

## **ACADEMIC DISCIPLINARY PROCESS**

Unless preempted by the NSU Student Disciplinary Process handled by the NSU Office of the Vice President of Student Affairs, the Academic Disciplinary Process (ADP) set forth herein shall be used to adjudicate complaints alleging violations by College of Law students of the NSU Code of Student Conduct and Academic Regulations, as augmented by the College of Law's Supplemental Academic Conduct Standards (collectively, "The Code").

### **1. Applicability**

The ADP applies to all students enrolled in any program or course at the Shepard Broad College of Law. "All students" includes, but is not limited to:

- 1.1. J.D. students;
- 1.2. M.S. students;
- 1.3. Students enrolled in the Florida Bar Auxiliary Program;
- 1.4. Students enrolled in the Florida Law Certificate Program;
- 1.5. Students from another NSU college;
- 1.6. Visiting Law Students;
- 1.7. AAMPLE students; and
- 1.8. Non-degree seeking and auditing students.

### **2. Complaint**

2.1. The ADP is initiated by the filing of a written Complaint against a student alleging a violation of the Code with the Office of the Dean of the Shepard Broad College of Law.

2.2. A Complaint may be filed by any member of the College of Law community, including faculty, administration, students, and staff members.

2.3. The Complaint should be filed within a reasonable time following the discovery of the alleged violation and must include the following:

- 2.3.1. The name of the accused student(s);
- 2.3.2. A statement identifying the provision(s) of the Code allegedly violated;
- 2.3.3. A statement of facts supporting the allegation that a violation has occurred, including the date, time, and location that the alleged violation occurred;
- 2.3.4. The names of any witnesses known to the complainant;
- 2.3.5. The name of the person filing the complaint; and
- 2.3.6. When appropriate, any supporting documents as an attachment.

### **3. Processing of Complaint**

3.1. Within three (3) class days after the Dean receives a Complaint alleging a violation of the Code, the Dean shall take one of the following two actions:

3.1.1. Refer the Complaint to the appropriate disciplinary body, if the Dean determines that the Complaint is more appropriately the subject matter of another disciplinary process;

3.1.2. Appoint an Investigator who shall investigate the allegation(s) contained in the Complaint. The Investigator shall be a member of the full-time faculty of the College of Law, unless the Dean determines that there is no faculty member suitable to serve as the Investigator, in which case the Dean may appoint such other person as the Dean finds suitable. The selection and appointment of the Investigator is not a basis for appeal absent clear and convincing proof of intentional misconduct by the Investigator.

3.2. Within three (3) class days following the receipt of a Complaint, the Dean shall notify the accused student of the filing of the Complaint and the name of the Investigator and the student's obligation to respond and cooperate with the investigation, or if the matter was referred to another disciplinary body, the name of that disciplinary body. Notification to the student of the filing of the Complaint and the action taken by the Office of the Dean shall be given in the following manner, or such other manner deemed sufficient to give actual notice to the student of the filing of a Complaint, the allegations made, and the student's responsibilities:

3.2.1. An email shall be sent to the student at the student's official College of Law email address advising the student to come to the Office of the Dean, where the Complaint shall be handed personally to the student, along with a letter advising of the action taken by the Dean pursuant to 3.1.

3.2.2. If the student does not come to the Office of the Dean within three (3) class days to retrieve the Complaint as specified in 3.2.1., the Complaint and letter advising of the action taken by the Dean pursuant to 3.1 shall be mailed to the student by certified mail, return receipt requested, directed to the student's last known address as it appears in the University's records.

#### **4. Responsibilities of Investigator**

4.1. At any time following appointment, the Investigator may:

4.1.1. Recommend to the Hearing Officer that the Complaint be dismissed on the ground that it was not filed within a reasonable time following the discovery of the alleged violation, if the Investigator finds that the student was significantly prejudiced by the lateness of the filing of the complaint;

4.1.2. Recommend dismissal of the Complaint on any other basis, including insufficiency of the Complaint based on the requirements of 2.3.

4.1.3. Engage in plea negotiations with the student.

4.2. The investigation of the Complaint should be completed by such date as designated by the Hearing Officer who may grant the Investigator additional time in which to complete the investigation, upon a showing of good cause.

4.3. All members of the College of Law community, including a student, shall cooperate with the Investigator by responding fully and promptly to the Investigator's requests for information.

4.4. Once the Investigator completes the investigation, the Investigator shall prepare a written report that shall contain the following:

- 4.4.1. A description of the investigative steps taken;
- 4.4.2. The names of any persons from whom information was sought or obtained;
- 4.4.3. The factual information gathered;
- 4.4.4. The Investigator's findings of fact, if any;
- 4.4.5. The Investigator's conclusion as to whether any violation the student violated the Code; and
- 4.4.6. A recommendation for disposition of the Complaint.

4.5. In reaching conclusions and making recommendations, the Investigator shall not be limited by the particular Code violations identified in the Complaint.

4.6. The Investigator shall file the written report with the Hearing Officer who shall deliver copies as required in § 5.2 *infra*.

## **5. Responsibilities of Hearing Officer & Hearing Procedure**

5.1. The Hearing Officer for the ADP shall be the Associate Dean for Academic Affairs, or such other person as the Dean may designate.

5.2. The Hearing Officer shall deliver copies of the Investigator's written report as follows:

5.2.1. Within three (3) class days of receipt of the Investigator's written report, the Hearing Officer shall deliver to the student a copy of the report using the same procedure prescribed for delivery of the Complaint in § 3.2 *supra*.

5.2.2. The Hearing Officer shall also deliver copies of the report as soon as practical to the following:

5.2.2.1. The complainant, but only if the complainant is a member of the College of Law faculty, administration, or staff (not including student staff members); and

5.2.2.2. The instructor/advisor, if the alleged violation occurred in connection with a course, or a co-curricular or extracurricular activity and the instructor/advisor is not the complainant.

5.3. If the report contains a recommendation of dismissal of the Complaint or a plea bargain agreed to in writing by the student, within five (5) days of receipt of the report the Hearing Officer may accept such recommendation or plea bargain, reject the recommendation or plea bargain, or request the Investigator to perform additional investigative steps.

5.3.1. If the Hearing Officer accepts a recommendation of dismissal, then the Hearing Officer shall prepare a written determination reflecting same.

5.3.2. If the Hearing Officer accepts a recommended plea bargain, then such agreement shall be memorialized in a writing executed by the Hearing Officer and the student.

5.3.3. If the Hearing Officer requests additional investigation, the Investigator shall file a supplemental investigation report with the Hearing Officer by such date as designated by the Hearing Officer who may grant the Investigator additional time in which to complete the investigation, upon a showing of good cause. The Hearing Officer shall deliver copies of the supplemental report in accordance with § 5.2 *supra*.

5.4. If the Investigator's report does not contain a recommendation of dismissal or plea bargain agreed to in writing by the student, then the student must advise the Hearing Officer in writing that the student either accepts or rejects the conclusions of the Investigator and recommended disposition of the Complaint within five (5) class days of receipt of the Investigator's written report or supplemental report, if further investigation was requested by the Hearing Officer. The failure of the student to timely advise whether the conclusions and recommendations contained in the report are being accepted or rejected will be deemed an acceptance by the student.

5.5. If the student accepts the conclusions and recommendations contained in the report, the Hearing Officer will advise whether the recommended disposition of the Complaint is accepted by the Hearing Officer within 5 class days after the student's acceptance of the report.

5.6. If the Hearing Officer rejects a recommendation of dismissal or plea bargain agreed to in writing by the student, or rejects the conclusions and recommendations in the report after acceptance by the student pursuant to § 5.5 *supra*, or if the student timely advises that the student rejects the conclusions and recommendations of the Investigator, then the Hearing Officer shall hold an informal hearing to resolve any questions of fact, and consider appropriate disposition of the Complaint and imposition of sanctions, if the Hearing Officer determines that the student did violate the Code.

5.6.1. The Hearing Officer shall have the discretion to determine the procedure for the informal hearing, which shall, at a minimum, provide the student the opportunity to present argument and evidence in a form specified by the Hearing Officer and shall not require adherence to the rules of evidence.

5.6.2. Any informal hearing shall be video recorded. The recording will be maintained by the Office of the Dean and may be maintained solely in electronic format. If requested by the student, the student will be given access to the recording. The College of Law is not obligated to produce a written transcript of the hearing.

5.6.3. Within five (5) class days following a hearing, the Hearing Officer shall issue a written determination that shall include the following:

- 5.6.3.1. The Hearing Officer's findings of fact;
- 5.6.3.2. The Hearing Officer's determination as to whether the student violated the Code; and
- 5.6.3.3. If a violation did occur, the sanctions that will be imposed.

5.6.4. The Hearing Officer will deliver copies of the written determination using the same procedure prescribed for delivery of the Investigator's report in section 5.2 *supra*.

5.7. At any time following receipt of the Investigator's report and supplemental report, if any, the Hearing Officer may engage in negotiations or a mediation with the student to attempt to resolve the Complaint without the necessity of the hearing. Any such negotiations or mediations shall not be recorded. If the Complaint is resolved through negotiations or mediation the resolution shall be memorialized in a written agreement executed by the Hearing Officer or, depending upon the nature of the agreement, the Dean of the College of Law, and the student.

## **6. Student's Right to Appeal**

6.1. The student shall have the right to appeal the Hearing Officer's decision to the Dean of the College of Law by providing written notice to the Dean that the student objects to the Hearing Officer's decision within five (5) class days following receipt of the Hearing Officer's written determination.

6.2. The Dean may conduct appellate review of the Hearing Officer's decision using an informal process deemed appropriate by the Dean under the circumstances. The Dean shall overturn the written determination of the Hearing Officer only upon a finding that the determination was arbitrary and capricious.

6.3. All decisions by the Dean are final and are not subject to further appeal or review.

6.4. The Dean, or the Hearing Officer if there is no appeal, shall deliver copies of the final report, including the disposition of the Complaint and consequences to the student, for inclusion in the student's academic record to the student; to the Assistant Dean of Students; to the complainant, but only if the complainant is a member of the College of Law faculty, administration, or staff (not including student staff members); and to the instructor/advisor, but only if the alleged violation occurred in connection with a course or a co-curricular or extracurricular activity and the instructor/advisor is not the complainant.

## **7. Definitions and Miscellaneous Provisions**

7.1. All dates by which action must be taken under the ADP may be extended by the Dean, Hearing Officer, or Investigator for good cause shown. All objections to the timeliness of the actions of the investigator must be provided in writing to the hearing officer as part of the informal hearing pursuant to § 5. All objections to the timeliness of the actions of the Hearing Officer must be presented in the written notice of appeal to the Dean.

7.2. “Class days” are defined as any day during which classes or final exams are being held at the Shepard Broad College of Law, including those held during the fall semester, winter semester, and summer session.

7.3. Except as otherwise provided above, delivery of a copy of all documents may be made by email attachment or hand delivery.

7.4. And accused student may, at any time after the student receives a copy of the initial complaint, agree in writing that all further documents may be delivered to the student as email attachments.

7.5. In the event that the Dean refers a Complaint to another disciplinary body pursuant to 3.1.1. *supra* and that disciplinary body resolves the matter as it implicates that disciplinary body’s process without addressing the alleged Code violations, the College of Law may reinstate the ADP to consider the allegations that relate to a violation of the Code.

7.6. In the event that a student charged with, or found guilty of, academic misconduct withdraws (or attempts to withdraw) from the College of Law, the student’s file shall note, as appropriate, that the student “WITHDREW WITH ACADEMIC MISCONDUCT CHARGES PENDING” (or similar wording) or was “EXPELLED FOR ACADEMIC MISCONDUCT” (or similar wording). The fact that the student withdrew with academic misconduct charges pending, or attempted to withdraw after being found guilty of academic misconduct, shall in no event be reported as simply “WITHDREW” (or similar wording). The fact that academic misconduct charges were pending, or that the student was expelled for academic misconduct, shall be made clear whenever the College of Law receives a lawful request for the student’s records from any third party.

7.7. As used herein, the Office of the Dean may include such administrative offices as the Office of Student Services when so designated by the Dean.