or misleading information to any person to gain an advantage in securing employment.
- f. *Non-Cooperation with Honor Committee.* Non-cooperation with the Honor Committee is the refusal to meet with and provide information to the Honor Committee or its representatives with respect to any investigation or proceeding under this Code. No student is required to provide information of a self-incriminating nature.
- g. *False Statement.* False statement is making a false or misleading statement to the Honor Committee or its representatives with respect to the Honor Committee or its representatives with respect to any matter under investigation or review pursuant to this Code.
- h. *Breach of Confidentiality.* Breaching confidentiality is knowingly revealing, without authorization, information obtained through participation in a formal Law School activity (such as a Student Bar Association committee, a Law School governance committee, Law Review, or some form of employment by the Law School or University) if that information is of a confidential nature.

2.4. Proof of Violations. The following rules govern the proof of a violation of this Code:

- a. *Burden of Proof.* The investigators bear the burdens of production and persuasion, except as otherwise provided in this section.
- b. *Standard of Proof.* The standard of proof necessary to establish a violation and any affirmative defense to a charged violation is a preponderance of the evidence.
- c. *Affirmative Defenses.* In proving an affirmative defense to a charged violation of a Standard of Conduct, the accused student shall bear the burdens of production and persuasion.
- d. *Presumption of Non-Authorization.*

1. Proof establishing that prohibited conduct occurred in the circumstances, other than lack of authorization, described by any Standard of Conduct in Section 2.2 shall give rise to a presumption that the conduct was not authorized and that a student's unawareness of such lack of authorization was reckless.
 2. It is an affirmative defense that the offending conduct was authorized by the instructor or that, if unauthorized, the student did not have the prescribed level of culpability concerning that lack of authorization.
- 2.5. *Duty to Report Violations.*** Failure to report an act which may constitute a violation of this Code is not itself a violation of the Code. However, as members of the Law School community, students are expected to notify the Dean, the Associate Dean, or the Honor Committee of conduct that the student reasonably believes constitutes a violation of this Code.
- 2.6. *Residual Authority.*** Although only the Honor Committee may determine that a student has violated this Code, nothing in this Code shall limit the authority of:
- a. instructors to establish academic standards of performance for their courses, to evaluate student performance under these standards, and to impose such sanctions for failure to adhere to these standards as is within the authority of the instructor, including without limitation, the authority to give a failing grade to the student for the course; and
 - b. the dean or the faculty to take measures to protect the physical safety of members of the Law School community, or to maintain conditions compatible with the educational process or institutional integrity of the Law School.

PART 3: THE HONOR COMMITTEE

- 3.1. *Composition.*** The Honor Committee should consist of three members of the faculty, chosen by the faculty, and three law student representatives chosen by the Student Bar Association. The Student Bar Association also will designate two alternate members at the beginning of the year. At the beginning of each academic year the Committee shall select a chair for that year from among its members.
- 3.2. *Quorum.*** A quorum for any meeting of the Committee shall consist of three members, except that a quorum for purposes of a hearing under Part 5 shall consist of four members acting as judges.

3.3. *Withdrawal of Members.* A member of the Committee may withdraw from the consideration of any Committee matter if such member believes that participation would be improper or unwise. A member of the Committee shall withdraw from consideration of any Committee matter if such member provided the statement of violation to the Committee, if such member may reasonably be expected to testify or otherwise furnish information regarding facts pertinent to the matter, or if such student member is charged with a violation of the Code in the matter before the Committee.

3.4. *Replacement of Members.*

- a. Whenever a faculty member of the Committee withdraws from participation pursuant to Section 3.3, the Chair shall appoint another faculty member to serve. Whenever a student member of the Committee withdraws from participation pursuant to Section 3.3, the Student Bar Association President shall appoint one of the alternates designated pursuant to Section 3.1 to serve.
- b. Whenever members of the Committee withdraw from further participation in a matter pursuant to Section 4.6(c), the Dean shall appoint two faculty members, and the Student Bar Association President shall appoint the two alternates designated pursuant to Section 3.1 to serve as the replacements for purposes of the Committee's disposition of that matter.

3.5. *Responsibilities.*

- a. The Committee shall resolve all suspected violations of this Code brought to its attention under Section 4.1, according to the procedures set out in Parts 4 and 5 of this Code.
- b. The Committee may also issue written advisory opinions as to whether particular hypothetical conduct constitutes a violation of this Code.
- c. The Committee shall carry out all other responsibilities that this Code assigns to it.

PART 4: INVESTIGATION

- 4.1. Notification of Suspected Violation.** Any person who reasonably believes that a student has violated this Code and who wishes to report such violation shall submit a statement, orally or in writing, containing all relevant information to any member of the Committee.
- 4.2. Initiation of Investigation.** As soon as practicable after receiving a statement under Section 4.1, the Committee shall meet to determine whether investigation of the matter described in the statement is warranted. If the Committee determines by majority vote that investigation is warranted, the Chair shall appoint one faculty member and one student member of the Committee to serve as investigators. Investigators shall not thereafter act as members of the Committee with regard to the matter under investigation.
- 4.3. Investigation.**
- a. The investigators shall conduct their investigation in whatever way they consider appropriate, including gathering relevant documentary evidence and speaking to the person who referred the matter and other persons who may have relevant information. The investigators shall not reveal the name of the person who notified the Committee of a suspected violation or the name of the student whose conduct is under investigation unless doing so is necessary to their investigation.
 - b. Before concluding their investigation, with respect to any student whose conduct is under investigation, the investigators shall:
 1. notify such student in writing of the investigation;
 2. provide such student with a copy of this Code; and
 3. advise such student in writing that the Code details the student's rights and responsibilities concerning all investigations and proceedings regarding alleged violations.
 - c. The investigators shall complete their investigation within two weeks of the date of their appointment or within such longer time period as may be authorized by the Chair for good cause.
- 4.4. Non-Issuance of Complaint.**
- a. After completing their investigation, the investigators shall decide whether to issue a complaint against any student. The investigators shall not issue a complaint only if they reasonably believe that no

violation of this Code has occurred, that sufficient evidence does not exist and cannot be obtained to support a complaint or that the matter can be resolved informally pursuant to Section 4.5.

- b. If the investigators do not issue a complaint, they shall report to the Committee in writing the reason for their decision. Where appropriate, the report may include the views of any member of the Law School community having substantial interest in the matter.
- c. Unless disapproved pursuant to Section 4.6, the investigators' decision not to issue a complaint becomes the Committee's final decision on the matter and is not further reviewable under this Code.

4.5. *Informal Resolution.*

- a. Subject to the disapproval of the Committee pursuant to Section 4.6(a), the investigators are authorized to resolve informally a matter referred to them if:
 - 1. they reasonably believe that there are substantial grounds for deciding not to issue a complaint;
 - 2. they reasonably believe that no sanction is appropriate or that an appropriate sanction for the violation is one or more of the sanctions set out at Sections 5.4(d)(1)-(4); and
 - 3. the student under investigation agrees to accept the resolution proposed by the investigators.
- b. Whenever the investigators resolve a matter informally, their written report under Section 4.4 shall set forth the nature of the informal resolution, any sanction, and the investigators' reasons for deciding not to issue a complaint.
- c. An informal resolution may (but need not) provide that the student admit violating this Code.

4.6. *Disapproval of Investigators' Decision Not to Issue Complaint.*

- a. The Committee may, by majority vote, disapprove a decision by the investigators not to issue a complaint only if such decision is unreasonable. Upon such disapproval the Committee may, by majority vote, direct the investigators:
 - 1. to investigate the matter further;

2. to seek or to renegotiate, as appropriate, an informal resolution of the matter pursuant to Section 4.5; or
 3. to issue a complaint pursuant to Section 4.8.
- b. If the Committee directs the issuance of a complaint as authorized by Section 4.6(a)(3), either investigator may withdraw from further participation in the matter pursuant to Section 3.3. If either investigator withdraws, the Chair shall designate a faculty or student member of the Committee, as appropriate, to serve as a substitute.
 - c. If the investigators issue a complaint after further investigation of a matter pursuant to Section 4.6(a)(1) or after the Committee's direction pursuant to Section 4.6(a)(3), the members of the Committee shall withdraw from further participation in the matter. The Dean and the Student Bar Association President, respectively, shall appoint their replacements pursuant to Section 3.4(b).

4.7. *Disagreement Between Investigators.* If the two investigators disagree as to whether to issue a complaint on a matter under investigation, the investigator who favors the issuance of a complaint shall prepare and issue it pursuant to Section 4.8. The investigator who did not favor issuing a complaint may withdraw from further participation in the matter pursuant to Section 3.3. If that investigator withdraws, the Chair shall designate a faculty or student member of the Committee, as appropriate, to serve as a substitute. At the time of the hearing on the matter, a person appointed pursuant to Section 3.4(a) shall serve as judge in place of the Committee member designated to serve as a substitute investigator.

4.8. *Issuance of Complaint.*

- a. *Conditions for Issuance.* After completing their investigation, the investigators shall, within a reasonable time, issue a complaint if they:
 1. reasonably believe that a violation of this Code has occurred, that sufficient evidence exists or can be obtained to support a complaint, and that the matter cannot be resolved informally pursuant to Section 4.5; or
 2. are directed to do so pursuant to Sections 4.6(a)(3) or 4.7.
- b. *Contents.* The complaint shall include a description of the student's alleged conduct, the charges against the student, and a specification of the Code provisions allegedly violated.
- c. *Filing and Notice.*

1. The investigators shall submit the original complaint to the Committee for placement in the file maintained pursuant to Section 7.1.
2. The investigators shall, by certified mail, send the student a copy of the complaint and a copy of this Code. Concurrently with the mailing to the student, the investigators shall provide each member of the Committee with a copy of the complaint.
3. The investigators' failure to provide the student with proper notice under Section 4.3(b) is not a ground for dismissal of the charges against the student. Such failure may constitute good cause for a continuance under Section 5.1.

4.9. Continuing Responsibilities of Investigators. After the issuance of a complaint, the investigators:

- a. may continue to gather evidence relevant to the alleged violation in preparation for the hearing on the charges set out in the complaint; and
- b. retain the authority to resolve the matter informally consistent with the rules set out in Sections 4.4 and 4.5 governing the informal resolution of a matter when a complaint is not issued.

4.10. Time Limitation. No investigation shall be instituted later than one year following the student's graduation, final withdrawal, or dismissal from the Law School.

PART 5: HEARING, DECISION AND SANCTION

5.1. Timing. As soon as practicable after the Committee receives a copy of the complaint, the Committee shall determine the date, time and place of the hearing on the alleged violation, and notify the student, by certified mail, of the time and place and of the student's rights pursuant to Section 5.2. At any time the Committee may grant a continuance of a hearing for good cause shown.

5.2. Rights of Student Charged. A student who has been charged with a violation of the Code shall have the following rights:

- a. to be present at the hearing and to be assisted at the hearing by counsel or any other representative of the student's choice;

- b. to review (personally and/or through counsel) any information gathered by the investigators and any evidence in the possession of the investigators at a reasonable time prior to the hearing;
- c. to present any relevant evidence at the hearing and to cross-examine any witnesses who testify at the hearing;
- d. to testify or (without prejudice or adverse comment by the investigators) to refrain from testifying at the hearing;
- e. to a closed hearing, or, upon written request to the Committee, an open hearing;
- f. to request or oppose at the hearing any particular sanction for violating this Code; and
- g. to prepare (at the student's expense) a daily transcript of the hearing record maintained pursuant to Section 5.3(d).

5.3. Conduct of the Hearing.

- a. *Judges.* The four Committee members shall serve as judges, and they shall appoint one member to serve as presiding judge for the hearing. The presiding judge shall convene the hearing and shall advise the student of the student's rights pursuant to Section 5.2. The presiding judge shall establish fair and efficient procedures, consistent with this Code, for the presentation of evidence and argument at the hearing, and shall rule on any matters arising at the hearing.
- b. *Investigators.* The investigators shall present all relevant evidence (including exculpatory evidence) to the judges.
- c. *Evidence.* Formal rules of evidence do not apply at the hearing. The presiding judge shall admit to the record any relevant evidence, unless it was obtained unlawfully. The judges may not consider evidence outside the hearing record. Notwithstanding the right to an open hearing provided in Section 5.2(e), witnesses other than the student charged with a violation shall not be present during other testimony unless at least three judges decide otherwise.
- d. *Hearing Record.* The judges shall maintain a verbatim record of the hearing, including all testimonial and documentary evidence.

5.4. Decision and Sanction.

- a. *In Camera Conference.* As soon as practicable after the hearing, the judges shall meet in camera to decide the merits of each charge set out in the complaint and to determine the appropriate sanction if the charged student is found to have violated this Code. The judges may reopen the hearing to take additional evidence for purpose of determining an appropriate sanction.
- b. *Finding of Violation.* The judge shall find a violation of this Code only if at least three judges determine that a violation has been proved under the rules established by Section 2.4.
- c. *Sanctions.* The judges shall impose one or more sanctions for each violation of this Code. Any sanction imposed shall be agreed to by at least three judges. In reaching their decision as to appropriate sanctions, the judges may not consider evidence outside the hearing record. The judges may take into account the possible impact that the sanctions may have on the student's admissibility to the bar.
- d. *Available Sanctions.* Sanctions include one or more of the following:
 1. Written warning;
 2. Written reprimand;
 3. Requiring the student to accept appropriate counseling;
 4. Restitution;
 5. Probation;
 6. Requiring a retake of an examination in a course, or requiring additional work as condition of satisfactory completion of a course;
 7. Withdrawal from or withdrawal of credit for a course;
 8. Lowering of a grade in a course, including the imposition of the grade of 55;
 9. Suspension for one or more semesters from the Law School;
 10. Expulsion from the Law School;
 11. Withdrawal of a degree awarded; and

12. Publication to the Law School community of the identity of the student.
- e. *Entry on Student's Record.* Written notice of the finding of violation and of the sanctions imposed shall be entered on the student's permanent record unless at least three judges find that the conduct constituting the violation does not raise a serious question as to the student's character and fitness for the practice of law.
- f. *Opinion.*
 1. Within seven days of the hearing the judges shall prepare a written opinion briefly setting forth: the evidence they considered; their findings of fact; their decision on the merits of each charge set out in the complaint; the sanctions imposed, if any; the reasons for their decisions on the merits and as to any sanctions; and the number of judges who concurred in each aspect of the decision.
 2. A judge who disagrees with any aspect of the disposition may prepare a separate opinion.
 3. As soon as practicable, the judges shall send a copy of each opinion by certified mail to the student charged in the complaint.

PART 6: APPEALS

- 6.1. ***Right of Appeal.*** The student may appeal the judges' decision or the sanctions imposed, or both, to the faculty. No sanction shall be imposed pending the faculty decision of the appeal.
- 6.2. ***Notice of Appeal.*** Within ten days of receiving the decision, or within such additional time as the Chair may allow, a student who wishes to appeal must submit a written notice of appeal to the Chair. The notice of appeal shall include a brief statement of the reasons for appeal. The student may assert additional grounds for the appeal in the written brief or oral statement permitted by Sections 6.3 and 6.7. As soon as practicable after receiving notice of an appeal, the Chair shall inform the Dean of its submission.
- 6.3. ***Written Briefs.*** The student (or the student's representative) and the investigators may submit written briefs regarding the appeal.
- 6.4. ***Preparation of Transcript.*** At the request of the faculty or the student taking the appeal, the Chair of the Committee shall prepare a transcript of the record of the hearing and make copies of that transcript available at

the Law School's expense to the faculty and to the student. The Committee shall make such copies available as soon as practicable.

- 6.5. *Transmission of Documents.*** As soon as practicable, but in no event later than two days before the hearing on appeal, the Chair of the Committee shall transmit to the faculty copies of the written notice of appeal submitted by the student, the complaint, the judge's written opinions and any briefs submitted under Section 6.3.
- 6.6. *Hearing on Appeal.*** As soon as practicable after receiving notice of an appeal from the Chair of the Committee pursuant to Section 6.2, the Dean shall set the date, time, and place for the hearing of the appeal by the faculty and shall provide at least five days advance written notice of this date, time, and location to the student and to the Chair of the Committee. The Dean, or a faculty member designated by the Dean, shall preside at the hearing on appeal.
- 6.7. *Oral Statement.*** The student (and the student's representative) and the investigators may make brief oral statements to the faculty regarding the appeal.
- 6.8. *Decision on Appeal.*** As soon as practicable after the hearing on appeal, a majority of the faculty voting on the appeal shall affirm, reverse, or modify the judges' decision and sanctions, or remand the matter to the Committee. The faculty shall affirm all findings of fact made by the judges unless it determines that the findings were not supported by substantial evidence. The faculty shall not consider any evidence outside the hearing record, although for good cause shown the faculty may remand the matter to the Committee for the purpose of taking additional evidence. The faculty shall review *de novo* any sanction imposed by the judges, but shall not increase any sanction. The faculty shall also review *de novo* any interpretation of this Code made by the judges.
- 6.9. *Withdrawal.*** A faculty member may withdraw from participation and voting in the determination of an appeal if such member believes that participation or voting is improper or unwise. A faculty member shall withdraw from participation and voting in the determination of an appeal if the faculty member filed the statement of violation with the Committee, represented the charged student in connection with the charges, or served as a witness during the hearing. Neither Committee members nor investigators shall be present or vote at the hearing on appeal, except as provided by Section 6.7.
- 6.10. *Disqualification.*** The student may petition the faculty to disqualify not more than two faculty members from voting on the appeal. The student shall present a written memorandum in support of the petition to the faculty. By majority vote, the faculty may grant the petition and disqualify

up to two faculty members from hearing the appeal. Faculty members who are the subject of the petition shall not vote on the question of their disqualification.

- 6.11. *Finality of Decision on Appeal.*** Decisions of the faculty under Section 6.8 shall be final. Decisions of the Committee pursuant to a remand by the faculty shall be appealable as provided in this Part.

PART 7: RECORDS OF PROCEEDINGS

7.1. *Committee File.*

- a. *Creation and Maintenance.* The Committee shall create and maintain a file with respect to every notification of suspected violation pursuant to Section 4.1 and advisory opinion pursuant to Section 3.5(b). The file shall contain all documents relevant to the Committee's consideration and disposition of the matter in question.
- b. *Sealing.* Subject to the preparation of records pursuant to Sections 7.2 and 7.3, the Committee shall seal any file maintained as a result of notification of suspected violation at the conclusion of the proceedings.

7.2. *Official Record.*

- a. *Duty to Prepare.* At the conclusion of the proceedings, the Committee shall prepare an official record with respect to every notification of suspected violation pursuant to Section 4.1.
- b. *Matters Resolved Without a Hearing.* When a matter is resolved without the issuance of a complaint pursuant to Section 4.4 or by informal resolution pursuant to Section 4.9(b), the official record shall contain the written report of the investigators and any other information the Committee decides should be retained.
- c. *Matters Resolved After a Hearing.* When a matter is resolved after a hearing pursuant to Part 5, the official record shall contain the hearing record maintained pursuant to Section 5.3(d), the original complaint, the judge's opinions, any decision on appeal, and any other information the Committee decides should be retained.

7.3. *Public Record.*

- a. *Duty to Prepare.* At the conclusion of the proceedings, the Committee shall prepare a public record with respect to every notification of suspected violation pursuant to Section 4.1.

- b. *Matters Resolved Without a Hearing.* When a matter is resolved without the issuance of a complaint pursuant to Section 4.4 or by informal resolution pursuant to Section 4.9(b), the public record shall contain the written report of the investigators with the names of individuals excised from the text.
- c. *Matters Resolved After a Hearing.* When a matter is resolved after a hearing pursuant to Part 5, the public record shall contain the complaint, the judges' opinions, and any decision on appeal, with names of individuals excised from the text. The Committee shall include in the public record the identity of the person found to have violated the Code only if the judges direct such inclusion as a sanction pursuant to Section 5.4(d)(12).

7.4. Inspection of Records.

- a. *Official Record.* The Committee subsequently may consult the official record for any purpose relevant to its responsibilities under this Code, but only if the public record is insufficient for that purpose. The administrators of the Law School may inspect the official record only for the purpose of deciding whether to certify the student for admission to the bar. The official record shall not otherwise be disclosed to any person without the prior written authorization of the student.
- b. *Public Record.* The Committee shall provide a copy of the public record to each member of the faculty and, for decisions finding a violation, shall make the public record available to the Law School community pursuant to Section 1.3(b).

7.5. Preservation of File and Records. After three years from the student's graduation, expulsion, or final withdrawal from the Law School, the Committee may destroy any material contained in the Committee file or in the official record of a proceeding under this Code, other than the judges' opinions and any decision on appeal. The Committee shall permanently retain the public record.

PART 8: RATIFICATION, AMENDMENT AND PROSPECTIVE APPLICATION

8.1. Ratification and Effective Date. This Code, and any amendments thereto shall take effect upon ratification by majority vote of the faculty and by majority vote of the Student Bar Association. The effective date of this Code is August 22, 1999.

- 8.2. *Amendment.*** Any student or instructor may propose an amendment to this Code by submitting such amendment in writing to the Committee for its consideration. If four members of the Committee approve such amendment, as modified if appropriate, the Committee shall submit the amendment to the full-time faculty and Student Bar Association for their ratification pursuant to Section 8.1.
- 8.3. *Prospective Application.*** This Code shall apply to conduct only if the conduct in question occurs entirely after the date of ratification. Amendments to this Code also shall have only prospective effect. Conduct not governed by this Code is governed by the Honor Code in effect at the time the conduct constituting an alleged offense commenced.

DISCRIMINATION AND HARASSMENT

POLICIES AND PROCEDURES

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DISCRIMINATION/ HARASSMENT POLICIES AND PROCEDURES

A. INTRODUCTION

Every member of the Western New England University community has the right to live, learn, and work in a harassment free environment. Discrimination/harassment in any form undermines this concept and will not be tolerated. Harassment can be defined as any behavior that creates an intimidating, hostile, or offensive environment for any individual or group. Harassment is discriminatory when it is based on gender, race, religion, ethnic origin, disability, age, sexual orientation, gender identity, or gender expression. It is important to understand that the feelings of the recipient rather than the intentions of the initiator determine harassment. The subsequent procedures governing harassment will apply to any and all violations of state or federal law.

The Mission Statement and Strategic Plan of Western New England University call for, among other things, a renewed commitment to creating and maintaining "an atmosphere of personal concern."

Discrimination/sexual harassment has no place in that atmosphere, or in any part of our University community. "Community" at Western New England University involves an environment, both within and beyond the classroom, where *all* members participate fully in an atmosphere free from prejudice, harassment, exploitation, or intimidation. When discrimination/harassment occurs, the learning and working environment is compromised, the mission of the institution is diminished, trust is violated, and personal dignity is assaulted.

These policies and procedures provide the Western New England University community guidance with respect to the University's *zero tolerance* approach to discrimination/harassment. University policy as well as federal and state laws prohibit discrimination/sexual harassment and provide recourse for victims. Therefore, the University will respond promptly to complaints of discrimination/harassment. Where it is determined that such inappropriate conduct has occurred, the University will take steps to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate. Retaliation against anyone bringing a complaint about discrimination/harassment or against anyone cooperating in an investigation of a complaint of discrimination/harassment will not be tolerated.

Please review these policies and their procedures carefully. The individuals listed in this brochure should be contacted about any discrimination/harassment problems you experience or observe, or of which you become aware. By working together, we can maintain an environment that values personal concern and that reinforces our educational mission.

B. WHAT IS SEXUAL HARASSMENT?

"Sexual harassment," pursuant to Massachusetts law and federal statutes, means unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of an unwelcome sexual nature where:

- . submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly as a term or condition of an individual's education or employment, or as a basis for employment decisions, or as a basis for decisions regarding a student's academic progress/grades; and/or
- . such advances, requests, or conduct have the purpose or effect of unreasonably interfering with an individual's academic or work performance by creating an intimidating, hostile, humiliating, or sexually offensive educational, residential, or employment environment.

The courts have recognized two different types of actionable sexual harassment:

1. **Quid pro quo** harassment occurs when a person with authority uses submission to or rejection of unwelcome sexual conduct as the basis for making academic or employment decisions affecting a subordinate or student. This kind of harassment usually involves explicit or implicit threats or retaliation for refusing to submit to sexual advances.
2. **Hostile environment** harassment is unwelcome conduct of a sexual nature that is sufficiently severe, persistent, or pervasive as to limit a person's ability to work or participate in a program or activity.

C. EXAMPLES OF SEXUAL HARASSMENT

It is important to emphasize that sexually oriented conduct that is *unwelcome* and has the effect of creating a workplace and/or learning environment that is hostile, offensive, intimidating or humiliating to male or female students or employees of the University community may constitute sexual harassment.

While it is not possible to enumerate all circumstances that may constitute sexual harassment, the following are some examples of conduct which, if *unwelcome*, may constitute sexual harassment depending upon the totality of the circumstances, including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances – whether or not they involve physical touching;

- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life, comments on an individual's body, comments about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, or cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences; or
- Discussion of one's sexual activities.

Below, find other examples of incidents that may constitute sexual harassment at Western New England University:

- "My advisor meets with me in his office with the door closed. Despite my efforts to distance myself from him, he moves closer. He always comments on my appearance. Last time we met, he brushed up against me. I am uncomfortable and am considering changing my major and my advisor."
- "One of the female managers in my department kept asking me out on a date. She said that getting to know her better would improve my chances of promotion. I asked her to stop, but she would not take no for an answer."
- "I work in a department where most of my peers are men. They continually tell sexual jokes. One brought in and made copies for the other guys of a cartoon about women and parts of their bodies. I told my supervisor that I do not think this is funny. He has asked the others to stop, but they just ignore him."
- "I take a class where the professor assigns readings from *Hustler* and *Playboy* magazines. Last week, the professor showed a video that contained some sexually suggestive material. During the video, many guys in the class laughed or told lewd jokes, and the professor did nothing about it. The course is about human relations, so the professor thinks he is being provocative or interesting, but I find him to be sexist. Several women have dropped the class, but I want to take this class."
- "Guys on the floor think I'm gay. At least a couple of times a week, someone - I do not know who - tapes a derogatory cartoon, article, or picture to my door. I have complained to my resident advisor, but he just says he has no idea who is doing it. I am thinking of transferring, but in the meantime, I am pretty depressed."

- “I spent a lot of time at a party three weeks ago talking to a classmate. Now, he simply won’t leave me alone. He follows me across campus, tries to touch me inappropriately, makes suggestive comments, and calls all hours of the night. I have asked him to stop but he won’t take no for an answer. Yesterday, he cornered me outside the library and would not let me pass. Luckily, someone else came by. I feel very threatened.”

Faculty, employees, and students are strongly encouraged to review the University’s Policy on Sexual Misconduct and Sexual Assault. These policies are set forth in the University’s Student Handbook.

D. WHAT SHOULD YOU DO IF YOU ARE DISCRIMINATED AGAINST/SEXUALLY HARASSED?

While the University accepts its role and responsibilities in providing a workplace and learning environment free from discrimination/harassment, there are steps that each member of the University community can and should take. Individuals who harass will have no reason to stop unless they are challenged. It is therefore imperative that individuals who believe that they have been discriminated against or harassed come forward. While some individuals may be reluctant to do so, ignoring or minimizing discriminating/harassing conduct will not eliminate it, and will not allow the University to investigate and correct unacceptable and unlawful conduct. Individuals can sometimes stop discrimination/harassment by taking direct action.

- **Respond immediately:** Sometimes, telling the discriminator and/or harasser that his/her behavior is unwelcome will stop the conduct. State an emphatic “NO” in the case of sexual harassment at the time. Be direct and firm. Clearly express disapproval of any behavior that causes discomfort. Communicate that it is *unwelcome and that you want the behavior to stop*. Ignoring or avoiding a discriminator and/or harasser usually does not work. If you are unable to confront the harasser in person, try writing a letter. In the letter, include a detailed account of the conduct you find offensive, including dates. State the impact the conduct has had on you and that you will take further action if the behavior does not stop. Keep a copy of the letter.
- **Keep records:** Document all incidents and conversations that might constitute discrimination and/or harassment, including dates, times, places, witnesses, and an accurate description of specific incidents. Write down quotes so that you can recall at a later date the exact language used.

- **Talk to someone:** If the discrimination/harassment does not stop, or you are reluctant or unable to confront the person verbally or in writing, talk to someone. Talk to a supervisor or someone of authority at the University whom you trust. Seek confidential support through the Counseling Center, Campus Ministries, Human Resources, the **Career** Center and/or or Health Services. You may also consult one of the administrative and/or faculty resources listed within this brochure. The University also encourages individuals who have witnessed, or who have knowledge of, discrimination/harassment directed at any member of the University community, to report such conduct immediately.

The University has designated several members of the University community to serve as resources to any individual who has a discrimination/harassment complaint or inquiry. These individuals are available to discuss any concerns that you may have and to provide information to you about our policy on discrimination/harassment and our grievance procedures.

Joanne Ollson

Assistant Vice President and Director of , Human Resources
Designated Equal Employment Opportunity (EEO) Officer
413-782-1343

Beth Cohen

Associate Dean for Academic Affairs, School of Law
413-782-1622

Jeanne Steffes

Vice President for Student Affairs, Dean of Students
413-782-1282

Kathleen Reid

Director of Health Services/Nurse Practitioner
413-782-1211

Beth Hill

Associate Director, Residence Life
413-782-1317

Michael Johnson

Assistant Dean for Student Affairs, School of Law
782-1376

Lori Mayhew

Head Women's Softball Coach/Equipment Manager
782-2230

Students may also contact Victim Advocates by calling 413-575-7194.

E. WHAT HAPPENS WHEN A REPORT IS MADE?

1. Informal resolution

Many claims of discrimination/harassment may be resolved informally. In the informal process input will be important, yet direct confrontation with the alleged harasser may not be required. The goal of an informal resolution is to end the offensive or unwelcome behavior. The Dean of the respective School (if the Respondent is a faculty member), the Executive Director of Human Resources and **CareerCenter** (if the Respondent is classified staff or administration), and the Dean of Students or the Associate Dean for Law Student Affairs (if the Respondent is a student) will work with the Complainant and the Respondent to reach an informal resolution.

Examples of informally reached outcomes might include:

- Mediated, informal conversation between the Complainant and Respondent;
- Conducting educational programs for a unit, division, or department; or,
- Adjusting residential or academic placement of either the Complainant or Respondent.

Resorting to formal hearings will be avoided whenever possible. The purpose of information adjudication is to arrange an appropriate solution acceptable to all parties concerned. At the conclusion of the informal process, the only document that will be maintained is a memorandum of understanding, signed by both parties, and maintained by the EEO Officer.

Informal University proceedings must be exhausted before formal University proceedings will commence. In the event that the informal process does not achieve resolution of the issue, the EEO Officer will prepare a memorandum signed by the parties BEFORE the formal process will be available.

2. Formal resolution

If informal efforts to resolve a problem are not successful, or if informal resolution is inappropriate or inadequate based on the severity of the case, or if the Respondent is a known prior offender, then a more formal resolution may be necessary. Formal written complaints must be filed with the Equal Employment Opportunity (EEO) Officer. The matter will then be referred to the University's Discrimination/Sexual Harassment Hearing Committee by the EEO Officer.

The EEO Officer will monitor the implementation of these formal grievance procedures, and either party may request a formal hearing.

The EEO Officer will intervene in the formal process when in his/her judgment such intervention is necessary for expediency. The EEO Officer will schedule all committee meetings, oversee the process and procedures, and attend hearings, if necessary, as a non-participating, non-voting member. The EEO Officer will NOT contribute to the writing of the Hearing Committee's findings.

F. PROCEDURES FOR FORMAL HEARINGS BY THE DISCRIMINATION/SEXUAL HARASSMENT HEARING COMMITTEE

1. Composition of the Discrimination/Sexual Harassment Hearing Committee

The Discrimination/Sexual Harassment Hearing Committee will consist of six (6) members of the Western New England University community appointed by the President to serve two-year terms. Members can serve no more than two (2) consecutive two-year terms. The Committee will be comprised of three (3) tenured faculty members referred to the President by the Faculty Senate, the School of Law and the School of Pharmacy, two (2) classified staff, and two (2) administrators, all from different departments. Replacement of faculty representatives on the Committee (if it became necessary) would be made either by the Senate, the School of Law, or the School of Pharmacy as appropriate. The President will designate a Chair of the Committee, based on such considerations as experience, continuity, and sensitivity to the concerns of those affected by discrimination/harassment. At any given time there should be no more than five (5) persons of the same gender on the Committee. Two (2) additional members who are students will sit on the Committee when a complaint directly involves a student. For complaints involving graduate students, pharmacy students, or law school students, at least one (1) of the two (2) student members on the Committee will be a graduate student, law student, or pharmacy student as appropriate to the case.

2. Initiation of the Hearing Procedure

A copy of the complaint will be mailed by the EEO Officer to the Respondent, who will be afforded ten (10) calendar days from the mailing date to prepare a written response regarding the incident. Upon receipt of the Respondent's response the EEO Officer will mail to each party a copy of the complaint and response.

At that time both parties will be presented a list of the members of the Committee and may challenge any member's eligibility for cause in writing to the Chair within

two (2) working days of the presentation of the list. Any such challenge will be ruled upon by EEO Officer. Any Committee member with previous knowledge of the incident will present that information for the Committee, which will decide if that member should be disqualified from hearing the case. If the Chair is released by challenge or disqualification, the Committee will elect a Chair *pro tempore*. If, by challenge, disqualification, or unavailability, fewer than six (6) members of the Committee remain eligible, others will be appointed by the President *pro tempore*.

No hearing will be held without the parties being given at least seven (7) calendar days notice. Each party may be accompanied during each session by one advisor from the Western New England University community. The advisor will not participate in the session, but may consult freely with the person whom they are advising. The advisor may be an attorney from the University community. The Complainant and Respondent may each request witnesses and present documentary evidence. Witnesses will be present at the hearing only when giving testimony. Each party may bring any number of witnesses; however, the actual number of witnesses heard will be at the discretion of the Committee. The Committee may refuse to accept or hear any evidence that it deems irrelevant or unreliable. Rules of evidence used in courts of law are not used in this process.

3. Conduct of Formal Hearings

The formal hearing will be tape recorded for the Committee's use in deliberations. The tape will not be transcribed, but will be stored securely and confidentially by the General Counsel. Upon written request, a copy of the tape will be made available to either party of this proceeding. The Committee alone may question witnesses and parties. In the course of the hearing, each party may submit in writing, questions to be asked by the Committee. However, the Committee reserves its right to decline to pursue any such questions. The Respondent has the right to refuse to testify.

4. Written Report

Within ten (10) calendar days of the hearing, the Committee must prepare a written report that details the allegations, the hearing process, and the evidence heard. The Committee shall include in this report its findings of fact, including any findings it makes concerning the credibility of witnesses. All findings made by the Committee shall be based on a majority vote of the panel. All Committee members must sign the written report.

5. Findings of the Committee

After a hearing, the Committee may find one of the following:

- that it is more likely than not that the alleged violation occurred, or
- that it is more likely than not that the alleged violation did not occur.

6. Referral for Action

The Committee will issue a written report to the relevant Dean or supervisor, who after a review of said report, will distribute a copy of the report to the Complainant and Respondent. The relevant Dean, after consultation with the EEO Officer, will determine and impose sanctions in writing to the Respondent within fifteen (15) calendar days of the Dean's receipt of the Committee's report. Appropriate disciplinary action will be taken by the Respondent's supervisor for staff, Deans of the respective School for faculty or for graduate students, the Dean of Students for undergraduate students, or the Dean of the School of Law for law students.

7. Sanctions

Sanctions imposed on the Respondent will be commensurate with the seriousness of the conduct, and will be adequate and sufficient to demonstrate the University's commitment to taking strong and effective measures to both remedy and prevent further violations. The assessment of the severity of the sanction will be based on both the current case and the Respondent's previous record of misconduct. Any sanctions imposed on tenured faculty will be pursuant to the procedures delineated in the appropriate faculty handbook. Sanctions might include, but are not limited to:

- a written apology;
- a transfer or change in department or teaching assignment;
- a warning, meaning a written statement that the Respondent violated this policy, a notification of which would be placed in the Respondent's permanent record; and/or
- a referral for counseling and/or training (failure to fulfill the sanctions shall be cause for sanctions of a more serious nature);
- probation for a stated period of time within which the Respondent's rights to participate in University-sponsored activities and/or access to facilities may be limited or removed;
- suspension (with or without pay), meaning a separation from the University for a stated period of time or until specific conditions are met;
- dismissal, meaning permanent removal from employment or University programs, facilities, and property.

The relevant member of the President's staff will review any sanction recommending termination from employment at the University. If a member of the President's Senior Staff is the Respondent, the President will review any sanction recommending termination from employment at the University.

8. Summary Suspension

The University reserves the right to take necessary and appropriate action to protect the educational environment, and the safety and well being of members of the University community. In the event that any individual charged with violation of the University's Discrimination/Harassment Policy is deemed a serious risk to the safety and security of the University and/or its campus community, its faculty, students, or staff, the University reserves the right to summarily suspend that individual. The University reserves its right to suspend that individual with or without pay and benefits (tenured faculty can only be suspended with pay and benefits) and exclude that individual from campus, except as is necessary to participate in the formal process delineated above.

Nothing in this policy shall limit the authority of the University, or any of its constituent parts, to take such actions as the appropriate University officer or Dean or his/her designee deems necessary to protect the physical safety of members of the University community, or to maintain conditions compatible with the educational process or institutional integrity of the University or any of its constituent parts.

9. Appeals

- a. **Notice of an appeal:** Respondents and Complainants may appeal by filing written notice with the University official who issued the disciplinary sanctions (or lack thereof) within fourteen (14) calendar days from the day a sanction is or is not imposed, with a copy to the EEO Officer. *Respondents seeking an appeal must specify in writing the grounds for the request. Respondents who fail to file an appropriate written request for an appeal within fourteen (14) days waive their right to appeal.*
- b. **Grounds for appeal:** Appeals will be considered only under one or more of the following circumstances:
 - when the Respondent deems the sanction inconsistent with the gravity of the offense, except in the case of termination of employment as provided in Section 11.10 of the *Western New England University Faculty Handbook* where review is automatic;
 - when new evidence that was not available at the time of the hearing becomes available within the above-referenced fourteen (14) calendar day period; or
 - when there has been a substantial and material procedural error during the hearing process.
- c. **Reviewer:** The relevant member of the President's Staff will review appeals. In the event that the EEO Officer is the appellee's direct and immediate

supervisor, the appeal will be heard by an alternate, designated by the President.

d. **Possible results:** The relevant member of the president's Staff will review the request for an appeal and any evidence necessary to support that request. He/she shall then have the authority to:

- affirm;

- reverse;

- modify the sanction imposed; or

- remand the matter for further investigation or consideration by the Discrimination/Sexual Harassment Hearing Committee (only available in cases where there is new evidence or where there has been a substantial and material procedural error).

Decisions of the relevant member of the President's Staff are final.

In the event that the Respondent is a member of the President's Senior Staff, the President will review appeals.

e. **Appeals for tenured faculty only:** Should any tenured faculty member at the University desire to pursue an appeal of any actions imposed on him/her through these procedures, the affected faculty member will avail himself/herself of the procedures delineated in appropriate faculty handbook (for Law Faculty, refer to Section 13.1 in the *Western New England University Law Faculty Handbook*, and for other tenured faculty, refer to Section 6.(B).5 in the *Western New England University Faculty Handbook*.

10. Substitutions

In the event that the Respondent is a Dean, Equal-Employment Opportunity Officer, or a member of the President's Staff, the President will designate an appropriate substitute who will assume the responsibilities outlined in this policy. In the event that the Respondent is the President, the Chairman of the Board of Trustees will receive the report of the Committee and determine, with the Board of Trustees, any sanctions to be imposed in accordance with the Bylaws of Western New England University. The decision of the Board of Trustees shall be final.

11. Confidentiality

Throughout all investigations and hearings of complaints arising from discrimination/sexual harassment, both formal and informal, the confidentiality of the proceedings and the identities of the parties to the complaint shall be protected to the fullest extent practicable under the facts and circumstances of each case.

G. WHAT EXTERNAL RESOURCES WILL PROCESS A COMPLAINT?

Any individual may also file a formal complaint with either or both of the government agencies listed below. Each agency has a short time period for filing a claim (EEOC – 300 days; MCAD – 300 days). Using the University's complaint process does not prohibit a student or employee from filing a complaint with these agencies:

- Boston Office-Equal Employment Opportunity Commission (EEOC)
John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
Phone: 800-669-4000
Fax: 617-565-3196

- The Massachusetts Commission Against Discrimination (MCAD)
MCAD Boston Office
One Ashburton Place - Room 601
Boston, MA 02108
617-727-3990

- MCAD Springfield Office
436 Dwight Street, Second Floor, Room 220
Springfield, MA 01103
413-739-2145