

BYLAWS
COLLEGE OF LAW
UNIVERSITY OF NEBRASKA – LINCOLN

Submitted to the Board of Regents, September 1992

As Approved by the Law Faculty, August 28, 1992

1. Mission and Purpose

The College of Law at the University Nebraska-Lincoln pursues the tripartite mission of a land grant University teaching, research, and service. The College's primary teaching mission involves the development and administration of a professional program of legal instruction leading to the J.D. degree. The College may also offer programs that are complementary to the J.D. program and may offer joint degree programs with other units of the University of Nebraska. Individual faculty and the College as a whole seek through research to better understand and to improve the law and the legal system. The College also has an obligation to serve the citizens of Nebraska by assisting the legal profession and improving the administration of justice. The College maintains a Law Library in order to support all of these missions.

2. Organization and Administration of college

2.1. The Law College is organized as follows:

- 2.1.1. The Law College Administration which consists of the Dean, any Associate and Assistant Deans, and the Director of the Law Library.
- 2.1.2. The College Faculty which consists of the Law Faculty, the Clinical Law Faculty, and the Law Library Faculty.
- 2.1.3. The administrative staff which consists of the office and service staff of the College.

2.2. The College of Law is administered through a system of shared governance between the Law College Administration and the College Faculty. In developing policy and procedures and in administering the College the Law College Administration and the College Faculty may consult with students, alumni of the College, and members of the legal profession, when appropriate.

3. Law College Administration

3.1. Dean of the College of Law

- 3.1.1. The Dean is the officer primarily charged with the administration of the College. The Dean is the presiding officer of the Law Faculty and the chief advisor to the Chancellor in regard to the College's welfare, and shall be in general charge, under the Chancellor, of the administrative work of the College. The Dean shall submit recommendations to the Office of the Chancellor concerning the appointment, reappointment, non-reappointment, promotion, granting of continuous appointment, demotion, transfer, dismissal, or removal of members of the College administration, faculty and staff. All requisitions chargeable to funds apportioned to the College are subject to approval by the Dean or the Dean's designee. (See Bylaws the Board of Regents 2.9.1)
- 3.1.2. In preparing budgetary recommendations, or in recommending the appointment, reappointment, non-reappointment, promotion, granting of continuous appointment, demotion, transfer, dismissal, or removal of member of the College Faculty, the Dean

shall consult with the appropriate committee of the Law Faculty. If the recommendation of the committee differs from the Dean's recommendation, the Dean shall so inform the Chancellor. (See Bylaws of the Board of Regents 2.9 2).

- 3.1.3. The Dean shall administer the College in accordance with the Bylaws of the Board of Regents, the University of Nebraska-Lincoln, and the College of Law.
- 3.1.4. The Dean shall administer the College in accordance with the rules and regulations of the Law Faculty.
- 3.2. Associate and Assistant Deans shall perform such functions and assume such responsibilities as delegated to them by the Dean.
- 3.3. The Director of the Law Library shall administer the Law Library and perform such other functions and assume such other responsibilities as delegated by the Dean. The Director of the Law Library, in cooperation with the Law Library Faculty, may adopt rules and regulations governing the operation of the Law College Library. Such rules shall be published and generally available to interested persons.
4. College Faculty
 - 4.1. The College Faculty shall consist of the following faculties:
 - 4.1.1. The Law Faculty shall consist of those individuals who hold faculty rank of Assistant Professor, Associate Professor or Professor in the Law College. The Law Faculty includes any member of the Law College Administration who holds faculty rank in the Law Faculty.
 - 4.1.2. The Clinical Law Faculty shall include those individuals who hold the rank of Assistant Clinical Professor, Associate Clinical Professor, or Clinical Professor in the Law College Clinics.
 - 4.1.3. The Law Library Faculty shall include those individuals who hold the rank of Assistant Professor, Associate Professor or Professor in the Law College Library.
 - 4.2. Organization. The Law Faculty shall be organized as follows:
 - 4.2.1. The Law Faculty Committee of the Whole shall consist of all members of the Law Faculty and such members of the Clinical Law Faculty as provided in the rules of the Law Faculty.
 - 4.2.2. The Committee of Tenured Faculty shall consist of all members of the Law Faculty who hold a continuous appointment.
 - 4.2.2.1. For matters relating to the promotion or tenure of members of the Clinical Law Faculty, the committee shall also include members of the Clinical Law Faculty who hold a continuous appointment.
 - 4.2.2.2. For matters relating to the promotion or tenure of members of the Law Library Faculty, the committee shall also include members of the Law Library Faculty who hold a continuous appointment.
 - 4.2.3. The Committee of Full Professors shall consist of all members of the Law Faculty who hold the rank of Professor.

- 4.2.3.1. For matters relating to the promotion to the rank of Professor of members of the Clinical Law Faculty, the Committee shall include members of the Clinical Law Faculty who hold the rank of Professor.
- 4.2.3.2. For matters relating to the promotion of members of the Law Library Faculty, the Committee shall include members of the Law Library Faculty who hold the rank of Professor.
- 4.2.4. Affiliate members of the Law Faculty shall consist of members of the Law College Administration who do not hold faculty rank, members of the Law Library Faculty, and such other persons designated by the rules of the Law Faculty.

4.3. Authority

- 4.3.1. The Law Faculty Committee of the Whole shall be the primary policy-setting body for the College. The Committee may establish rules and regulations governing all aspects of the academic programs of the College and may advise the Law College Administration on any other matter. Such rules and regulations shall be published and generally available to interested persons. Rules and regulations of the Law Faculty Committee of the Whole shall take effect on their adoption unless otherwise stated. The Committee of the Whole may establish standing and temporary committees, designate the manner of their appointment, and delegate to them such authority as it deems appropriate.
- 4.3.2. The Committee of Tenured Faculty shall make recommendations to the Chancellor with regard to the awarding of continuous appointment and the rank of Associate Professor to members of the Law Faculty, members of the Clinical Law Faculty, and members of the Law Library Faculty. Such recommendations shall be in accordance with operative rules of the Board of Regents and the University of Nebraska- Lincoln, and with the promotion and tenure policies of the Law College.
- 4.3.3. The Committee of Full Professors shall make recommendations to the Chancellor with regard to the awarding of the rank of Professor to members of the Law Faculty, members of the Clinical Law Faculty, and members of the Law Library Faculty. Such recommendations shall be in accordance with operative rules of the Board of Regents and the University of Nebraska-Lincoln, and with the promotion and tenure policies of the Law College.
- 4.3.4. The Clinical Law Faculty shall assist in the administration of the clinical programs of the College.
- 4.3.5. The Law Library Faculty shall, in cooperation with the Director of the Law Library, establish the policies and assist in the administration of the Law Library.
- 4.3.6. Affiliate members of the Law Faculty may attend meetings of the Law Faculty committee of the Whole unless excluded by vote of the Committee.

4.4. Promotion and Tenure Policies

- 4.4.1. The Law Faculty shall adopt Guidelines for the Evaluation of Faculty for Promotion and Continuous Appointment which shall govern the recommendation of members of the Law Faculty, the Clinical Law Faculty, and the Law Library Faculty for promotion and continuous appointment. Such Guidelines shall be incorporated herein as bylaws of the College. The current Guidelines are attached hereto as Appendix A.

4.4.2. The committee of Tenured Faculty may establish rules for implementing the Guidelines established in 4.4.1. Such rules shall be consistent with the Guidelines and with other University provisions governing the award of promotion and tenure.

5. Student Affairs

5.1. The Nebraska Student Bar Association is recognized as the student governance agency representing law students at the College. The Association shall adopt a Constitution for governing its affairs. The Constitution shall become effective upon approval of the Dean and the Law Faculty Committee of the Whole.

5.2. Student conduct relating to the academic programs of the Law College is governed by the Law College Honor Code, as authorized by § 4.2e of the University of Nebraska-Lincoln Student Code of Conduct. The Honor Code shall be adopted by a majority vote of the students and a separate majority vote of the Law Faculty. Students enrolled in the Law College shall also be subject to those provisions of the University of Nebraska-Lincoln Student Code of conduct relating to student misconduct other than academic dishonesty. The Law College Honor Code shall be incorporated herein as bylaws of the College. The current Law College Honor Code is attached hereto as Appendix B.

5.3. Pursuant to the Bylaws of the Board of Regents, the Law Faculty has established a procedure that permits students to appeal a decision evaluating a student's academic performance. The Grade Appeal Procedure shall be incorporated herein as a bylaw of the college. The current Grade Appeal Procedure is attached hereto as Appendix C.

6. Amendments and Interpretation

6.1. These Bylaws may be amended from time to time by a majority vote of the Law Faculty. Such amendments shall become effective upon approval of the Board of Regents.

6.2. These Bylaws shall be interpreted to be consistent with the Bylaws of the Board of Regents, the Bylaws of the University of Nebraska-Lincoln, and the accreditation standards for law schools of the American Bar Association and the Association of American Law Schools.

7. Effective Date. These bylaws shall be adopted by the Law Faculty and shall become effective upon their approval by the Board of Regents.

Appendix A - Guidelines for the Evaluation of Faculty for Promotion and Continuous Appointment

University of Nebraska College of Law

Approved by Law College Faculty, October 2015, and UNL Chancellor, November 2015

1. Introduction

This document explains, supplements and further implements the provisions of the Bylaws of the Board of Regents of the University of Nebraska, the Bylaws of the University of Nebraska-Lincoln, and the UNL Guidelines for the Evaluation of Faculty: Annual Evaluations, Promotion, and Tenure, concerning promotion and continuous appointment practice applicable to the three faculties of the University of Nebraska College of Law: (1) the “Law Faculty;” (2) the “Law Clinical Faculty;” and (3) the “Law Library Faculty.”

2. Standards

2.1. General

The standards in this section apply to members of the Law Faculty, the Law Clinical Faculty, and the Law Library Faculty.

The character of a law college is, in large part, determined by the character of its faculty. Advanced academic rank and continuous appointment in the College of Law are evidence of professional status -- of a commitment by colleagues to a permanent association in a cooperative and synergistic effort to bring excellence to the College of Law.

In the College of Law, promotion and continuous appointment are not rewards for past accomplishments, a quid pro quo for services rendered. They are instead an expression of mature judgments by an individual's colleagues that the institution will be well served by a long-term relationship with that individual faculty member. They are founded on a prediction of future accomplishments. They are not, however, decisions predicated on prospects rather than performance. Promotion and continuous appointment decisions must be grounded in a record of excellence, and there must be a reasonable basis for confidence that an excellent start will be followed by continued excellent performance.

2.2. Law Faculty

The standards in this section apply only to members of the Law Faculty.

The College of Law, and the Law Faculty itself, seeks to insure a faculty of high competence in each of its traditional obligations—teaching, scholarship, and service. Excellent teaching prepares students to participate in one of the most public of professions. Scholarship enriches classroom teaching, advances critical analysis and understanding of legal principles and their application, and provides a foundation for law reform. Service fulfills a duty to the profession, the University, the Law College, and the public to enhance understanding of the law and the role of law in society.

Scholarship encompasses any creative, analytical, critical, or explanatory work that contributes to the practice, understanding, interpretation, development or reform of the law, the

administration of justice, or legal education. Law Faculty scholarship is expected to be of a quality and content that typically merits publication in a law review. Law review articles, scholarly books and book chapters, textbooks, and online publications are all acceptable forms of publication. The important factors are the quality and content of the scholarship, not the medium.

Although these traditional faculty obligations are a collective responsibility of the Law Faculty, considerations of comparative advantage may dictate that individual Law Faculty members emphasize one role more than another. It is also important that the Law Faculty include the intellectual diversity available only by an association of individuals with a wide variety of experience, talents, and interests. Nevertheless, the College of Law recognizes that excellence in one role often tends to enhance performance in another, and thus expects its individual Law Faculty members to perform at a high professional level in each role.

A promotion recommendation expresses a collective judgment that the individual has made and will continue to make significant professional contributions to the College of Law and its missions. To merit promotion to the rank of Associate Professor and continuous appointment, a member of the Law Faculty must perform at a high professional level in the areas of teaching, scholarship, and service. A continuous appointment recommendation expresses a collective judgment that the College will be significantly enriched by a permanent relationship with the individual recommended. To merit promotion to the rank of Professor, a member of the Law Faculty must perform at a level of excellence commensurate with the expectations that accompany a decision to grant a continuous appointment—one that confirms that the faculty's decision to grant continuous appointment was a correct prediction of future excellent performance.

Such decisions are too important to the College of Law to be entrusted to mechanical formulae. They require the exercise of informed professional judgment by a faculty with an understanding of the traditions, expectations, and responsibilities of tenured faculty at a law school. Ultimately, they reflect this College's sense of itself, of what it is and what it aspires to be.

2.3. Law Clinical Faculty

The standards in this section apply only to members of the Law Clinical Faculty.

The primary responsibilities of members of the Law Clinical Faculty are clinical teaching and related professional performance. However, Law Clinical Faculty members are also expected to engage in scholarship and service. Acceptable Law Clinical Faculty scholarship includes scholarship acceptable for Law Faculty. It also includes work concerning clinical pedagogy and descriptive work that contributes to the practice, understanding, interpretation, development, or reform of the law, the administration of justice, or legal education. It is the quality and the content of the scholarship that is important, not the medium.

Acceptable Law Clinical Faculty scholarship includes: (1) substantive manuals or teaching materials that involve significant writing or editorial effort, including those used in a clinical program, in connection with an outside grant or initiative, or made available to the public; (2) reports submitted to and for governmental agencies, non-governmental organizations, and bar association groups concerning the operation, evaluation, or improvement of the law; (3)

reports submitted to legal education organizations, in the United States or abroad, concerning the content or methods of clinical education; and (4) briefs or similar documents for submission to courts or other government bodies.

A member of the Law Clinical Faculty shall be evaluated on the basis of the extent and quality of the following:

- a. supervision of students in clinical programs;
- b. classroom instruction;
- c. other responsibilities, including the management of cases, assignment of students, application for and administration of any grants (whether or not directly related to a clinic), and supervision of support staff;
- d. scholarship;
- e. service; and
- f. other professional activities that relate to the clinic[s] in which they teach

To merit promotion to the rank of Associate Professor and continuous appointment, a member of the Law Clinical Faculty must perform at a high professional level in the areas of a through f listed above. To merit promotion to the rank of Professor, a member of the Law Clinical Faculty must perform at a level of excellence commensurate with the expectations that accompany a decision to grant a continuous appointment—one that confirms that the faculty's decision to grant continuous appointment was a correct prediction of future excellent performance.

2.4. Law Library Faculty

The standards in this section apply only to members of the Law Library Faculty.

In evaluating Law Library Faculty members for promotion and continuous appointment, the extent and quality of the following activities should be considered: (1) service; (2) teaching; and (3) research, scholarship, and other significant creative activity. The quality and quantity of the following additional activities should also be considered, if applicable to the candidate's specific responsibilities: (1) reference service; (2) collection development; (3) bibliographic organization and management; (4) archiving; and (5) administrative activities.

The criteria for any individual candidate are to be applied in relation to the candidate's specific professional responsibilities, but all Law Library Faculty members are expected to engage in research, scholarship, and other significant creative activity. The expectations for scholarship by Law Library Faculty are tied to their individual responsibilities, and therefore may differ from the expectations of scholarship for other faculty. It is the quality and the content of the scholarship that is important, not the medium.

To merit promotion to the rank of Associate Professor and continuous appointment, a Law Library Faculty member must perform at a high professional level in his or her areas of responsibility. To merit promotion to the rank of Professor, a member of the Law Library Faculty must perform at a level of excellence commensurate with the expectations that accompany a decision to grant a continuous appointment—one that confirms that the faculty's decision to grant continuous appointment was a correct prediction of future excellent performance.

3. Annual Reviews of Faculty

The procedures in this section apply to members of the Law Faculty, the Law Clinical Faculty, and the Law Library Faculty.

3.1. Faculty without Continuous Appointment

Faculty members with continuous appointments (“reviewing faculty”) perform annual reviews of the performance of each faculty member without a continuous appointment (“reviewed faculty”). Members of the Law Faculty review members of the Law Faculty. Members of the Law and Law Clinical Faculties review members of the Law Clinical Faculty. Members of the Law, Law Clinical, and Law Library Faculties review members of the Law Library Faculty.

The reviews are based on the reviewed faculty member’s performance under the standards as described in sections 2.2, 2.3, and 2.4 above, as appropriate.

Each reviewed faculty member prepares annually a file detailing activities and contributions relevant to the review. Reviewed faculty members are expected to include in that file only materials relevant to a review of their professional performance.

The Dean and reviewing faculty members may also put additional materials in the file.

The evaluations of the reviewing faculty members are reported annually in writing to the reviewed faculty member by the Dean or, in the case of Law Library Faculty members, the Law Library Director. The annual report will indicate any serious concern the reviewing faculty has regarding the faculty member’s performance. The report will reflect any consensus views as well as give the reviewing faculty member a general sense of significant variations of opinion among the reviewing faculty.

The annual evaluations reflect only the reviewing faculty’s opinions about performance at the time and are not a binding prediction that a person will or will not be recommended for continuous appointment.

3.2. Faculty with Continuous Appointment

Each faculty member with a continuous appointment is reviewed annually. The Dean performs the annual review of Law Faculty and Law Clinical Faculty members. The Director of the Law Library performs the annual review of Law Library Faculty. The evaluation is reported in writing to the individual evaluated. In addition, in appropriate circumstances, a post-tenure review may be initiated pursuant to the UNL Guidelines for the Evaluation of Faculty.

Annual reviews are based on the faculty member’s teaching, publications, other creative activities, service, performance of any other responsibilities, and other activities that affect the missions of the College of Law. Each faculty member annually submits a report detailing relevant activities and contributions.

Continuous appointment in the College of Law is an expression of confidence that an excellent start as a faculty member will be followed by continued excellent performance in the future. Both the annual review of faculty members with continuous appointments and any post-tenure review are designed to assist faculty members in achieving their professional goals and in maximizing their contributions to the College and its missions, and to provide assurance to the

public that faculty with continuous appointments are accountable for their performance. The College expects that the potential recognized in the granting of a continuous appointment will be realized over the course of a professional career in a record of excellence, and that if there is a substantial and chronic deficiency in the faculty member's performance, that deficiency will be identified and remedied.

Of course, mechanical formulas are no more appropriate as standards by which to judge performance that may extend over many decades than as standards by which to judge whether to recommend a continuous appointment. The factors that are relevant in evaluating a candidate for a continuous appointment remain relevant in evaluating the performance of faculty members with continuous appointments. The College recognizes that there are many ways in which a faculty member may make significant professional contributions to the College and its missions, and it expects that the aspirations and contributions of faculty members with continuous appointments will evolve and mature over the course of their professional careers.

4. Procedures for Promotion and Continuous Appointment Decisions

The procedures in this section apply to members of the Law Faculty, the Law Clinical Faculty, and the Law Library Faculty.

4.1. Introduction

Mature judgments concerning promotion and continuous appointment require a full record -- and a full record requires time. However, continuous appointment and promotion procedures must accommodate not only concerns that decisions be grounded in a history of excellence but also concerns that the process be fair to individual faculty members and that it not put the College of Law at a competitive disadvantage to other institutions with whom the College competes. Accommodating these competing concerns requires a procedure responsive to the nuances of each individual case.

4.2. Timing of Consideration for Promotion or Continuous Appointment

A person holding an appointment as a member of the Law Faculty, Law Clinical Faculty, or Law Library Faculty who wishes to be considered for promotion or continuous appointment may submit a letter requesting such action to the Dean of the College of Law. The Dean shall determine the deadlines in accordance with university guidelines and announce them a reasonable time in advance.

Decisions relating to the initial promotion and continuous appointment usually will come during the sixth year after an individual joins the faculty. However, in accordance with university guidelines, accommodating the need for sufficient time to build a record of excellence with the need to remain competitive by offering promotion and continuous appointment opportunities similar to those offered at peer institutions means that the candidate has the option of requesting consideration for promotion and continuous appointment at an earlier time.

Promotion to full professor is subject to the same reality that governs initial promotion and continuous appointment decisions. Ordinarily, a candidate's request to be promoted to the rank of Professor will be made no earlier than during the individual's third year of continuous appointment.

4.3. External Reviews

Whenever a member of the Law Faculty, Law Clinical Faculty, or Law Library Faculty is to be considered for promotion or continuous appointment, the Dean shall, after consultations consistent with this rule, solicit external and independent letters of review of the faculty member's scholarship in such numbers and in such form as will comply with applicable University requirements.

If the candidate is a member of the Law Faculty or the Law Clinical Faculty, the selection of reviewers and the timing and manner of each such solicitation shall be determined by the Dean in consultation with the candidate and, when deemed appropriate, in consultation with some or all of the faculty members who will be involved in the review of the candidacy. If the candidate is a member of the Law Library Faculty, the selection of reviewers and the timing and manner of each such solicitation shall be determined by the Director of the Law Library in consultation with the candidate and, when deemed appropriate, in consultation with some or all of the faculty members who will be involved in the review of the candidacy, and the Dean.

Each candidate shall have the opportunity to propose names of potential reviewers and to provide a list of potential reviewers to whom the candidate objects. The Dean or Library Director may or may not choose reviewers from the proposed names, but ordinarily will not choose reviewers to whom the candidate objects. Reviewers shall not be asked whether the candidate should or should not receive promotion or continuous appointment; instead, reviewers shall be asked for their judgment on the quality and significance of the reviewed work and the scholarly potential it demonstrates.

4.4. Contents of File

The candidate shall assemble materials required by the Office of Academic Affairs for promotion and continuous appointment as well as any other material in support of the application. The Dean may require such additional material in the file as the Dean deems proper. The file shall ordinarily include the following materials, to the extent applicable to the candidate:

- a. A current curriculum vitae;
- b. Student teaching evaluations;
- c. Reports of faculty teaching observations;
- d. Other performance evaluations;
- e. Annual review letters;
- f. External review letters;
- g. A list of individuals proposed by the Dean to provide an external review, and objected to by the candidate;
- h. Publications;
- i. Other evidence of professional activity; and
- j. Other material required by the University.

The candidate may inspect all materials in the file, unless the candidate waives that right.

4.5. Recommendations for Promotion, Continuous Appointment, or Termination

Recommendations for promotion, continuous appointment, or termination shall be made by:

- a. For a Law Faculty member, all members of the Law Faculty with continuous appointments and a rank superior to the current rank of the candidate;
- b. For a Law Clinical Faculty member, all members of the Law Faculty and the Law Clinical Faculty with continuous appointments and a rank superior to the current rank of the candidate;
- c. For a Law Library Faculty member, all members of the Law Faculty, the Law Clinical Faculty, and the Law Library Faculty with continuous appointments and a rank superior to the current rank of the candidate.

The Dean shall make an independent recommendation of each candidate.

Recommendations shall be made known promptly to the candidate.

Appendix B - Honor Code

University of Nebraska College of Law

Adopted by the Students and Faculty of the University of Nebraska College of Law May 9, 1988

We, the students and faculty of the University of Nebraska College of Law, desiring to prepare graduates for a profession that requires high trust, honor, and irreproachable conduct, and affirming that any dishonest means used by law students in such preparation would be incompatible with such requirements, hereby adopt this Honor Code ("Code").

The Code is largely procedural in content. Students should pay special attention to section 1.020 which describes conduct that violates the Code, and section 1.090 which discusses sanctions for violations of the Code. For this Code to be effective, it is essential that all members of the law school community accept responsibility for reporting all possible violations.

1.010 Definitions

- (1) The term "Dean" as used herein means the Dean of the University of Nebraska College of Law, or any person serving as interim or acting Dean.
- (2) The term "Associate Dean" as used herein means the Associate Dean of the University of Nebraska College of Law, any person serving as interim or acting Associate Dean, or, if there be no Associate Dean, then the Assistant Dean who performs the duties otherwise performed by the Associate Dean.
- (3) The term "vote" as used herein means a simple majority vote, unless otherwise specified.
- (4) The term "academic matter" as used in section 1.020(1) means all examinations, including practice examinations, any Law School competition, any moot court or law review competition, any written work which is a condition of membership on the Allen Moot Court Board or the Nebraska Law Review, and any other activity which in any manner affects or results in a law school grade or is in satisfaction of any other requirement for graduation.
- (5) The term "academic record" as used in section 1.020(3) means law school grade point average, any grade in any law school course, membership on the Nebraska Law Review, membership on the Allen Moot Court Board, LSAT score, and any work or activity which is a requirement for graduation.
- (6) The "intent" element of conduct incompatible with professional standards is satisfied if the student knows or should have known of the likely consequences of his/her conduct.
- (7) Unless otherwise specified, for purposes of calculating the date by which any acts required by this Code are to be done, the term "day" as used herein means a day on which the Dean's Office is officially open.

1.020 Conduct Incompatible With Professional Standards

- (1) It is a violation of this Code for any student to engage in any conduct which, with respect to any academic matter,
 - (A) Is intended to gain for that student or any other student an unfair advantage; or
 - (B) Is intended to disadvantage unfairly any other student.
- (2) By way of enumeration but not by way of limitation, the following are examples of conduct that violates section 1.020(1).
 - (A) With respect to examinations,
 - (i) Intentionally possessing or appropriating or attempting to possess or appropriate any information or materials the use of which is not authorized by the Instructor;
 - (ii) Intentionally supplying or attempting to supply to another student, during an examination, any information or materials the use of which is not authorized by the Instructor;
 - (iii) Intentionally working on an examination other than during the authorized time period or in a room other than the ones authorized for the taking of the examination.
 - (iv) Intentionally copying in any form questions on a controlled distribution exam.
 - (B) With respect to assignments, projects, examinations, papers, or competitions,
 - (i) Intentionally consulting or using any sources, animate or inanimate, specifically prohibited by the Instructor or by the rules of the competition.
 - (ii) Intentionally engaging in plagiarism.
 - (C) With respect to the academic materials of another student, intentionally taking or destroying or attempting to take or destroy such materials without the other student's consent.
- (3) Notwithstanding the "academic matter" requirement of section 1.020(1), it is a violation of this Code for any student to:
 - (A) Intentionally to misrepresent his/her academic record to any educational institution, potential employer, or actual employer; or
 - (B) Intentionally to remove or withhold Law Library materials from the library without authorization, to secret such materials in the library or elsewhere, or destroy or mutilate such materials.
- (4) Notwithstanding the "academic matter" and "intent" requirements of section 1.020(1), it is a violation of this Code for any student to fail to cooperate in an Honor Code investigation or to testify at a hearing of the Student-Faculty Honor Committee when so requested by that Committee, except that this subsection shall not apply to the accused or to those who cannot comply with the request of the Committee for

good cause shown. Any request to testify before the Committee must be in writing, with an explanation of the possible sanctions for failure to appear and testify. The possible sanctions for failure to cooperate in an Honor Code investigation or to testify at a hearing of the Committee are the sanctions set forth in section 1.090(2)-(4).

1.020.5 Prosecutor

- (1) The Dean shall appoint a Prosecutor from the faculty. The Prosecutor's term will be for one year, from April 15 through April 14 of the following year. The faculty member so appointed shall be someone other than the Dean, the Associate Dean, or a member or alternate member of the Student-Faculty Honor Committee.
- (2) If the Prosecutor has personal knowledge of any alleged violation(s) reported to him/her such that the Prosecutor may be a material witness or if the Prosecutor is otherwise unable to discharge his/her responsibilities under this Code, the Prosecutor shall be disqualified and the Dean shall appoint a temporary prosecutor to investigate and prosecute the alleged violation(s).

1.030 Student-Faculty Honor Committee - Function

- (1) The principal function of the Student-Faculty Honor Committee ("Committee") is to hold hearings on alleged violations of the Honor Code, to make findings with reference thereto, and when there is a finding of a violation, to impose sanctions as authorized by this Code.

1.040 Student-Faculty Honor Committee - Composition

- (1) Composition of Committee. The Committee shall consist of three members of the faculty and two members of the student body, one member representing the second year class and one member representing the third year class.
- (2) Selection. The faculty members of the Committee shall be appointed by the Dean by and with the advice and consent of the faculty. At the same time the Dean appoints the faculty members of the Committee, the Dean shall, by and with the advice and consent of the faculty, appoint a first, second, and third alternate faculty member for the purpose of filling any temporary vacancies that may occur on the Committee. The Dean, the Associate Dean, and the Prosecutor are ineligible for appointment as members or alternate members of the Committee.

Each student member of the Committee shall be selected by the members of his/her class pursuant to a procedure duly adopted by the Student Bar Association. At the same time the student members of the Committee are selected, a first and second alternate member representing the second year class and a first and second alternate member representing the third year class shall also be selected for the purpose of filling any temporary vacancy that may occur on the Committee. Such alternate members shall be selected pursuant to a procedure duly adopted by the Student Bar Association. No student who is on academic probation is eligible for selection as member or alternate member of the Committee.

- (3) Chair. One of the faculty members of the Committee shall be elected Chair of the Committee by a vote of the entire Committee, and will serve as such at the pleasure of the Committee.
- (4) Time of Appointment and Term of Office
 - (A) Faculty Members. The faculty members and alternate members of the Committee shall be selected prior to April 15 and shall hold office from April 15 through April 14 of the following year.
 - (B) Student Members. The student members and alternate members of the Committee shall be selected prior to April 15 and shall hold office from April 15 through April 14 of the following year, provided that the student is not on academic probation. A student member or alternate member who is placed on academic probation at any time subsequent to his/her initial selection shall be ineligible to continue serving as a member or alternate member of the Committee.
 - (C) Permanent Vacancies. If for any reason a permanent vacancy occurs during a term of office of any member or alternate member of the Committee, such vacancy shall be filled within 14 days after its occurrence pursuant to the procedure for selecting new members as set forth in section 1.040(2).
 - (D) Temporary Vacancies—Occurrence. A temporary vacancy occurs when a member becomes disqualified:
 - (i) Upon notification to the Chair that the member has voluntarily recused herself/himself;
 - (ii) Upon successful challenge for cause pursuant to section 1.070(2); or
 - (iii) Upon a determination by the Chair that a member is unable or unwilling to participate in a hearing, after reasonable efforts have been made to reschedule or otherwise accommodate that member.
 - (E) Temporary Vacancies--How Filled. Vacancies created on the Committee when a member becomes disqualified prior to the introduction of evidence at a hearing shall be filled temporarily as follows:
 - (i) If a faculty member of the Committee is disqualified, then the vacancy shall be filled by the first alternate faculty member and any subsequent vacancies that may occur shall be filled by the remaining alternate faculty members in sequential order.
 - (ii) If a student member of the Committee is disqualified, then the vacancy shall be filled by the first alternate student member representing the class of the disqualified Committee member and any subsequent vacancy shall be filled by the second alternate member representing that class.
 - (iii) If the Chair becomes disqualified, a temporary Chairperson shall be elected for the particular case by the newly constituted Committee.

Any alternate member who fills a temporary vacancy shall serve only during the particular case in which the temporary vacancy occurs.

- (F) Temporary Vacancies--When Not Filled. Any temporary vacancies that occur subsequent to the introduction of any evidence at the hearing shall not be filled and the case shall be heard and resolved by the remaining members of the Committee. Notwithstanding the foregoing, if three or more temporary vacancies occur during the course of the hearing, the hearing shall be terminated, the temporary vacancies filled, and a new hearing commenced before the reconstituted Committee.

1.050 Procedure and Functioning of the Committee

- (1) Reports and Functioning of the Committee. Alleged violations of the Code may be reported to the Associate Dean or to any member of the Committee. Upon receipt of any such report, the Associate Dean or Committee member shall promptly report the alleged violation(s) to the Prosecutor.
- (2) Statute of Limitations. The Prosecutor shall not initiate proceedings on an alleged exam violation that occurred more than six months prior to the report of the alleged violation or on any other type of violation that occurred more than one year prior to the report of the alleged violation.
- (3) Action on Report of Violations. Upon receipt of alleged violations of the Code, the Prosecutor shall promptly:
 - (A) Notify the Dean, giving the nature and description of the allegations; and
 - (B) Conduct an Initial Investigation in accordance with section 1.050(4).
- (4) Conduct of Initial Investigation. The purpose of the Initial Investigation is to determine if sufficient cause exists for a full hearing of the matter before the Committee. In conducting the Initial Investigation, the Prosecutor may take statements from persons involved and collect physical evidence as required. The Prosecutor shall not question the accused or otherwise discuss the circumstances of the alleged violation(s) with the accused without first informing the accused of the charges, including the time and place of the alleged violation(s), that the Prosecutor is conducting an investigation, that the accused has the right to remain silent, that any statement made by him/her may be used against him/her in any proceedings, that the accused has the right to counsel in all phases of the proceedings, and that the Prosecutor will conduct a prompt investigation into the alleged violation(s).

The Prosecutor shall prepare a written report of the Initial Investigation, with a recommendation for future proceedings, and forward the same to the Associate Dean no later than 20 days after the alleged violation(s) was first reported to the Associate Dean or to a Committee member. Prior to the expiration of the initial 20 day period, the Prosecutor may request, and may receive at the discretion of the Associate Dean, an additional 20 days in which to prepare the Initial Investigation report. The report shall contain, at a minimum, a synopsis of the investigation, with

summaries of witness statements and a description of any physical evidence, and a recommendation for future action.

- (5) Action on Initial Investigation. Upon receipt of the report of the Initial Investigation, the Associate Dean shall determine if sufficient cause exists to refer the matter to a full hearing before the Committee. In no case shall the sufficiency of cause determination be made later than 10 days after receipt of the report of the Initial Investigation. If the Associate Dean determines that sufficient cause exists on any allegation, the Associate Dean shall schedule a hearing before the Committee within a reasonable time of the determination of sufficient cause. If the Associate Dean determines that sufficient cause does not exist as to any alleged violations, no further action shall be taken on those alleged violations other than providing notice to the accused as described below.
- (A) If the Associate Dean determines that sufficient cause exists to refer the matter to the full Committee, the accused shall be so notified in writing and the notice shall include (i) through (ix) below. If the Associate Dean determines that sufficient cause does not exist to refer the matter to the full Committee, the accused shall be so notified in writing and the notice shall include (i) through (iii) below.
- (i) A description of the alleged violations.
 - (ii) A statement of the date, time and place of the alleged violation(s).
 - (iii) A statement that sufficiency of cause to submit the matter to a full hearing before the Committee pursuant to section 1.050(4) exists or does not exist.
 - (iv) A statement of the date, time and place of the hearing before the full Committee.
 - (v) A statement that the Initial Investigation and the determination of sufficiency of cause have been completed within the time limits specified in this section.
 - (vi) A statement of the date when each of the following occurred:
 - (a) Allegation(s) first reported;
 - (b) Prosecutor's request of additional time to prepare the Initial Investigation, if any;
 - (c) Prosecutor's Initial Investigation delivered to the Associate Dean; and
 - (d) Associate Dean's determination of sufficiency of cause to recommend a hearing before the full Committee.
 - (vii) The names of witnesses who are likely to be called to testify against the accused.
 - (viii) A copy of the Initial Investigation Report.
 - (ix) A copy of this Code.

- (B) The notice required by section 1.050(5)(A) shall be served upon the accused personally or by certified mail addressed to the accused at his/her current address, or if that address is unknown, then to the last recorded address of the accused as found in the University of Nebraska-Lincoln administrative records. Proof of service shall be made by certified mail return receipt (with or without accused's signature) or by an affidavit of personal service. Any such receipt or affidavit shall be retained and made a part of the proceeding's record.
 - (i) All references to service in subsections (C) and (D) herein refer to service of the notice required by section 1.050(5)(A).
 - (C) Subject to the provisions of subsection (D) herein, the hearing shall commence no sooner than 10 calendar days and no later than 90 calendar days after service is effected. For purposes of this Code, certified mail service is deemed effected on the date of receipt as indicated by the mail return receipt.
 - (D) After service is effected, either the Prosecutor or the accused may make a written request to the Committee Chair that the scheduled date for commencement of the hearing be rescheduled to a date certain. The Chair shall grant the request only upon a showing of good cause and shall promptly notify both parties of the rescheduled date for commencement of the hearing. The Chair shall not reschedule the hearing to commence later than 90 calendar days after service is effected, except that, upon a showing of good cause by the accused, the Chair may reschedule the hearing to begin later than 90 calendar days after service is effected.
- (6) Effect of Failure to Meet Deadlines. The failure to comply with the time requirements of this section shall preclude the Committee or the Dean from imposing any sanction which results in the suspension or dismissal of the accused.
 - (7) Disqualification of the Associate Dean. If the Associate Dean has personal knowledge of the alleged violation(s) that are the subject of the investigation such that the Associate Dean may be a material witness or if the Associate Dean is otherwise unable to discharge his/her responsibilities under this Code, the Associate Dean shall disqualify himself/herself and the Dean shall appoint a member of the faculty to perform the duties regarding the alleged violation(s) that this Code places on the Associate Dean. The faculty member so appointed shall be someone other than the Prosecutor or a member or alternate member of the Committee.

1.060 Procedure - Hearings In General

- (1) Rights of Accused upon Hearing. The accused shall have the right:
 - (a) to be present at the hearing with an advisor or legal counsel if desired;
 - (b) to have the full membership of the Committee present subject to the provisions of section 1.040(4)(F);
 - (c) to hear or examine evidence presented to the Committee;

- (d) to question witnesses testifying at the hearing;
 - (e) to present evidence whether oral or documentary;
 - (f) to make opening and closing statements;
 - (g) to be informed in writing of the findings of the Committee and any sanctions imposed;
 - (h) to appeal the Committee's decision as hereinafter provided in section 1.080; and
 - (i) to challenge for cause any member of the Committee.
- (2) Powers of the Prosecutor. The Prosecutor shall be present at the hearing and shall have the power to call witnesses and present evidence against the accused; to cross-examine witnesses called by the accused; to make opening and closing statements; and to challenge for cause any member of the Committee. Like the accused, the Prosecutor has the right, subject to the provisions of section 1.040(4)(F), to have the full membership of the Committee present and to be informed in writing of the Committee's findings and any sanctions imposed. The Prosecutor also has the right to discuss and, with the approval of the Committee, enter into a negotiated settlement with the accused of any alleged violation(s).

1.070 Procedure C Hearings

- (1) Conduct of Hearing. The Chair shall preside at the hearing, call the hearing to order, call the roll of the Committee in attendance, and ascertain the presence or absence of the accused. At the commencement of the hearing, the Chair shall read the notice of hearing and the charges against the accused, establish the presence of any advisor or counsel of the accused, call to the attention of the accused and his/her advisor or counsel any special procedures to be employed during the hearing, and rule on questions of evidence or objections by either side. Any objections to the procedure already followed or to be followed shall be made at this time for consideration by the Committee.
- If the accused is absent from the hearing, the hearing shall not continue without proof, presented by the Prosecutor, that the accused has been properly served pursuant to section 1.050(5)(B).
- (2) Disqualification of Committee Members. Any member of the Committee may disqualify himself/herself from hearing any alleged violation. The accused and the Prosecutor shall also have the right to challenge members of the Committee for cause prior to the introduction of evidence at the hearing. Such challenges, if any, shall be ruled on by the Chair subject to objection by a Committee member. If a Committee member objects to the Chair's ruling, the challenge shall be decided by a vote of the Committee members other than the challenged member. However, if the Chair is challenged for cause, such challenge shall be decided by a vote of the remaining Committee members.

- (3) Continuances. If it appears that essential testimony is unavailable or for other good cause the hearing should be deferred, the Committee may continue or recess the hearing to a time certain.
- (4) Opening Statement. The Prosecutor shall make an opening statement outlining the general nature of the case and shall then present the evidence against the accused. If the accused elects to make an opening statement at the conclusion of the Prosecutor's opening statement, however, the Prosecutor shall not present evidence until the conclusion of the accused's opening statement.
- (5) Accused's Opening Statement. The accused or his/her advisor or counsel may make an opening statement to the Committee about the charge. At the option of the accused, such statement may be made following the opening statement of the Prosecutor or at the conclusion of the Prosecutor's presentation of evidence against the accused.
- (6) Accused's Evidence. At the conclusion of the Prosecutor's presentation of evidence, the accused may present his/her evidence.
- (7) Witnesses. A party may call any person to testify as a witness, provided the opposing party was given notice of the identify of the witness as soon as reasonably possible under the circumstances. Notwithstanding the foregoing, neither party may call the Prosecutor or any member of the Committee as a witness and the Prosecutor may not call the accused to testify as a witness.
- (8) Evidence. The formal rules of evidence do not apply, and the Committee may admit relevant evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs.
- (9) Closing Statements. At the conclusion of all the evidence, the Prosecutor may make a closing statement and, following the Prosecutor's closing statement, if any, the accused or his/her advisor or counsel may make a closing statement.
- (10) Determination by Committee. At the conclusion of the closing statements, the Committee shall promptly deliberate and make its findings and determinations in executive session. If four-fifths or more of the Committee members find, by clear and convincing evidence, that the accused has committed the violation(s) charged, the Committee shall impose one or more of the sanctions provided in section 1.090.
- (11) Official Report of Findings and Determination. The Committee shall prepare its findings and determinations in writing and transmit them to the Dean, the Prosecutor, and the accused within 10 calendar days after the conclusion of the hearing.
- (12) Powers of the Committee. The Committee has the power to question witnesses at any time; to call additional witnesses or require additional investigation; to dismiss any charge at any time; to remove any person from the hearing who unreasonably interferes with or obstructs the hearing; and to make any rulings necessary to conduct the hearing.

- (13) Other Procedural Questions. Procedural questions not covered by these general rules which arise during the hearing shall be determined by the Chair; however, the Chair shall submit the question to a vote of the Committee at the request of any member of the Committee.
- (14) Record. The record shall consist of (1) a complete electronic audio-video or audio only taping of the proceedings and (2) all documents or other items introduced and accepted into evidence. The Committee may require that a transcript of the hearing be prepared. The record shall not include the deliberations of the Committee. The record shall be made available to the accused within a reasonable time after its compilation. Except as otherwise provided herein, the record shall remain confidential and be maintained as a permanent law school record.

1.080 Procedures - Appeal

- (1) Right to Appeal. A student found guilty of violating this Code may appeal the decision of the Committee to the Dean by filing a written notice of appeal with the Dean no later than ten calendar days after the Committee issues its written decision. The failure to file a notice of appeal within the proscribed time period waives any right to appeal.

The standard of review on appeal is as follows.

 - (A) Findings of fact by the Committee shall be binding unless clearly erroneous.
 - (B) Sanctions imposed or recommended by the Committee shall be accepted unless clearly inappropriate. If the sanction imposed or recommended is found to be clearly inappropriate, the Dean shall impose an appropriate sanction. In no case may the Dean impose a more severe sanction than the sanction imposed by the Committee.
 - (C) Questions of law or procedure shall be determined de novo.
- (2) Status During Appeal. In cases where the sanctions imposed involve dismissal or suspension from the College of Law and where a notice of appeal is filed within the proscribed time, the appellant may petition the Dean in writing for permission to continue in school pending final resolution of the appeal. The Dean may permit, upon such conditions as he/she may impose, the appellant to continue in school pending resolution of the appeal, provided that such continuance will not seriously disrupt the College of Law or the University community. However, any other sanctions imposed shall be effective from the date of the action of the Committee.
- (3) Disposition of Appeal. No later than 15 calendar days after the notice of appeal is filed, the Dean shall prepare a written ruling and that ruling shall be made available to both the appellant and Prosecutor.
- (4) Disqualification of the Dean. The Dean, either on his/her own initiative or upon motion by a party to the appeal, shall disqualify himself/herself when:

- (A) The Dean is a complaining or material witness to the violation(s) or alleged violation(s) that were the subject of the hearing before the Committee; or,
 - (B) The Dean possesses information outside the record that would impair his/her ability to act as an impartial appellate decision-maker.
- (5) Appeal When Dean Is Disqualified. If the Dean disqualifies himself/herself, the Dean shall notify both the Prosecutor and the appellant of his/her decision to disqualify himself/herself and forward the record to the Vice-Chancellor for Student Affairs ("Vice-Chancellor") for review. No later than 15 days after transmission of the record, the Vice-Chancellor shall prepare a written ruling and that ruling shall be made available to both the Prosecutor and the appellant.

1.090 Sanctions

Where the Committee finds that a violation of the Honor Code has occurred, one or more of the following sanctions may be imposed:

- (1) Dismissal. Dismissal from the College of Law.
- (2) Suspension. Suspension from the College of Law for a definite period of time or until a specified future date, with a statement of whether suspension relates back to the time of the offense, begins at the time of decision, or begins at a specified future date. Following completion of the suspension, the suspended student may return to the College of Law without petitioning the faculty for readmission.
- (3) Probation. Disciplinary probation, subject to any condition(s), which in the judgment of the Committee would be appropriate for the act committed.
- (4) Reprimand or Admonition. Written or oral reprimand or admonition.
- (5) Status Outside the College of Law. The above sanctions apply only to the status of the accused at the College of Law.

1.100 Confidential Nature of Proceedings

- (1) Forum. At the preference of the accused, a formal hearing under the Code may be held in public or in private. If the accused fails to express a preference, the hearing shall be held in public.
- (2) Confidentiality. All proceedings under the Code shall be conducted in a manner reasonably calculated to ensure confidentiality, subject to the provisions of subsections (1), (3), and (4) herein.
- (3) Academic Records. The Committee shall specify as a part of the sanctions whether the sanctions and basis for those sanctions shall appear on the accused's academic transcript.
- (4) Public Report of Findings. On motion by either the accused or the Prosecutor and after affording both parties the opportunity to be heard on the motion, the Committee may order that an appropriate report of its findings, with or without the accused's name, be posted in a public place in the College of Law.

1.110 Amendments

- (1) Amendments to the Code may be proposed by a petition of fifteen percent of the student body, or by the faculty. All amendments must be approved by a majority of the faculty and by a majority of the student body as provided below.
- (2) A proposed Amendment may not be submitted to the student body for an official vote until it is first approved by a vote of the faculty.
- (3) A proposed Amendment shall be adopted if at the official vote:
 - (A) at least one half of the members of the student body vote at such election, and
 - (B) at least one half of the members voting shall vote in favor of the proposed Amendment.

1.120 Effective Date

- (1) This Code shall take effect on the first day of regularly scheduled classes of the Fall 1988 semester. Notwithstanding the provisions of section 1.020.5(1), the Prosecutor for the 1988-89 academic year shall be selected on or before September 1, 1988 and shall hold office from September 1, 1988 through April 14, 1989. Notwithstanding the provisions of section 1.040(4), the student and faculty members and alternate members of the Committee for the 1988-89 academic year shall be selected on or before September 1, 1988 and shall hold office from September 1, 1989 through April 14, 1989.
- (2) All previous codes of student discipline, conduct, or honor are hereby repealed effective the first day of regularly scheduled classes of the Fall 1988 semester.
- (3) Notwithstanding the foregoing, if any proceedings are instituted on or after the effective date of this Code for alleged violations that occurred prior to the effective date of this Code, such proceedings shall be conducted in accordance with the provisions of this Code except that sections 4-9 of the Code of Student Discipline (adopted March 10, 1969) rather than section 1.020 of this Code shall apply.

Appendix C – Grade Appeal Procedure

University of Nebraska College of Law

1. The faculty of the University of Nebraska College of Law, pursuant to section 5.3(c) of the Bylaws of the Board of Regents, create a standing committee, known as the Grade Appeal Committee, to consider appeals of cases in which a student in the College of Law claims that a faculty member was prejudiced or capricious in evaluating the student's performance in a course.
2. The Grade Appeal Committee shall consist of three tenured faculty members and two student members of the College of Law. One additional tenured faculty member and one additional student member shall serve as alternate members of the Committee. The regular faculty members of the Committee shall be elected for three-year, staggered terms by a majority vote of the faculty as a whole. The alternate faculty member of the Committee shall be elected for a one-year term. The student members shall each serve for a term of one year. For each student vacancy, the Student Bar Association shall nominate a panel of three students. The faculty shall select one of the three nominated students to serve on the Committee. No faculty member of the Committee shall serve on a case which calls into question his or her grade. No student shall serve on a case in which that student is the petitioner. If a faculty member of the Committee is unable to serve on a case, the alternate faculty member shall serve in his or her place. If a student member is unable to serve on a case, the alternate student member shall serve in his or her place. Any additional vacancies on the Committee for a particular case may be filled by a majority vote of the remaining faculty Committee members.
3. The proper procedure for a student in the College of Law who feels that he or she has been graded by a faculty member based upon a prejudiced or capricious evaluation of his or her performance is first to seek redress from the faculty member. If the student is not satisfied after meeting with the faculty member that the problem of a prejudiced or capricious evaluation has been rectified, the student then has the right to petition a member of the Grade Appeal Committee to call the Committee into session.
4. The student who appeals to the Grade Appeal Committee shall have the burden of establishing by a preponderance of the evidence that the grade in question was based upon a prejudiced or capricious evaluation of his or her performance; the faculty member whose grade is questioned shall have the right to appear before the Grade Appeal Committee and rebut the charge.
5. The decision of the Grade Appeal Committee shall be based upon written findings and shall be final. The Grade Appeal Committee shall have the authority to order any procedure necessary for relief and may direct a change of the grade in question by written notification to the Registrar of the College of Law.