

# ***Student Handbook***

## ***Rules and Regulations***

***2019-2020***

**Updated: 11/6/2019**

*Please Note: New England Law reserves the right to make any changes in the contents of these materials; the rules, regulations, and policies of New England Law; and/or the described course of study that it deems necessary or desirable.*

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## **SECTION A. - STATUS AND CREDITS**

### **A.1. GRADUATION REQUIREMENTS**

In order to graduate, a student must:

- a.) Have attained a cumulative average of at least 2.20 subject to rule A.2.b. and E.1.

(**NOTE:** This version of rule A.1.a. applies to the fall 2018 entering class and subsequent classes. Students that entered the school in fall 2017 or earlier shall be governed by the prior version of this rule, which required a cumulative average of at least 2.0, rather than 2.20);

- b.) Have received passing grades in all required courses  
(**See "Retaking Courses" Rule A.4.**);

- c.) Have passed **86 credit hours**;

- d.) Have completed three semesters of Legal Research and Writing;

- e.) Have completed the Professional Skills Requirement.

(**NOTE:** Beginning with the fall 2016 entering class, the Professional Skills Requirement will be replaced by the **Experiential Education Requirement**. Students must take one or more experiential course(s) totaling at least six (6) credit hours from the combined approved list of clinical, simulation and practice courses. The faculty strongly recommends that some of these hours be in a clinical course; the requirement may be satisfied by taking all six credit hours in clinical courses);

- f.) Have completed the pre-bar diagnostic exam and review sponsored by New England Law | Boston (beginning with the class graduating in 2018);

- g.) Have complied with New England Law | Boston residency requirements, which are as follows:

**i. Full-Time Program** - Completion of 6 semesters of residency, 14 weeks each semester. In order to satisfactorily complete a semester for the purposes of residency, a student must enroll in the minimum number of credit hours required by New England Law | Boston.

**ii. Part-Time Program** - Completion of 8 semesters of residency, 14 weeks each semester. In order to satisfactorily complete a semester for the purposes of residency, students must enroll in the minimum number of credit hours required by New England Law | Boston.

**iii. Special Part-time Program** - Because of the unique nature of each special part time student's schedule, all SPT students should consult the Registrar or the Director of Student Services to determine applicable credit and residency requirements.

Any student failing to satisfy the appropriate residency requirements should consult the Director of Student Services immediately regarding his or her residency status and appropriate remedial action.

h.) Have completed no fewer than 64 credit hours in courses that require attendance in regularly scheduled classroom sessions or direct faculty instruction. For purposes of this requirement, “courses that require attendance in regularly scheduled classroom sessions or direct faculty instruction” shall include, in addition to traditional coursework at New England Law | Boston:

- i. Coursework at a law school for which a student receives credit toward the J.D. degree that meets the requirements of Rule A.8;
- ii. Coursework for which a student receives credit toward the J.D. degree consisting of work done in a class held in a foreign country that meets the requirements of Rule A.8;
- iii. Distance education coursework approved as part of the regular curriculum approval process that meets the requirements of Rule F.4; and
- iv. Those clinical placements in which the clinical work is done under the direct supervision of a member of the law school faculty or instructional staff whose primary professional employment is with the law school.

Co-curricular activities such as law review, moot court and mock trial competitions shall not meet the definition of courses that require attendance in regularly scheduled classroom sessions or direct faculty instruction.

***Adopted by the faculty, as amended, September 7, 1984 and effective with class entering fall 1984 and thereafter. Amended May 11, 1989; May 14, 1998; April 12, 2000; February 7, 2001; October 14, 2004, January 27, 2011 April 25, 2013, December 2, 2013, May 17, 2016; March 30, 2017. Amended by the Faculty on April 25, 2018***

## **A.2. ACADEMIC GOOD STANDING AND DISMISSAL**

### **a.) Academic Good Standing**

All students are considered to be in good standing except those first-year students who attain a cumulative average of lower than 2.20 for the first semester of the first year, and those students who have been dismissed.

### **b.) Dismissal**

Any student shall be academically dismissed who either:

- 1) Fails to attain a cumulative average of 2.20 by the end of his or her first academic year or fails to maintain a cumulative average of 2.20 or greater thereafter;
- 2) Attains a cumulative average of lower than 1.5 for the first semester of his or her first academic year towards the J.D. degree.
- 3) Receives four final grades of D+ or lower in his or her first academic year;
- 4) Receives two final grades of D+ or lower in an academic year other than the first year; **or**
- 5) Receives five final grades of D+ or lower during the course of his or her academic career at the law school.

**(NOTE:** This version of rule A.2. applies to the fall 2018 entering class and subsequent classes. Students that entered the school in fall 2017 or earlier shall be governed by the prior version of this rule, which required a cumulative average of at least 2.0, rather than 2.20).

**For purposes of this section, the academic year is defined to begin with the start of the summer session.**

A Notice of Academic Dismissal shall be given in writing by certified U.S. mail sent to the student's address on file with the Registrar and by electronic mail sent to the student's official New England Law | Boston student webmail account. (See Rule F.6.) For all purposes of these Rules, the date of the Notice of Academic Dismissal shall be the date the e-mail is sent. An academically dismissed student may petition the Faculty Academic Review Committee pursuant to section A.7.

***Adopted by the faculty on December 5, 1985, May 20, 2008 and October 8, 2009. Amended April 25, 2013 and May 19, 2015. Amended by the Faculty on April 25, 2018***

**Letters of Good Standing:**

In order to participate in a summer study program, students are required to provide a letter of good standing from their law schools. A letter of good standing cannot be issued to a first-year student with a cumulative average below 2.20, nor can a letter of good standing be issued for any student who has been academically dismissed. All other students may obtain such a letter from the Office of the Registrar.

***Adopted by the faculty on April 26, 2007. Amended on May 20, 2008, April 25, 2013 and May 19, 2015. Amended by the Faculty on April 25, 2018***

**A.3. STUDENTS ON ACADEMIC CONCERN**

**a.) Academic Concern**

Every first year student whose class rank at the end of his or her second full semester falls in the bottom 33% of his or her section or a percentile determined by the Dean in consultation with the Director of the Academic Excellence Program, shall be notified that he or she has been placed on Academic Concern for semesters 3 and 4 at a minimum.

A student shall be removed from Academic Concern after the first semester in which his/her cumulative grade point average is no longer in the presumptive 33% percentile or a percentile determined by the Dean in consultation with the Director of the Academic Excellence Program, but not before the end of the student's fourth semester. Grades received in summer study shall not be included in computing the student's cumulative grade point average for the spring semester before the summer study.

The Dean, in consultation with the Director of the Academic Excellence Program, shall have the option, prior to the start of each academic year, to modify the presumptive percentage of students placed on Academic Concern for that year. Any such modification shall be transmitted to the Dean, Registrar, faculty, and Director of Students Services prior to the start of the academic year.

Academic Concern will not be noted on the student's transcript or in the transcript guide. Notice of academic concern shall be given in writing by certified U.S. mail sent to the student's address on file with the Office of the Registrar and by electronic mail sent to the student's official New England Law | Boston webmail account. (See Rule F.6.) Copies of such notice shall be maintained in the student's file.

### **b.) Schedule Approval; Meeting with Director of the Academic Excellence Program**

Every student placed on Academic Concern:

- 1) Must meet with a member of the Academic Support Committee to discuss the student's future curriculum plan and for approval of the third and fourth semester schedules respectively;
- 2) Will be strongly encouraged to meet with the Director of the Academic Excellence Program, or her/his designee, within the first four weeks of the student's third and fourth semesters.

### **c.) Legal Analysis Course**

Every student placed on Academic Concern will be strongly encouraged to enroll in the Legal Analysis course.

### **d.) Meeting with Director of the Bar Examination Preparation Services; Advanced Legal Analysis Course.**

Every student entering her or his final year of law school with a class rank in the bottom third of her/his respective program:

- 1) Will be strongly encouraged to meet with the Director of Bar Examination Preparation Services or her/his designee, within 60 days of the beginning of the student's second-to-last semester.
- 2) Will be strongly encouraged to enroll in the Advanced Legal Analysis course.

***Adopted by the faculty on April 26, 2007. Amended on May 20, 2008.  
Amended by the faculty on December 14, 2009 and April 25, 2013. Amended April 25, 2018***

## **A.4. RETAKING COURSES**

### **a.) Eligibility to Retake Courses**

Unless permitted by this rule, or when required as a condition of readmission or as a sanction by the Discipline Committee (see Rules A.7. and E.2.), no student may retake a course in which he or she received any grade other than an "F." Any student receiving an "F" in a required course must retake the course, and any student receiving an "F" in a non-required course may retake the course.

Unless otherwise determined by the Office of the Dean, a course must be retaken at its next regularly scheduled time. When the student does retake the course, it shall count toward fulfillment of that student's required semester load. Students must retake all courses at New England Law | Boston unless the Office of the Dean waives this requirement. Where possible, the student shall be allowed to elect a section of the course taught by a professor other than the one with whom the student had the course originally.

### **b.) Grades in Repeated Courses**

In retaking a course, the student shall take the examination in the retaken course and the grade received in such course shall be entered on that student's transcript. Such grade shall neither replace nor cause an alteration of the grade originally received in such course. Unless a student is retaking an entire year as a condition of readmission under Rule A.7 (b.), both the grade in the original course and the retaken course shall be computed at full weight in determining that student's cumulative grade point average, and each grade, including an "F," shall be applied to the semester in which it is earned.

**See also: Rule D.1 regarding failing grades.**

***Adopted by the faculty March 1, 1979. Amended May 20, 1985. Amended March 14, 1995, Amended September 9, 2004. Amended April 27, 2006. Amended December 12, 2006 and April 25, 2013.***



## **A.5. WITHDRAWAL**

### **a.) Voluntary Withdrawal**

Any student in good academic and administrative standing may, upon completing and submitting a voluntary withdrawal form to the Director of Student Services, voluntarily withdraw from the law school. Such voluntary withdrawal shall be allowed automatically one time only and shall be subject to the rule regarding the maximum period allowed between admission and graduation. The official withdrawal effective date shall be the date the notice is received by the Director of Student Services.

**(See “Time Period for Completion of Degree Requirements.” Rule A.6).**

All first year students and second year part-time students who withdraw from the law school after completing the first semester and earning a grade in part I of courses that have a part II in the spring (e.g., Civil Procedure) will not be allowed to return to the law school until the next spring semester when they can take the second half of relevant courses. In exceptional circumstances, the Dean or the Dean’s designee may grant permission for a first year student, or a second year part-time student, to return prior to the spring semester.

To be readmitted after such a withdrawal, the student must notify the Director of Student Services in writing of his or her intent to resume his or her studies. Such notice must be received no later than:

For spring semester readmission, October 1 of the academic year in which the student intends to return; and

For fall semester readmission, March 15 of the academic year preceding the academic year in which the student intends to return, unless the student’s withdrawal occurs after March 15, in which case the student will be readmitted for the academic year immediately following the date of withdrawal unless the student seeks a later readmission, under the provisions of the next paragraph.

Any student who seeks readmission for an academic year other than the one immediately following his or her withdrawal must obtain the written permission of the Director of Student Services of the law school. Such permission will be granted only upon good cause being shown for the student’s failure to seek readmission for the academic year immediately following his or her withdrawal. The good cause determination shall rest solely within the discretion of the Director of Student Services on criteria that he or she deems adequate and appropriate. A withdrawn student who wishes to request an extension of the period of withdrawal must request such an extension in writing by March 15 of the academic year immediately following the year in which the student withdrew from the law school. That request must be directed to the Director of Student Services and will be granted only upon a showing of good cause for the extension.

Readmission following a voluntary withdrawal may be restricted or denied if the Director of Student Services concludes, in consultation with the Registrar, that space is unavailable.

### **b.) Discretionary Withdrawal**

Any student, not in good standing, or who is in good standing and seeks to withdraw from the law school more than one time, or who seeks to withdraw for a period in excess of that set forth in subsection a. above, will be entitled to withdraw officially only with the prior written approval of the Director of Student Services based on his or her discretion and on good cause being shown. The terms of the student’s readmission, if any, shall be those set forth in the written permission from the Dean, the Associate Dean or the Director of Student Services. The student’s voluntary failure to conform to the terms of readmission shall automatically convert the withdrawal into a dismissal with prejudice. Any student who is subject to a pending disciplinary hearing at the time of withdrawal from the law school shall have that fact noted on his or her transcript.

**c.) Settlement of Accounts of Financial Obligations**

A withdrawing student may receive a partial refund of tuition. If a student’s account is paid in full, he or she will receive a refund as scheduled below. If, however, only part-payment has been made, the student’s account will be credited as per the schedule, thus leaving either a balance due the school or a refund due the student. Any balance owed to the school must be paid before a withdrawal without a balance due prejudice can be granted. For purposes of this section, the effective date of withdrawal shall be deemed to be the date upon which written notice of withdrawal is received by the Director of Student Services or the date upon which approval for discretionary withdrawal is obtained.

**TUITION REFUND SCHEDULE FOR WITHDRAWALS**

<u>Withdrawal within:</u>	<u>Refund:</u>
First week of semester	80% *
Second week of semester	60%
Third week of semester	40%
Fourth week of semester	20%
After fourth week of semester	0

\* **For clarification:** The last day of each week for students to submit written notice of withdrawal falls on Sunday at midnight.

\* **Note:** The first week of the semester for entering students is the week of Orientation classes.

Students who are receiving Federal Title IV funds (Federal Stafford and Perkins Loans) are subject to a federally mandated refund policy. A Title IV aid recipient wishing to withdraw should consult with the Director of Financial Aid to determine the impact this will have on his or her financial aid package. Examples utilizing the federal refund policy are available from the Director of Financial Aid.

Refunds will be made in the following order:

1. To outstanding balances on Federal Unsubsidized Stafford Loans,
2. To outstanding balances on Federal Perkins Loans,
3. To outstanding balances on Federal Graduate Plus Loans,
4. To other Federal, State, private, or institutional sources of aid,
5. To the student.

The Dean shall have the authority to modify this rule (A.5.c) as necessity may require, following notice of the same to the faculty.

***Adopted by the faculty on April 12, 1979. Amended November 18, 1998. Amended by the faculty on April 30, 2012 and April 25, 2013. Amended by the faculty March 30, 2017.***

**A.6. TIME PERIOD FOR COMPLETION OF DEGREE REQUIREMENTS**

a.) Absent specific, written approval of the Dean, no full-time student shall be allowed to complete his or her degree requirements in less than three, or more than five, academic years from the date of first enrollment in the law school in a semester in which grades are received; and no part-time student shall be allowed to complete such requirements in less than four or more than six academic years from the date of first enrollment in the school. Failure to meet the academic requirements for graduation within the maximum time period allowed, therefore, absent the approval set forth above, will result in the dismissal of said student from the law school, or the application of such additional graduation requirements as shall be set by the Dean or the Dean’s designated representative.

**b.)** Students are not permitted to use credits earned during the summer to decrease their tuition obligations to New England Law | Boston during any regular semester. Any student who wishes to use summer credit to accelerate the date of graduation may do so only upon written permission from the Dean (via the Director of Student Services) and payment of a tuition equalization charge. The tuition equalization charge shall be equal to the difference between the amount of regular academic year tuition and fees that the student is expected to pay by the accelerated date of graduation and the amount of regular academic year tuition and fees that the student would have been expected to pay if he or she had graduated when originally contemplated. Special Part-Time students who enroll in summer courses should consult the Office of the Controller to determine the amount of that charge.

*Adopted by the faculty May 10, 1979. Amended May 19, 1992 and April 25, 2013.*

## **A.7. READMISSION PROCEDURE FOR AN ACADEMICALLY DEFICIENT STUDENT**

### **a.) Petition for Readmission**

A student dismissed from the law school for academic deficiency may submit a written Petition for Readmission to, and make a personal appearance before, the Faculty Academic Review Committee (in this Rule A.7., the “Committee”) as provided in this Rule.

#### **1) Requirements for Filing**

(i) Petitions for Readmission must be filed with the Office of the Dean addressed to the Committee on Academic Review. “Filing” requires physical receipt at the Office of the Dean. Petitions may be hand-delivered or mailed. Electronic filings are not allowed.

(ii) Petitions must be filed by May 1, and within the allotted twenty-four (24) month period which begins on the date of the sending of the Notice of Academic Dismissal (See Rule A.2); provided however that

(iii) Petitions may be filed following academic dismissal at the end of an academic year in which case the petition must be filed within twelve (12) calendar days of the mailing of the Notice of Academic Dismissal which date will be stated on the Notice of Dismissal.

(iv) The Petition for Readmission must be typewritten and signed by the student seeking readmission. The original Petition for Readmission must be filed with three (3) copies.

(v) Any student who was not in academic standing after the first semester of his or her first year must have participated in the Academic Excellence Program to the satisfaction of the Director of the Academic Excellence Program in order to petition for readmission.

(vi) Any student who is dismissed at the end of his or her first semester under either the provisions of Rule A.2 b.2. or Rule A.2.b.3. is not eligible to petition for readmission.

#### **2) Reviewable Matters**

The purpose of a petition for readmission is solely to provide the dismissed student an opportunity to present to the Committee specific facts, not contained in the academic record, which may rebut the presumption that every student has a reasonable opportunity to prepare for examinations and to successfully complete graded course activities. Accordingly, the Committee may not grant readmission unless the student proves to the satisfaction of the Committee, by clear and convincing evidence, that:

- (i) Extraordinary circumstances beyond the control of the student deprived the student of a reasonable opportunity to prepare for or take examinations or to otherwise successfully complete graded course activities that resulted in the dismissal;
- (ii) These extraordinary circumstances no longer exist; and
- (iii) The student possesses the ability and capacity to complete the course of study at the law school; and

A Petition for Readmission must set forth all relevant facts to be considered, and:

- (i) Factual assertions must be supported by documented proof where available;
- (ii) Any circumstances grounded in physical or psychological causes must be established by competent, documented medical proof; and
- (iii) Excess hours involved in outside activities will not be deemed extraordinary circumstances.

### **3) Time for Hearing**

Petitions will be heard once per year, in the summer, at a time designated by the Academic Review Committee. Each Petitioner will receive reasonable notice of the hearing time and place. In the discretion of the Academic Review Committee, a hearing on any petition properly filed in a timely manner may be held at any other date and time that the Committee may designate, if the Committee determines this to be in the best interest of the petitioner, the law school, or both.

### **4) Personal Appearance before the Committee**

A dismissed student who files a petition for readmission shall have the right to appear personally before such representatives of the Committee as the chair of the Committee shall designate at such time and place and under such circumstances as may be designated in writing by the Committee. Such right is deemed waived unless specifically requested in the petition for readmission.

### **5) No Appeal from Committee's Decision; No Repeat Petitions**

The decision of the Committee on readmission shall be final and there shall be no right of appeal. No dismissed student may petition more than once from any one dismissal for academic deficiency.

### **6) Authority to Readmit**

Only the Committee, acting in accordance with this Rule, may readmit a student who has been dismissed due to academic deficiency. No statement made by any other employee or representative of the law school shall be taken as an indication of the likelihood of readmission. The Committee shall have no authority to act on a Petition for Readmission filed later than twenty four (24) months after the date of the Notice of Academic Dismissal.

### **7) Reapplication**

Nothing in this Rule shall prevent a student who has been academically dismissed from reapplying for admission to the law school pursuant to the standard admission procedures available to new applicants, provided the student fully discloses such dismissal in the application.

#### **b.) Grades of Readmitted Students**

If a student is readmitted, any required course previously taken in which a grade of "F" was received must be repeated (See "Retaking Courses" Rule A.4.). The Academic Review Committee will normally not require the retaking of a course for which a grade of other than "F" was received. However, the Committee has the authority to require the retaking of such a course.

***Adopted as amended March 22, 1978; Amended by the faculty April 22, 1982, April 21, 1983, November 7, 2000, February 12, 2002 and October 8, 2009, effective immediately. Students who were academically dismissed before October 8, 2009 will, in***

***relation to those dismissals only, continue to be governed by the rule as it existed before October 8, 2009. Amended by the faculty on April 25, 2013, April 28, 2015, and March 14, 2019.***

#### **A.8. REGISTRATION AND CREDIT FOR COURSES AT OTHER LAW SCHOOLS**

Except as otherwise provided in this rule, New England Law | Boston students must complete all credit and degree requirements at New England Law | Boston.

A student in academic good standing may receive up to a total of six (6) credit hours for courses taken at other law schools accredited by the American Bar Association, provided the student obtains approval from the Director of Student Services prior to registering for such courses and meets all registration requirements at such other law schools. Except for transfer students on their admission to New England Law | Boston, approval will not be granted for required courses at New England Law | Boston. Excepted from the six (6) credit limit are:

- a. Credits awarded to transfer students upon their admission to New England Law | Boston;
- b. Summer abroad courses or semester abroad programs offered by New England Law | Boston or other Consortium for Innovative Legal Education (CILE) schools; and
- c. Up to fifteen (15) credits per semester for full-time students, and up to twelve (12) hours per semester for part-time students for courses taken while visiting out at a CILE school as approved by the Director of Student Services.

To obtain approval, a student should submit a Student Request Form to the Director of Student Services. If approval is obtained and the course will be taken contemporaneously with courses taken at New England, the student should submit this form with the student's Registration Form. If approval is obtained and the course will not be taken contemporaneously with courses taken at New England Law | Boston, the student should submit this form to the Office of the Registrar. The student is responsible for paying the additional tuition costs to the school in which he or she is seeking the additional course and such permission does not reduce the tuition owed New England Law | Boston.

The name of each course shall be recorded on the student's transcript, and the credit hours he or she receives for such course shall be counted toward fulfillment of residency and graduation requirements, provided that a minimum grade of "C" or its equivalent is earned in such course. However, except for courses taken at CILE schools or as part of programs offered by New England Law | Boston or CILE schools, the grade shall not be recorded on the student's transcript and will not be included in the calculation of the student's cumulative average or class standing.

***Amended by the faculty November 18, 1998; January 27, 2011 and April 25, 2013.***

#### **A.9. LAW REVIEW**

The law school permits students to receive transcript credit for their work on the New England Law Review (the "Law Review"), subject to the following conditions:

##### **a.) Eligibility**

Subject to the limitations in part (b) below, a member of the Law Review may in a given semester receive transcript credit for that student's work on Law Review if the student:

- (i) Is enrolled at New England Law | Boston;

- (ii) Is in the second semester of the student's first year of membership on the Law Review, the first semester of the student's second year of membership on the Law Review, or the second semester of the student's second year of membership on the Law Review;
- (iii) Previously earned said credit pursuant to the Law Review's internal policies for credit approval; and
- (iv) Remains a member in good standing of the Law Review throughout the entire semester for which that student received transcript credit.

**b.) Limitation Upon Credits**

- 1.) Members of the Law Review may receive a maximum of six (6) credits.
- 2.) No student participating in more than one of the activities listed in A.9. and A.10. may accumulate more than six (6) hours of credit.
- 3.) No eligible student shall receive more than two (2) transcript credits per semester during the second semester of his or her first year of membership on the Law Review, or the first semester of his or her second year of membership on the Law Review. An eligible student may receive from one (1) to four (4) credits in the second semester of his or her second year of membership on the Law Review, depending upon the number of credits that student has earned but not applied to the student's transcript by that time.
- 4.) Pursuant to Rule A.1 (h), Law Review credits shall not be included in the calculation of cumulative averages, but these credits shall count toward the residency requirement and other degree and semester requirements.
- 5.) Any student who withdraws from Law Review at any time during a semester shall not be eligible to receive transcript credit for Law Review for that or any subsequent semester, even if that student previously earned such credit under the Law Review's internal policies.

**c.) Mechanics**

**1.) Registration.** The student shall:

- i. Indicate to the Registrar at registration the number of credits he or she is hopeful of receiving, and;
- ii. Cause to be transmitted to the Registrar a communication from the appropriate Law Review authority (Editor-in-Chief or Executive Board) stating that the student is eligible for such credit.

**2.) Certification.** The student shall cause to be transmitted to the Registrar a communication from the appropriate Law Review authority, signed by the faculty advisor, certifying that the student has completed all the work required of him or her to the satisfaction of the Law Review authority. Such communication must be received by the Registrar within two (2) weeks of the close of the semester for which credit is sought.

A student certified for credit shall have the appropriate number of credits listed on his or her transcript. A student not certified for credit shall have an "Incomplete" recorded on his or her transcript. An "Incomplete" shall remain on the student's transcript unless and until the Registrar has received a letter from the Law Review authority, signed by the Law Review faculty advisor, certifying that the student has completed all the work required of him or her to the satisfaction of the Law

Review authority. Such an “Incomplete” shall not satisfy residency or other degree or semester requirements.

**d.) Further Qualifications**

1.) The above policy sets forth the bounds within which Law Review is free to operate. Nothing herein shall prevent the Law Review from implementing a policy which is more restrictive than that countenanced by these rules.

2.) The faculty retains the right to terminate this credit policy in the event that:

- i. The quality of the publication falls below the standards expected of a major scholarly publication; or,
- ii. The amount of publication falls below that which is expected of a major scholarly publication; or,
- iii. The certification criteria of the respective publication authorities are thought to be insufficiently rigorous to maintain a high quality scholarly publication.

3.) In the event the faculty believes there is cause to terminate the current credit policy pursuant to the provisions in paragraph (2) above, the faculty shall:

- i. give notice in writing to the Editor-in-Chief of the Law Review regarding such cause; and
- ii. Provide the Editor-in-Chief and other interested publication members the opportunity to be heard in writing and, at the faculty’s option, orally, prior to the faculty voting upon the question of termination of credit. Such written statements shall be submitted to the Associate Dean no fewer than forty-eight hours prior to the scheduled faculty vote.

***Amended by the faculty April 25, 2013. Amended by the Faculty on April 25, 2018***

**A.10. NATIONAL LAWYERING SKILLS COMPETITIONS**

While enrolled at New England Law | Boston, a student may receive a maximum of two (2) credits for his or her work on a faculty-coached national interscholastic lawyering skills team. Such credit is available only for those interscholastic competitions in which the law school’s participation has been approved in writing by the Dean.

Registration for, certification of, and recording of such credit shall be done in accordance with Rule A.9., governing credit for participation on the Law Review, except that the certifying authority shall be the faculty member who is serving as the coach for the New England Law | Boston team for the competition in which the student is participating.

***Adopted by the faculty May 10, 1978 and January 8, 1979.  
Amended May 11, 1989 and April 25, 2013.***

[NOTE: Section B, *Examinations*, begins on the next page]

## **SECTION B. - EXAMINATIONS**

### **B.1. ABSENCE FROM EXAMINATIONS**

- a.) **General rules; standard for an excused absence.** Each student is required to present himself or herself for examination in any course in which he or she is enrolled (if that course is tested by examination) at the time and place scheduled for said examination. The only recognized exceptions to this rule are for disabling illness or serious personal reasons not attributable to and beyond the control of the student examinee. A student may only make up a missed examination in a course if the student's absence falls into one or more of the above-mentioned exceptions.
- b.) **Excused absence prior to the examination.** If, prior to the administration of the examination, a student becomes aware that he or she may qualify for an excused absence under the foregoing clause, he or she shall present the requisite proof to the Director of Student Services/Dean's designee and receive his or her judgment thereon prior to the date of the examination.
- c.) **Excused absence after the examination.** If a student is absent from a scheduled examination and has not received a prior judgment from the Director of Student Services/Dean's designee acknowledging that the absence is excused, the student must submit to the Director of Student Services/Dean's designee a written statement detailing his or her reason for missing the examination, accompanied by documentary proof establishing the basis for the student's statement. This proof should be presented as soon as possible after the absence, but in no case more than ten (10) days following the last scheduled examination in the examination period in which the absence occurred.
- d.) **Examination grades following an absence.** Any student absent or excused from a scheduled examination shall initially be given a grade of "Incomplete" for the examination. If, within the time period set out in Rule B.1 (c.), the student fails to present satisfactory evidence to the Director of Student Services/Dean's designee that his or her absence from the regularly scheduled examination was excusable under Rule B.1 (a.), the absence shall be deemed unexcused and the incomplete grade will be changed to an "F" for the examination.
- e.) **Appeal to faculty in extraordinary circumstances.** Any student whose absence was deemed unexcused may appeal to the full-time faculty by submitting a written petition, signed under oath, to be considered at the next regular faculty meeting, seeking relief from the above rule. If the faculty is convinced, in its discretion, that extraordinary circumstances that could not have been communicated to the Director of Student Services/Dean's designee prior to the examination, prevented the student in good faith from taking the examination then the faculty may, by majority vote, designate the absence an excused absence and permit the student to make up the examination, per subsection (f) below. In such a case, the faculty may in its discretion further require that the student's examination score be reduced by one or more grade(s) as a penalty for missing the original examination. For purposes of this subsection (e), "extraordinary circumstances" need not be limited to one of the recognized exceptions in subsection (a) above.

Any student that anticipates petitioning the faculty per this subsection should take a provisional make-up examination per subsection (f)(iv) below, as soon as practicable after missing the original examination, with the understanding that the faculty may or may not in its discretion credit the provisional make-up examination at the next regularly scheduled faculty meeting.



f.) **Make-up examinations.** If the student was excused or, although absent his or her proof was satisfactory to the Director of Student Services/Dean's designee, or anticipates petitioning the faculty per subsection (e) above, the missed examination may be "made-up" subject to the following rules:

- i. "Make-up" examinations may be taken only subsequent to the originally scheduled examination.
- ii. The faculty member whose examination was missed may determine whether the student shall take the examination originally administered or a special examination.
- iii. The faculty member whose examination was missed may, at his or her election, require that the student take the missed examination the next time the course in question is examined by the faculty member, provided that the exercise of this option does not prevent the student in question from graduating on schedule.
- iv. Students taking a provisional make-up examination, subject to faculty appeal per subsection (e) above, shall sign the following statement prior to taking a make-up examination:

“I am provisionally taking this make-up examination with the expectation of appealing my unexcused absence from the original examination to the faculty based on extraordinary circumstances. I understand that the faculty may or may not, in its discretion, deem my absence excused and permit me to make up the missed examination. I further understand that if the faculty in its discretion rejects my appeal then this examination will not be credited and my absence will remain unexcused.”

**See also: Rule D.2 regarding incomplete grades.**

*Adopted by the faculty April 21, 1983. Amended April 25, 2013. Amended March 30, 2017.*

## **B.2. TARDINESS FOR EXAMINATIONS**

Any student who is tardy for an examination shall be allowed to sit for that examination at the regularly scheduled time. No special consideration in grading will be given a student who misses part of an examination because of tardiness, nor will additional time be given.

*Affirmed by the faculty November 30, 1977.*

## **B.3. CHEATING ON EXAMINATIONS**

If during an examination period, it can be reasonably inferred from a student's conduct that he or she has cheated during the examination, the proctor shall allow him/her to finish the examination, but shall submit a written report of this incident to the Dean as soon as practicable. Upon receipt of this report, the Dean shall promptly convene the Discipline Committee (see "Student Discipline" for procedure). Retention of or continuing to work on an examination paper after notification by the proctor of the end of the examination shall be deemed cheating within the meaning of this rule.

*Adopted by the faculty, as amended, May 11, 1979.*

**B.4. LOST EXAMINATION BOOKS AND LOST PORTIONS OF EXAMINATIONS**

a) If a student asserts that all or a portion of an examination answer that he or she believes to have properly submitted was lost by the law school before it was graded, the law school will investigate and resolve the matter in accordance with the following process:

i. The Dean's representative will conduct an investigation of the matter, including reviewing the student's copy of the student's examination receipt. If the investigation confirms the student's claim, it shall be presumed that the law school is responsible for the loss and the student shall have the option of taking a "Pass" in the course or taking another examination at the next regularly scheduled time the examination is given. If the lost portion of the examination constitutes less than fifty (50) percent of the total possible credit for the examination, and the faculty member's grading system can be adjusted to reflect an accurate grade for the balance of the examination, the student shall have the option of taking the grade given for the balance of the examination.

ii. If the investigation does not confirm the student's claim, it shall be presumed that the student submitted only those examination books which the professor has in his or her possession.

b). The findings of the Dean's representative are final.

c). The Associate Dean shall inform the student of the results of the investigation and the options under this rule that are available to the student.

*Amended by the faculty April 23, 1981, April 23, 2009 and April 25, 2013.*

**B.5. LOST EXAMINATION SOFTWARE EXAMINATIONS AND PORTIONS OF EXAMINATIONS**

a). If a student asserts that all or a portion of an examination answer that he or she believes to have properly typed during the examination while using examination software is missing before it was graded, the law school will investigate and resolve the matter in accordance with the following process:

i. The Dean's representative will conduct an investigation of the matter, including reviewing the examination software logs and available reports associated with the examination at issue and, if necessary, the laptop that the student used to take the examination. If the student fails to produce the laptop used for the examination in a timely manner for investigation, no further investigation will take place and the available portions of the examination will be submitted to the instructor for grading.

ii. If, during the investigation, the allegedly lost text or examination is found to be accessible, then the examination will be submitted to the instructor.

iii. Upon the conclusion of the investigation, if the Dean's representative determines that there was no lost examination or portions of the examination, no relief will be granted and the available portions of the examination will be submitted to the instructor for grading.

iv. Upon the conclusion of the investigation, if the Dean's representative determines that there was an unrecoverable loss, but there is no indication of a malfunction in the examination software or computer beyond the student's control, no relief will be granted and the available portions of the examination will be submitted to the instructor for grading.

v. Upon the conclusion of the investigation, if the Dean's representative determines that there was an unrecoverable loss, either because of a malfunction in the examination software or computer beyond the student's control, the remedies set out in Rule B.4.a).i. will be available to the student.

b). The findings of the Dean's representative are final.

c). The Associate Dean shall inform the student of the results of the investigation and the options under this rule that are available to the student.

***Adopted by the Faculty April 25, 2013.***

### **B.6. ONE EXAMINATION RULE**

A faculty member teaching more than one section of a course in the full-time program or the same course in full-time and part-time programs may choose, in consultation with the Associate Dean, to administer the same examination to all sections and programs at the same time.

***Affirmed by the faculty November 30, 1977. Amended April 25, 2013.***

### **B.7. WRITTEN WORK FOR CREDIT**

No student shall submit written work for credit that has been submitted in any other context (including, but not limited to, another class, clinic, employment, volunteer work, extracurricular or journal work), unless the prior submission is disclosed in advance to the faculty member and the written work submitted for credit differs substantially from that previously submitted elsewhere.

***Adopted by the faculty April 27, 2006.***

## **SECTION C. - GRADING**

### **C.1. MODEL QUESTIONS AND ANSWERS**

Every faculty member shall put on reserve in the library an examination question and either a model answer or outline of issues involved and possible advocacy positions with regard thereto, or an actual student answer to that question. One such examination question and model answer or outline shall be submitted for each different course taught by each such faculty member. In addition, if one-third or greater of a student's grade is determined by multiple choice, true-false, or other such objective type of questions, a sample of not fewer than five (5) questions and the correct responses thereto shall be put on reserve by the faculty member teaching such course. This provision shall not apply to any course which has not been previously taught by the faculty member presently assigned to the course.

*Adopted by the faculty April 27 and 29, 1977. Amended May 11, 1989.*

### **C.2. GRADING STANDARDS**

Grading standards are the same in both the full and part time programs. Where faculty members teach different sections of the same course, they should consult each other regarding standards of grading of their respective examinations.

*Adopted by the faculty April 27 and 29, 1977. Amended April 25, 2013.*

### **C.3. ID NUMBER CONFIDENTIALITY**

Insofar as possible, student identification number confidentiality shall be maintained in all graded academic work that is blind-graded. Except as provided by this rule, student examinations shall be blind-graded. In seminars and other courses graded by paper, role playing, work with clients, and the like, the students' names may be used for grading purposes, without their identification numbers being revealed. The administrative offices shall not, as an ordinary practice, provide information to a faculty member that would allow him or her to associate matriculated students' names with their identification numbers. However, a faculty member may adjust the final grade in a course in which the examination has been blind-graded *after* submitting to the Registrar a grade sheet containing blind-graded examination grades. The Rules Committee, in conjunction with an Associate Dean and the Registrar, may from time to time adopt procedures to effectuate this rule.

Nothing in this rule shall be taken to mean that a student may not consent, in appropriate circumstances, to the release of his or her identification number.

*Adopted by the faculty April 27 and 29, 1977. Amended December 7, 1999.*

### **C.4. FINALITY OF GRADES**

After a faculty member has turned in a grade, it is presumed final, and the decision to grant the assigned grade is non-reviewable except as set forth in this section. Students may review any graded work with faculty members in any reasonable fashion which a faculty member adopts. However, review of student work is for educational purposes, not to contest a final grade or lobby for a grade change.

Faculty members may not change a final grade, except for mechanical reasons. Any faculty member requesting to change a grade for mechanical reasons shall submit a request explaining the mechanical error. Requests for final grade changes will be reviewed by the Dean or the Dean's representative.

Review will be limited to the written statement by the faculty member making the request. There is no appeal from this process.

***Adopted by the faculty April 26, 1984. Amended April 25, 2013.***

**C.5. GRADE CHANGE AFFECTING HONORS**

Whenever a grade change may affect one or more students' eligibility for graduation honors, the faculty shall vote on the honors designation(s) of the affected student(s).

***Adopted by the faculty April 22, 1982. Amended April 25, 2013.***

## **SECTION D. - TRANSCRIPT NOTATIONS**

### **D.1. FAILING GRADES**

All grades received by a student at New England Law | Boston, including grades of “F,” will appear on his or her transcript. A grade of “F” shall satisfy neither residency nor minimum credit-hour requirements for graduation in either graded or Pass/Fail courses. Grades in Pass/Fail courses will not be used in computing a student’s grade point average.

**See also: Rule A.4. regarding retaking courses.**

***Adopted by the faculty April 26, 1979. Amended by the faculty on November 12, 1997. Amended April 27, 2006.***

### **D.2. INCOMPLETE**

**a.)** An "Incomplete" shall be assigned in an examined course in which the student is enrolled, but no grade can be assigned for reasons attributable to that student. Such an "Incomplete" must be removed within 90 days of its assignment or the time at which the faculty certifies students for graduation, whichever shall occur first, unless Rule D.2 (d) applies or the faculty member involved approves in writing an extension of time to another specific date. In the event that it is not so removed, such "Incomplete" shall be converted into an “F”.

**b.)** An "Incomplete" shall be assigned in a course in which a student is enrolled for which a paper is required, but no grade is assigned for reasons attributable to that student. Such an "Incomplete" must be removed within 90 days of its assignment or before graduation certification, whichever shall occur first, unless Rule D.2 (d) applies or the faculty member involved approves in writing an extension of time to another specific date. In the event that it is not so removed, such "Incomplete" shall be converted to an "F.”

**c.)** An “Incomplete” shall be assigned for credit sought in connection with membership on the New England Law Review where the student has met the registration requirements of Rule A.9(c)(1), but the student has not been certified for credit pursuant to Rule A.9(c)(2) for reasons attributable to the that student. Such an “Incomplete” shall remain on the student’s transcript unless and until the certification requirements of Rule A.9(c)(2) are met.

**d.)** If a student receives an “Incomplete” in a course for reasons requiring the initiation of disciplinary proceedings under Rule E.2, the incomplete shall be removed by the Registrar, whenever required under Rule E.2.

***Adopted by the faculty April 12, 1979. Amended by the Faculty on March 24, 2005 and April 25, 2013.***

## **SECTION E. - STANDARDS OF CONDUCT AND DISCIPLINE**

### **E.1. RESPONSIBILITIES OF STUDENTS**

#### **a.) Regular and Punctual Class Attendance**

ABA Standard 308(a) requires regular and punctual class attendance. In order to comply with this standard, the law school requires that no student shall be absent from more than twenty (20) percent of regularly scheduled hours for any semester in any course, seminar or clinic. If the faculty member determines, after consultation with the student, that the student has failed to meet this standard, the faculty member shall provide written notice to the Office of the Dean or its designee, who shall instruct the Registrar to give the student in a required course the grade of "F" or, in any other course, the grade of "W." Nothing herein shall be construed to prevent a faculty member from applying a more stringent attendance policy if the faculty member has provided the class written notice of such policy before the end of the drop-add period.

***Amended by the faculty May 2, 2001, March 24, 2005, April 1, 2010 and April 25, 2013.***

#### **b.) Disruption of School of Law Activities or Operations**

Conduct that disrupts or impairs school activities or operations may be subject to disciplinary action. The kind of conduct referred to is conduct that by itself or in conjunction with the conduct of others disrupts or impairs the effective carrying on of the activity, a result that the student knew or reasonably should have known would occur.

#### **c.) Other Conduct**

Other cases requiring discipline typically involve plagiarism, cheating, and false statements on admissions and financial aid applications, but may also arise from other serious departures from generally accepted standards of integrity or behavior, particularly when such conduct is inconsistent with the trust and responsibility required of a member of the legal profession.

#### **d.) Reports Made Fraudulently or in Bad Faith**

A report of an alleged infraction of these Standards of Conduct and Discipline that is made fraudulently or in bad faith will subject the reporting student to disciplinary action under these rules.

#### **e.) Duty to Report Arrests and Other Legal Actions**

Because the Dean must certify graduates' good moral character to state bar examiners, each student has a continuing responsibility promptly to report to the Office of the Dean any police or court activity, civil or criminal, with which a student becomes involved between admission to the law school and graduation, other than parking tickets and minor traffic infractions not involving drug or alcohol use. The law school may treat any student failure to report under this paragraph as a disciplinary infraction. Every student has a duty to inform himself or herself about the character requirements for admission to the bar in the state or states in which he or she intends to practice. Such bar admission requirements sometimes require students to disclose to the bar examiners juvenile and adult arrest and court disposition records, even if a court order has sealed or expunged such records.

***Amended by the faculty May 2, 1991. Amended May 21, 1996. Amended May 22, 1998. Amended May 16, 2009.***

## **E.2. STUDENT DISCIPLINE**

### **a.) Composition of the Discipline Committee**

The Discipline Committee shall consist of two full-time faculty members and one student member. The Dean shall appoint or reappoint the faculty members annually, together with two alternates. The student member and an alternate shall be appointed annually by the President of the Student Bar Association. The Dean shall designate one of the full-time faculty members to serve as Chairperson.

### **b.) Responsibility of the Committee**

The Discipline Committee is responsible for hearing cases involving possible breaches of Student Rules and Regulations and the Policies of New England Law | Boston, as adopted and published, if such breaches are sufficiently serious to warrant disciplinary action; provided, however, that matters concerning possible breaches of New England Law | Boston's Sexual Misconduct Policy shall be governed by the procedures described in that Policy and shall not become the responsibility of the Discipline Committee except as specifically stated therein.

### **c.) Administrative Officer**

In addition to the two faculty members of the Discipline Committee, the Dean shall appoint a member of the full-time faculty, together with an alternate, to serve as the Committee's "Administrative Officer." The Administrative Officer shall receive complaints, act as clerk, and generally facilitate the processing of matters before the Discipline Committee. All material and matters that come to the attention of, or are received by, the Administrative Officer shall be distributed and made known to members of the Discipline Committee.

### **d.) Initiation of Proceedings before the Committee**

**1. Referral.** Infractions of the Student Rules and Regulations and the Policies of New England Law | Boston should, in the first instance, be referred to the Office of the Dean in writing. The Office of the Dean shall review the written submission within ten days of receiving it and determine if action should be taken and whether the matter should be subject to either informal or formal proceedings under these rules.

**2. Informal Proceedings.** The Office of the Dean may attempt to resolve the matter informally. Informal resolution may include the imposition of disciplinary sanctions if the party alleged to have committed the infraction voluntarily agrees to such sanctions after having been informed of the option of formal proceedings. No disciplinary sanction of suspension or expulsion may be imposed through informal proceedings.

If the Office of the Dean determines that the matter is not appropriate for informal proceedings, or if the party alleged to have committed the infraction does not agree to its informal resolution, the Office of the Dean shall refer the matter to the Committee by transmitting to the Administrative Officer a written description of the alleged infraction and such supporting materials as the Office of the Dean deems relevant. The Administrative Officer shall assemble the materials that he/she deems relevant to the matter and bring the materials to the attention of the Committee as soon thereafter as reasonably possible.

**3. Formal Proceedings.** Prior to commencing a formal disciplinary proceeding, the Committee shall meet to consider the material submitted by the Office of the Dean. If the Committee determines that there is cause to believe an infraction of the Student Rules and Regulations and the Policies of New England Law | Boston has occurred and that formal proceedings are appropriate,



pursuant to paragraph b. above, the Committee shall issue a written charge. The charge shall explain the nature of the apparent disciplinary infraction, the specific rule or rules alleged to have been violated, the facts relied upon and the sanction(s) that may be applied if the infraction is proved.

The written charge shall be sent by certified mail to the party charged at his/her address of record. The issuance of the written charge initiates a formal proceeding under this rule. The Administrative Officer shall notify the Registrar and the Director of Student Services that discipline proceedings have been instituted when a charge letter is issued to a student.

During the time a matter is pending before the Discipline Committee, the Dean or the Dean's representative may take such action as he or she deems necessary with respect to the student to protect the health, safety, and welfare of the law school community, and to avoid disruption of the academic process. The Dean or the Dean's representative may suspend the student from the law school, if he or she finds there is cause to believe the student engaged and will continue to engage in intentional conduct that: (1) disrupts or interferes with the operation of the law school; (2) endangers the physical safety of other students or employees of the law school; or (3) inflicts emotional distress on other students or employees of the law school. The decision of the Dean or the Dean's representative to take action or to suspend a student pursuant to this provision is not subject to appeal or review.

**4. Grades that Might be Affected by Informal or Formal Proceedings.** If a referral to the Office of the Dean for a possible discipline violation involves academic work for credit, no final grade or academic credit for the work may be awarded until the conclusion of any discipline proceedings arising from the referral. A faculty member making a referral to the Office of the Dean shall not award a final grade or credit for such academic work until the Office of the Dean informs the faculty member that the matter has been concluded. The faculty member should communicate to the Registrar the reason for the issuance of the grade of "Incomplete." Pending conclusion of any discipline referral, grades or academic work for credit shall be denoted as "Incomplete" by the Registrar. If a referral is made after award of a final grade or academic credit in a course, the grade or credit may be changed due to resolution or conclusion of any resulting discipline proceeding, notwithstanding the grade or academic credit having been awarded.

#### **e.) Hearing Procedures**

**1. Notice.** Any student charged under paragraph d (3) of this section shall be provided at least seven days' notice prior to any hearing on the matter.

**2. Public or Private Hearing.** In any disciplinary matter, a party has the right to a hearing before the Committee. Disciplinary hearings normally will be private, but at the party's option, the hearing may be held in public. In a case involving more than one party, in which the parties do not agree on this issue, the Committee shall in its sole discretion determine whether the hearing will be private or public.

#### **3. Student Response and Waiver.**

(a) Any student charged under paragraph d(3) of this section shall submit, to the Administrative Officer at least 72 hours before the scheduled date and time of the hearing, a written response to the charge described in paragraph d(3). This response shall briefly set forth the student's position with respect to each allegation in the charge, and shall indicate what witness or witnesses, if any, the student wishes to call at the hearing, and what evidence, if any, the student wishes to submit at the hearing. The filing of this response does not limit the student's opportunity to make a statement to the committee, or produce additional evidence or witnesses.

*Amended by the faculty April 28, 2015*

(b) Waiver. A party charged with a disciplinary infraction may elect to waive the hearing and accept a Committee sanction without contesting the charge or charges, provided the party signs a written waiver stating that he or she is aware of all of his or her rights Under Rule E.2, and that he or she voluntarily waives those rights, including any right to faculty review.

**4. Challenges.** Disciplinary cases normally are heard by the full Committee. A party may ask an individual member of the Committee to recuse himself or herself for cause.

Any faculty or student member who elects, at his or her discretion, to so recuse himself or herself shall be replaced by an alternate member designated by the Dean or the President of the Student Bar Association, respectively.

In the event that the appointed alternates are not available, the Dean or the Student Bar Association President, respectively, may appoint substitute alternates as provided above. A party may choose to have the proceeding heard and decided only by the faculty members of the Committee. In such a case, the Dean shall designate one of the full-time faculty alternates to serve so that the Committee has three members.

**5. Independent Counsel.** Any person appearing before the Discipline Committee, whether or not a party, may appear with legal counsel. An appearance filed by counsel shall be deemed a representation that he or she will be bound by the scheduling requirements and procedures designated by the Administrative Officer and the Committee.

**6. Record.** A record of the hearing shall be kept, either by stenographic transcript or recording, and a copy shall be made available to each party, upon request.

**7. Witnesses.** At the hearing, the evidence against the party charged will be presented and the party charged shall have the right to call his or her own witnesses and to examine all witnesses who testify in person. The Committee has the discretion to place reasonable limitations on the receipt of testimony.

**8. Evidence.** The Discipline Committee may consider any evidence that it deems relevant and trustworthy. Formal rules of evidence do not apply. Written material such as affidavits, depositions or other material may be entered into evidence and received for such probative value as the Committee may attribute to them. In extenuating circumstances, a Committee member may participate in a discipline decision although he or she was absent for some portion of the formal proceeding. Members may review such transcripts or other records of the hearing as may be kept.

**9. Non-cooperation.** The Discipline Committee does not recognize a privilege of non-cooperation by either parties or by any member of the law school community who are witnesses.

Therefore, it may draw such reasonable inferences from non-cooperation as it deems appropriate. Statements made by any person to members of the Committee and others are admissible at the hearing regardless of when made.

**10. Pre-hearing orders.** The Administrative Officer shall issue such pre-hearing orders as he or she finds appropriate, including the schedule of hearings and time that shall be devoted to them. Any Committee member or party may request a review of the pre-hearing orders by filing a request in writing with the Committee. The Committee may review and decide such matters by individual vote without convening as a body.

**11. Sanctions.** Breaches of Student Rules and Regulations and the Policies of New England Law | Boston may result in expulsion, suspension, dismissal from one or more classes, fines, notation of

disciplinary action on the student's transcript, restitution, or any other appropriate penalty. The application of any sanction shall depend upon the seriousness of the offense and the presence or absence of mitigating factors. Execution of the penalty may be stayed pending successful completion of specified conditions of a probationary period as determined by the Committee. If a sanction includes a requirement that the student retake a course for which the student has already received credit, both the grade originally received for the course and the grade received upon repeating the course shall appear on the student's transcript, and each grade shall be computed at full weight in determining the student's cumulative grade point average. If the student receives a grade other than "F" for the course the second time it is taken, the student will be given academic credit for the course; the number of credit hours granted will be the number assigned to the course the second time it is taken, and the student shall not receive credit for the course the first time it was taken for purposes of determining credit hours required for graduation.

**12. Findings and Rulings.** The Committee shall not impose the sanctions of suspension or expulsion unless the conduct warranting such sanction is established by clear and convincing evidence. The Committee may impose any other sanction if the conduct warranting such sanction is established by a preponderance of the evidence. All decisions by the Committee shall be supported by written findings of fact and conclusions. A copy shall be provided to the parties.

**13. Decisions.** All Committee decisions shall be by majority vote.

#### **f.) Faculty Review**

**1. Right to Faculty Review.** The decision by the Discipline Committee to impose a sanction other than suspension or expulsion shall be final and the party charged shall have no right to seek review of that decision by the full-time faculty. In all matters in which the Discipline Committee imposes the sanction of suspension or expulsion, the party sanctioned shall have the right to seek review of the Committee's decision by the full-time faculty. If the party fails to provide written notice of a request for review by the full-time faculty to the Administrative Officer within twenty (20) business days after the Discipline Committee sends notice to the party of the Committee's decision to suspend or expel, or if the party otherwise waives the right to faculty review, the sanction of suspension or expulsion shall be final.

#### **2. Faculty Review.**

**i) Participation in Faculty Review.** All members of the full-time faculty may participate in faculty review of the decision of the Discipline Committee to impose a sanction of suspension or expulsion, except that members of the Committee who participated in the decision, the Administrative Officer, and any faculty members who appeared as witnesses shall be recused. A party who requests faculty review shall have at least thirty (30) days, from the time of such request, before the faculty review meeting is held.

**ii.) Scope of Review.** Faculty review shall be conducted by the full-time faculty according to the following procedure.

a. Faculty review shall be conducted with recusal of the members set forth in section f.)2.) i. above.

b. The Dean shall appoint a member of the full-time faculty to serve as the Chair of the faculty review process.

c. The party seeking faculty review shall have no right to appear in person or by counsel, but may submit any materials the party believes will assist faculty review to the Chair of the faculty review. All material must be submitted as instructed by the Chair, which instructions the Chair shall transmit to the party seeking review in a timely manner. Materials submitted by the party seeking review shall be accepted by the Chair no later than seven (7) calendar days prior to the date of the faculty review meeting, which date shall be set by the Chair and transmitted to the party seeking review no later than twelve (12) calendar days prior to the date of the faculty review meeting.

d. In addition to the findings of fact and conclusions of the Discipline Committee, and the record as a whole, the full-time faculty participating in the faculty review may, at its discretion, consider any new or additional materials submitted by the party seeking review, the Dean, or any person not previously heard by the Discipline Committee. Any new or additional materials not previously provided to the party seeking review shall be provided to that party by the Chair of the faculty review via a process designated by the Chair, and the party seeking review shall have an opportunity to respond to those materials in writing to the Chair of the faculty review in compliance with a schedule set by the Chair. Any written response submitted by the party seeking review shall be considered before the full-time faculty participating in the faculty review reach a decision, so long as that written response is submitted in compliance with the schedule set by the Chair.

e. The full-time faculty conducting the faculty review may increase or decrease the severity of any sanction imposed, but may not impose any sanction unless a majority of the members of the full-time faculty participating in the faculty review process determine that a breach of a Rule, Regulation, and/or Policy of New England Law | Boston has been established by a preponderance of the evidence, and it may not impose a sanction of suspension or expulsion unless a majority of the members of the full-time faculty participating in the faculty review process determine that a breach of a Rule, Regulation, and/or Policy of New England Law | Boston has been established by clear and convincing evidence. No faculty quorum requirement shall apply to the faculty review process under this rule.

#### **g.) Confidentiality**

Except public hearings, the proceedings of the Discipline Committee are confidential and shall not be disclosed by any member thereof, except to the Office of the Dean, the Registrar, the legal counsel of the law school and, in the event of a faculty review, to the members of the faculty. After conclusion of formal or informal proceedings, any faculty or staff member who referred the matter to the Office of the Dean may, in the discretion of the Office of the Dean, be advised of the outcome of the referral.

#### **h.) Conflict with Sexual Misconduct Policy**

In the event that a conflict arises between the Sexual Misconduct Policy and these Student Discipline rules, then the Sexual Misconduct Policy shall govern and supersede these Student Discipline rules. In addition, where a complaint or investigation is or may be initiated under the Sexual Misconduct Policy concerning a matter already pending before the Discipline Committee, then the Discipline Committee shall refer the matter to an Associate Dean for appropriate resolution under the Sexual Misconduct Policy.

***Amended by the Faculty April 25, 2013 and March 30, 2017.***

## ***SECTION F. - MISCELLANEOUS***

### **F.1 GENERAL PROVISIONS**

**a.) Publication.** Copies of these Rules shall be published and made generally available. The Rules also shall be given to any student involved in a Discipline Committee matter as soon as reasonably possible after it appears that the matter may be heard by the committee.

**b.) Amendment.** These Rules may be amended, from time to time, by majority vote of the full-time faculty of New England Law | Boston. Rules, regulations, policies, and procedures included in the Student Handbook are subject to change at any time during the academic year. Changes are effective when published, unless otherwise noted. Students will be informed of policy changes through e-mail and under “Student Announcements and News” on our website, and the Student Handbook will be updated online. Students are required to abide by all rules, regulations, policies, and procedures printed in the Student Handbook.

***Adopted by the faculty November 1, 1972. Amended by the faculty September 25, 1980 and April 25, 2013.***

### **F.2. STUDENT EMPLOYMENT**

Full-time students are strongly advised that they should not work during the academic year in their first year of law school and that they should not work more than 20 hours per week during the academic year in their second or third years of law school. No special consideration will be permitted for any student regardless of program in examination scheduling, course scheduling, or other matters that would be inconsistent with the premise that the study of law is the only priority of a student. Employment is an unacceptable reason for absence from required law school activities.

The law school recognizes that a part-time student or special part-time student enrolled in fewer than 13 credits may have need for outside employment. However, the study of law requires intensive study, and, accordingly, it is recommended that a student devote as few hours to outside employment as is consistent with the student's needs.

***Adopted by the faculty June 4, 1979. Amended April 25, 2013. Amended March 30, 2017.***

### **F.3. SCHOOL EMERGENCY ANNOUNCEMENTS**

New England Law | Boston has a state-of-the-art notification network to send emergency notifications instantly and simultaneously to all registered mobile phones, wireless PDAs, pagers, smartphones, satellite phones, and e-mail addresses. The first communication about inclement weather or school closings will be sent from this emergency alert system, called Omnilert. We will not use this system for routine announcements. All incoming New England Law students are automatically enrolled in Omnilert with their school-issued e-mail address. Students may then go to:

<https://nesl.omnilert.net/subscriber.php> to change their preferences and have notices sent to any e-mail or text account they would like. Students are also encouraged to check the school's website or call the main phone line (617-451-0010) for complete details on closings or late openings. Weather-related school closings will also be announced through the following media outlets:

WBZ television – (Channel 4, Boston)

WHDH television – (Channel 7, Boston)

WCVB television – (Channel 5, Boston)

***Amended April 25, 2013 and June 29, 2015.***

#### **F.4. STANDARD FOR DISTANCE EDUCATION**

Pursuant to Standard 306 of the American Bar Association Rules on Legal Education, the following Standard for Distance Education is adopted:

1. Distance education courses must be approved as part of the regular curriculum approval process.
  - a.) The following shall be considered for purposes of approval:
    - i. That there is the technological capacity, staff, information resources and facilities required to provide the support needed for instructors and students involved in distance education.
    - ii. That faculty who teach distance education courses and students who enroll in them have the skills and access to the technology necessary to enable them to participate effectively.
    - iii. Faculty approval of credit shall include a specific explanation of how the course credit was determined. Credit shall be awarded in a manner consistent with the requirement [ABA Interpretation 304-5] that requires 700 minutes of instruction for each credit awarded.
2. Distance education is an educational process characterized by the separation in time or place, between instructor and student. It includes courses offered principally by means of:
  - a.) Technological transmission, including internet, open broadcast, closed circuit, cable, microwave, or satellite transmission; and
  - b.) Audio or computer conferencing.
3. Distance education courses must:
  - a.) Provide ample interaction with the instructor and other students both inside and outside the formal structure of the course throughout its duration; and
  - b.) Provide ample monitoring of student effort and accomplishment as the course progresses.
4. Subject to the further requirement of Student Rule A.8., no student may be granted more than four (4) credit hours in any semester, nor more than a total of twelve (12) credit hours toward graduation requirements.
5. No student shall enroll in distance education courses until that student has completed 28 hours toward the J.D. degree.
6. No credit may be given toward the J.D. degree for any distance education except under this standard.

***Adopted by the Faculty September 9, 2004.***

#### **F.5. STUDENT MAILINGS**

- a.) **Mailing address.** Every student is responsible for ensuring that the Office of the Registrar has a correct, current mailing address.
- b.) **Student webmail.** The administrative offices and the faculty will only use New England Law | Boston student webmail to communicate essential information to students. It is a student's responsibility to check New England Law | Boston webmail with sufficient regularity to be aware of any deadlines, time-sensitive or other significant information that may be sent. The school will not forward messages from student webmail to other email accounts.

***Adopted by the Faculty April 25, 2013.***

## **SECTION G. – LL.M. PROGRAM IN AMERICAN LAW**

*All provisions of the Student Handbook Rules and Regulations apply to students enrolled in the LL.M. Program in American Law (“LL.M. Students”), except for those rules that are superseded by Section G.1. - G.6. or those rules that are specified as not applicable to LL.M. students in Section G.7.*

### **G.1. GRADUATION REQUIREMENTS**

In order to graduate, a student enrolled in the LL.M. Program in American Law must:

- a.) Have attained a cumulative average of at least 2.20;
- b.) Have passed **24 credit hours**;
- c.) Have received passing grades in the following required courses: (i) Constitutional Law; (ii) Law and Ethics of Lawyering; and (iii) one course with a substantive writing requirement (which should be satisfied by Legal Research and Writing I, II, or III, but may be satisfied by another course with a graded written component approved by the Dean’s designated representative);
- d.) Have enrolled in Academic Excellence during the fall semester of his or her residency;
- e.) Have met the New England Law | Boston residency requirements for LL.M. students, which require completion of two semesters of residency, 14 weeks each semester.

Any student failing to satisfy the required residency requirements should consult the Director of Student Services immediately regarding his or her residency status and appropriate remedial action.

### **G.2. ACADEMIC GOOD STANDING AND DISMISSAL**

- a.) **Academic Good Standing:** All LL.M. students are considered to be in good standing except those who have withdrawn or have been dismissed.
- b.) **Dismissal:** Any LL.M. student shall be academically dismissed who attains a cumulative average lower than 2.20 at the end of his or her second semester in residency at New England Law | Boston.

A Notice of Academic Dismissal shall be given in writing by certified U.S. mail sent to the student’s address on file with the Registrar and by electronic mail sent to the student’s official New England Law | Boston student webmail account. (See Rule F.6.). For all purposes of these Rules, the date of the Notice of Academic Dismissal shall be the date the e-mail is sent.

**(This provision supersedes Rule A.2.)**

### **G.3. RETAKING COURSES**

No LL.M. student may retake a course, except that any LL.M. student who receives an “F” in a required course listed in Rule G.1. (c.)(i) and (ii) in the fall semester of his or her residency must retake that course in the succeeding semester. Where possible, the LL.M. student shall be allowed to elect a section of the course taught by a professor other than the one with whom the LL.M. student had the course originally.

**(This rule supersedes Rule A.4.a.)**

#### **G.4. WITHDRAWAL**

Any LL.M. student in good academic and administrative standing may, upon completing and submitting a voluntary withdrawal form to the Director of Student Services, voluntarily withdraw from the law school. Such voluntary withdrawal shall be allowed automatically one time only. The official withdrawal effective date shall be the date the notice is received by the Director of Student Services.

Any LL.M. student who voluntarily withdraws under this rule may petition for readmission to the Director of Student Services, stating the circumstances of the withdrawal and the events leading to the request for readmission. The decision whether to grant readmission rests solely with the Dean or the Dean's representative. If granted, the readmission will be based on terms set forth in the written permission granting readmission. The LL.M. student's failure to conform to the terms of readmission shall automatically convert the withdrawal into a dismissal with prejudice.

**(This rule supersedes Rule A.5.a.)**

#### **G.5. TIME PERIOD FOR COMPLETION OF DEGREE REQUIREMENTS**

- a.) Absent specific, written approval of the Dean, any LL.M. student must complete his or her degree requirements in the same academic year of enrollment in the law school. Failure to meet the academic requirements for graduation within this period, absent the approval set forth above, will result in the dismissal of said LL.M. student from the law school, or the application of such additional graduation requirements as shall be set by the Dean or the Dean's designated representative.
- b.) For purposes of this section, the academic year is defined to begin with the start of the fall semester.

**(This provision supersedes Rule A.6.a)**

#### **G.6. GRADING STANDARDS**

Grading standards for students enrolled in the LL.M. Program in American Law are the same as grading standards for J.D. students.

**(This provision supersedes Rule C.2.)**

#### **G.7. INAPPLICABLE PROVISIONS**

The following Rules and Regulations do not apply to students enrolled in the LL.M. Program in American Law: Section A.3., A.5.b.), A.6.b.), A.7., A.8., A.9., A.10. and F.4.

***Adopted by the Faculty on April 25, 2018***

***(School Policies on next page)***



# ***POLICIES***

## **PLAGIARISM POLICY**

### **Plagiarism Policy**

Plagiarism is presenting someone else's work as yours. Plagiarism is harmful because it is pretended creation of knowledge through deception, which creates no genuinely new knowledge and reduces the value of original ideas to their creator. Plagiarism occurs whenever you do not explicitly and thoroughly show the sources of your ideas. Showing sources, or "attribution," of specific words is typically done with quotation marks or indented text, but it is as important to show sources of ideas, theses and propositions as it is to attribute specific quotations.

*Definition:* Presenting the ideas or work of another as one's own without complete acknowledgement is plagiarism. Plagiarism is a disciplinary violation.

*Application:* Plagiarism is prohibited in all written work submitted for credit, for the school's publications, essay contests or for any work sponsored by the school.

*No intent to deceive required:* Plagiarism does not require any specific intent to deceive. Plagiarism occurring through carelessness, negligence or simple inattention to proper attribution is no less plagiarism.

*Any plagiarism is a disciplinary violation:* There is no minimum level of presenting the work of another as one's own that does not constitute plagiarism. Paraphrasing the work of another, with complete and accurate attribution, does not constitute plagiarism.

*Examples:* A non-exhaustive set of examples of plagiarism includes:

- a) Acknowledging a source once in a paper without acknowledging subsequent uses of the source, or acknowledging the source only generally when extensive or detailed use is made of the source.
- b) Reorganizing ideas from another source in a way that does not materially change them without attributing the original source or organization of the ideas.
- c) Using the original pattern of ideas or organization from another work, even by paraphrasing, over a substantial portion of a paper, without indicating that the pattern of thought or structure of the paper comes from another source.

***Adopted by the faculty April 10, 1974. Revised  
April 26, 2011***

## **HAZING POLICY**

Massachusetts state law makes it a crime to organize, to participate in, or to fail to report any incident of hazing. (See Massachusetts General Laws, Chapter 269, sections 17 through 19.)

Hazing is defined as:

"Any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person. Such conduct shall include whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug or other substance, or any other brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of any such student or other person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation."

Consent is not available as a defense to any prosecution for hazing. Any student who organizes or participates in hazing shall be subject to the disciplinary procedures set forth in these rules.

***Adopted by the faculty May 22, 1989. Amended December 12, 2006***

## **POLICY OF NON-DISCRIMINATION**

It is the policy of New England Law | Boston to provide equality of opportunity in legal education for all persons, including faculty, other employees, applicants for admission, enrolled students, and graduates, without discrimination on the basis of race, color, religion, national or ethnic origin, sex, gender (including identity and expression), age, handicap or disability, or sexual orientation. The law school complies with all applicable federal, state, and local nondiscrimination laws, including Title IX. Please contact the Director of Student Services at 154 Stuart Street, Boston, MA 02116 (617-422-7401), with any inquiries regarding the nondiscrimination policy.

## **STUART STREET TOBACCO POLICY**

New England Law | Boston is committed to maintaining a healthy and safe environment for all students, faculty, staff, and visitors. Secondhand smoke is a serious health hazard and a human carcinogen with no known safe level of exposure. Even brief exposure to secondhand smoke can have adverse health effects, especially for those with asthma or other lung-related conditions. No student, employee, or visitor to the law school should have to risk his or her health in order to enter, exit, or stand outside of any law school building. In addition, state and local laws specifically prohibit smoking within the law school's buildings and require that employers provide a smoke-free environment for all employees.

Accordingly, the smoking of any tobacco product on the sidewalk in front of the Stuart Street building is prohibited. Persons who wish to smoke outside the Stuart Street building may do so only on the Warrenton Street side of the building. Smoking materials must be extinguished and properly disposed of before exiting that area. Littering of smoking materials or smokeless tobacco on any sidewalk adjoining any law school building is a violation of this policy. Security is responsible for assuring compliance with this policy, and problems regarding compliance should be referred to them. Persons who repeatedly disregard instructions from Security to comply with this policy may be referred for discipline in accordance with the law school's disciplinary procedures.

**[NOTE: Appendices begin on the next page]**

## ***APPENDICES*** **(Updated: 12/9/2013)**

### **A.) DRUG ABUSE PREVENTION PROGRAM**

#### **Section 1. Authority**

Each institution of higher education that participates in certain federal contracts, maintains federal financial aid eligibility for students, or receives any other form of financial assistance under any federal program must certify that it has implemented a program to prevent the unlawful possession, use or distribution of illicit drugs and alcohol that applies to all employees and students at the institution. This program is established in accordance with the requirements set forth in the Drug-Free Schools and Communities Act and regulations thereunder (34 CFR Part 86), the Drug-Free Workplace Act and regulations thereunder (34 CFR Part 85) and the Campus Security Act.

#### **Section 2. Effective Date**

This program becomes effective immediately and shall remain in effect until specifically revoked.

#### **Section 3. Responsibility and Sanctions**

The responsibility for implementation of this program is assigned to the Director of Financial Aid. Students suspected of violating this program will be referred to the Discipline Committee as provided in the Student Handbook. Employees suspected of violating this program will be referred to the appropriate supervisor. Disciplinary sanctions may be as severe as student expulsion and termination of employment and may also include criminal prosecution. Disciplinary sanctions may also include required participation in a treatment, counseling or other approved rehabilitation program.

#### **Section 4. Drug and Alcohol Policy**

New England Law | Boston prohibits the unlawful use, possession, sale, distribution or manufacture of controlled substances or alcohol on law school property or as part of law school activities. No student shall report to campus, and no employee shall report to work while under the influence of alcohol or a controlled substance, except as prescribed by a physician, which affects alertness, coordination, reaction, response, judgment, decision-making, or safety.

The serving or consumption of alcoholic beverages at events conducted on the law school campus must be only with express permission of the Office of the Dean in each and every case and must comply with guidelines issued under the express grant of permission and with Massachusetts State laws. Where permission is granted, alcohol will only be served to individuals who are twenty-one (21) years of age or older with a valid, government issued ID. Non-alcoholic beverages must be available at any event where alcohol is served.

#### **Section 5. Implementation**

##### **A. Annual Notice to Employees and Students**

Consistent with federal and state regulations, the law school's drug and alcohol abuse prevention program includes descriptions of legal sanctions, health risks and standards of conduct. It is available on the law school website and is distributed to all employees as part of new employee orientation and annually thereafter. All new students are informed of the drug and alcohol abuse prevention program. Students are also notified of it annually. Referral for personal problems, including drug abuse, is available to all employees through the Employee

Assistance Program (EAP) offered to employees by MetLife as part of the Life and Disability plan. Information about this program is provided within this policy, available at the Office of the Controller and provided at least once a year for all employees. **The Office of Student Services provides**

## **community information and referral for students interested in drug and alcohol abuse programs and prevention.**

B. Biennial Review. The law school will conduct a biennial review of the program to determine its effectiveness, implement needed changes, and ensure consistent enforcement of sanctions as warranted.

This policy was enacted on April 21, 2011.

### **Legal Sanctions**

Federal and state sanctions for illegal possession of controlled substances range from up to one year imprisonment and up to \$100,000 in fines for a first offense to three years imprisonment and \$250,000 in fines for repeat offenders. Additional penalties include forfeiture of personal property and the denial of federal student aid benefits. Under federal laws, trafficking in drugs such as heroin or cocaine may result in sanctions up to and including life imprisonment for a first offense involving 100 gm. or more. Fines for such an offense can reach \$8 million. First offenses involving lesser amounts, 10-99 gm., may result in sanctions up to and including 20 years imprisonment and fines of up to \$4 million. A first offense for trafficking in marijuana may result in up to five years imprisonment and fines up to \$500,000 for an offense involving less than 50 kg. and up to life imprisonment and fines up to \$8 million for an offense involving 1,000 kg. or more.

The State of Massachusetts may impose a wide range of sanctions for alcohol related violations. For example, driving while intoxicated (blood alcohol content of .08 or more) for the first offense may result in fines from \$500 up to \$5000, 2 1/2 years in jail, driver's license suspension for 1 year and charged with a misdemeanor. A second offense may result in fines from \$600-\$10,000, 30 days up to 21/2 years in jail, driver's license suspension for 2 years, ignition interlock device installed on your car, charged with a misdemeanor. A third offense may result in a fine up to \$15,000; 150 days to 21/2 years in jail, driver's license suspension for 8 years, ignition interlock device required at your expense, and charged with a misdemeanor. Possession of alcohol under age 21 or use of false identification to purchase alcohol results in \$100 fine.

On January 2, 2009, the Commonwealth of Massachusetts enacted a change in the law prohibiting the possession of marijuana following voter approval. Under the new law, the possession of one (1) ounce or less of marijuana or THC is a civil infraction, punishable by a \$100 civil penalty and forfeiture of the contraband. The law does not change the criminal status for those offenders who are in possession of marijuana or THC that exceeds one (1) ounce. Possession of marijuana or THC remains illegal in Massachusetts and is a violation of the New England Law | Boston Drug and Alcohol Policy as set forth above. Offenders remain subject to the full range of disciplinary action from the law school.

### **Health Risks**

#### **Alcohol**

Alcohol consumption causes a number of changes in behavior and physiology. Even low doses significantly impair judgment, coordination, and abstract mental functioning. Statistics shows that alcohol use is involved in many violent incidents, including acquaintance rape, vandalism, fights, and incidents of drinking and driving. Continued abuse may lead to dependency, which often causes permanent damage to vital organs and deterioration of a healthy lifestyle.

#### **Amphetamines**

Amphetamines can cause a rapid or irregular heartbeat, headaches, depression, damage to the brain and lungs, tremors, loss of coordination, collapse and death. Heavy users are prone to irrational acts.

## **Cocaine/crack**

Cocaine users often have a stuffy, runny nose and may have a perforated nasal septum. The immediate effects of cocaine use include dilated pupils and elevated blood pressure, heart rate, respiratory rate, and body temperature, paranoia and depression. Cocaine is extremely addictive and can cause delirium, hallucinations, blurred vision, severe chest pain, muscle spasms, psychosis, convulsions, stroke and even death.

## **Hallucinogens**

Lysergic Acid Diethylamide (LSD) causes illusions and hallucinations. The user may experience panic, confusion, suspicion, anxiety, and loss of control. Delayed effects, or flashbacks, can occur even when use has ceased. Phencyclidine (PCP) affects the sections of the brain that control the intellect and keep instincts in check. Hallucinogens can cause liver damage, convulsion, coma and even death.

## **Marijuana**

Marijuana may impair or reduce short-term memory and comprehension, alter sense of time, and reduce coordination and energy level. Users often have a lowered immune system and an increased risk of lung cancer. Users also experience interference with psychological maturation and temporary loss of fertility. The active ingredient in marijuana, THC, is stored in the fatty tissues of the brain and reproductive system for a minimum of 28 to 30 days.

## **Methamphetamine**

Methamphetamines, known as speed, meth, ice, glass, etc., have a high potential for abuse and dependence. Taking even small amounts may produce irritability, insomnia, confusion, tremors, convulsions, anxiety, paranoia, and aggressiveness. Over time, methamphetamine users may experience symptoms similar to Parkinson's disease, a severe movement disorder.

## **Narcotics**

Narcotics such as codeine, heroin or other opiate drugs cause the body to have diminished pain reactions. The use of heroin can result in coma or death due to a reduction in heart rate.

## **Steroids**

Steroid users experience a sudden increase in muscle and weight and an increase in aggression and combativeness. Steroids can cause high blood pressure, liver and kidney damage, heart disease, sterility and prostate cancer. Additional information can be found at: [www.nida.nih.gov](http://www.nida.nih.gov).

## **Educational and Treatment Programs**

New England Law | Boston students who are enrolled in the student health plan and all employees have programs available to them.

The Employee Assistance Program (EAP) offered by MetLife is also available to all law school employees through the Life and Disability program. EAP can assist employees by providing a professional assessment of a possible alcohol or drug problem. The mission of EAP is to provide confidential, accessible services to individual employees in order to restore and strengthen the health and productivity of employees and the workplace. For additional information or to speak to an EAP Counselor call MetLife at: **1-800-511-3920**. You may also contact the law school Office of the Controller at 617-422-7285.

Community area substance abuse treatment centers less than a mile from New England Law | Boston include:

Facility No.	Name	Address	Phone	Distance	Maps
1	Latin American Health Institute Oasis Substance Abuse Clinic	95 Berkeley Street Boston, MA 02116	(617) 350-6900 x156	0.31 miles	<a href="#">Map It!</a>
<p><b>Primary Focus:</b> Substance abuse treatment services  <b>Services Provided:</b> Substance abuse treatment  <b>Type of Care:</b> Outpatient  <b>Special Programs/Groups:</b> Persons with co-occurring mental and substance abuse disorders, Persons with HIV/AIDS, Men, DUI/DWI offenders  <b>Forms of Payment Accepted:</b> Self payment, Medicaid, Private health insurance  <b>Payment Assistance:</b> Sliding fee scale (fee is based on income and other factors), Payment assistance (Check with facility for details)  <b>Special Language Services:</b> Spanish</p> <p>Intake: (617) 350-6900 x188  <b>Website:</b> <a href="http://www.lhi.org">http://www.lhi.org</a></p>					
2	Bridge Over Troubled Waters Inc.	47 West Street Boston, MA 02111	(617) 423-9575	0.62 miles	<a href="#">Map It!</a>
<p><b>Primary Focus:</b> Substance abuse treatment services  <b>Services Provided:</b> Substance abuse treatment  <b>Type of Care:</b> Outpatient  <b>Special Programs/Groups:</b> Persons with co-occurring mental and substance abuse disorders, Pregnant/postpartum women, Women, Men  <b>Forms of Payment Accepted:</b> Medicaid  <b>Payment Assistance:</b> Payment assistance (Check with facility for details)</p> <p><b>Website:</b> <a href="http://www.bridgetw.org">http://www.bridgetw.org</a></p>					

Facility No.	Name	Address	Phone	Distance	Maps
3	Boston Alcohol and Substance Abuse Programs Inc.	30 Winter Street, 3rd Floor Boston, MA 02108	(617) 482-5292	0.71 miles	<a href="#">Map It!</a>
<p><b>Primary Focus:</b> Substance abuse treatment services  <b>Services Provided:</b> Substance abuse treatment  <b>Type of Care:</b> Outpatient  <b>Special Programs/Groups:</b> Adolescents, Persons with co-occurring mental and substance abuse disorders, DUI/DWI offenders  <b>Forms of Payment Accepted:</b> Self payment, Medicaid, State financed insurance (other than Medicaid), Private health insurance  <b>Payment Assistance:</b> Sliding fee scale (fee is based on income and other factors), Payment assistance (Check with facility for details)  <b>Special Language Services:</b> Polish, Spanish, Vietnamese</p> <p><b>Website:</b> <a href="http://www.bostonasap.com">http://www.bostonasap.com</a></p>					

4	Salvation Army Harbor Light Center	407 Shawmut Avenue Boston, MA 02118	(617) 536-7469	0.78 miles	<a href="#">Map It!</a>
<p><b>Primary Focus:</b> Substance abuse treatment services  <b>Services Provided:</b> Substance abuse treatment  <b>Type of Care:</b> Residential long-term treatment (more than 30 days), Outpatient  <b>Special Programs/Groups:</b> Persons with HIV/AIDS  <b>Forms of Payment Accepted:</b> Self payment  <b>Payment Assistance:</b> Payment assistance (Check with facility for details)  <b>Special Language Services:</b> Spanish</p> <p><b>Website:</b> <a href="http://www.salvationarmy.org">http://www.salvationarmy.org</a></p>					
5	Massachusetts General Hospital Addiction Services	16 Blossom Street Boston, MA 02114	(617) 726-2712	0.79 miles	<a href="#">Map It!</a>
<p><b>Primary Focus:</b> Mix of mental health and substance abuse services  <b>Services Provided:</b> Substance abuse treatment, Detoxification, Buprenorphine Services  <b>Type of Care:</b> Outpatient  <b>Special Programs/Groups:</b> Persons with co-occurring mental and substance abuse disorders, Women, Men  <b>Forms of Payment Accepted:</b> Self payment, Medicaid, Medicare, State financed insurance (other than Medicaid), Private health insurance  <b>Special Language Services:</b> ASL or other assistance for hearing impaired, Spanish</p> <p>Intake: (617) 726-7753  <b>Website:</b> <a href="http://www.mgh.harvard.edu/">http://www.mgh.harvard.edu/</a></p>					

Facility No.	Name	Address	Phone	Distance	Maps
6	Victory Programs Inc. Victory House/ Recovery Home	566 Massachusetts Avenue Boston, MA 02118	(617) 262-5032x15	0.98 miles	<a href="#">Map It!</a>
<p><b>Primary Focus:</b> Substance abuse treatment services  <b>Services Provided:</b> Substance abuse treatment, Halfway house  <b>Type of Care:</b> Residential long-term treatment (more than 30 days)  <b>Special Programs/Groups:</b> Persons with HIV/AIDS, Men  <b>Forms of Payment Accepted:</b> Self payment  <b>Payment Assistance:</b> Payment assistance (Check with facility for details)  <b>Special Language Services:</b> ASL or other assistance for hearing impaired, Creole, Portuguese, Spanish</p> <p>Intake: (617) 825-6088 x5  <b>Website:</b> <a href="http://www.vpi.org">http://www.vpi.org</a></p>					

Additional substance abuse treatment centers can be found at: SAMHSA (Substance Abuse and Mental Health Services Administration <http://dasis3.samhsa.gov/Default.aspx>).

## **B.) STUDENT COMPLAINTS - ABA STANDARD 510**

As an ABA-accredited law school, New England Law | Boston (the “law school”) 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](http://www.americanbar.org/groups/legal_education/resources/standards.html).

- (a) Pursuant to ABA Standard 510, any student at the law school who wishes to bring a formal complaint to the administration of the law school “of a significant problem that directly implicates New England Law | Boston’s program of legal education and its compliance with the ABA Standards” shall do the following:
1. Submit the complaint in writing to an Associate Dean or the Director of Student Services (the “Administrator”). The complaint may be made by e-mail, U.S. mail, hand delivery, or fax;
  2. Cite the appropriate ABA Standard at issue, and describe in detail the behavior, program, process, or other matter that is the subject of the complaint, and explain how the matter implicates the law school’s program of legal education and its compliance with a specific, identified ABA Standard(s); and
  3. Provide the name, official law school e-mail address, and a street address of the complaining student, for further communication about the complaint.
- (b) When an Administrator receives a student complaint that complies with the foregoing requirements, the following procedures shall be followed:

The Administrator to whom the complaint is submitted will acknowledge the complaint within three business days of receipt of the written complaint. Acknowledgment may be made by e-mail, U.S. mail, or by hand delivery, at the option of the Administrator.

2. Within two weeks of acknowledgment of the complaint, the Administrator shall 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 should 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 further investigate the complaint.
  3. Appeals regarding decisions on complaints may be taken to the Dean. Any decision made on appeal by the Dean shall be final.
  4. A copy of the complaint and a summary of the process and resolution of the complaint shall be kept in the office of the Dean for at least the duration of the most recent accreditation period.
- (c) The person designated as the Title IX coordinator is the Director of Student Services, Jacqueline Pilgrim. She may be reached by phone at (617) 422-7401; by email at [jpilgrim@nesl.edu](mailto:jpilgrim@nesl.edu) or in person at 46 Church Street, Boston.





# Sexual Misconduct Policy

Adopted by the Faculty: March 30, 2017

**Sexual Misconduct Policy**

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## I. INTRODUCTION

### A. Policy Statement

New England Law | Boston (“New England Law” or “School”) is committed to maintaining a safe and healthy educational and work environment that is free from all forms of sexual misconduct, including sexual assault and sexual harassment, and in which no member of the School community is, on the basis of sex, sexual orientation, or gender (hereinafter understood to include both identity and expression),<sup>1</sup> excluded from participation in, denied the benefits of, or subjected to discrimination in any School program or activity. Gender-based and sexual harassment, including sexual violence, are forms of sex discrimination in that they deny or limit an individual’s ability to participate in or benefit from School programs or activities.

This Policy is designed to ensure a safe and non-discriminatory educational and work environment and to meet legal requirements, including Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in the School’s programs or activities. Title IX states:

***No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.***

Additional legal requirements met by this Policy include relevant sections of the Violence Against Women Reauthorization Act (“VAWA”); Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment; and Massachusetts laws that prohibit discrimination on the basis of sex, sexual orientation, and gender. This Policy does not preclude application or enforcement of other New England Law policies.

As described in more detail below, in this Policy “sexual misconduct” is intended to refer to a broad range of conduct focused on sex and/or gender that may or may not be sexual in nature. Sexual harassment, sexual assault, sexual exploitation, stalking, dating violence and domestic violence are all forms of sexual misconduct prohibited by law, this Policy, the Standards of Conduct and Discipline in the Student Handbook, and the Employee Handbook.

It is the policy of the School to provide educational, preventative and training programs regarding sexual or gender-based harassment; to encourage reporting of incidents; to prevent incidents of sexual and gender-based harassment from denying or limiting an individual’s ability to participate in or benefit from the School’s programs; to make available timely services for those who have been affected by discrimination; and to provide prompt and equitable methods of investigation and resolution to stop discrimination, remedy any harm, and prevent its recurrence. Violations of this Policy may result in the

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<sup>1</sup> Harassment that is not sexual in nature but is based on gender, sex- or gender- stereotyping, or sexual orientation is also prohibited by the School’s nondiscrimination policies if it denies or limits a person’s ability to participate in or benefit from educational programs, employment, or services. While discrimination based on these factors may be distinguished from sexual harassment, these types of discrimination may contribute to the creation of a hostile work or academic environment. Thus, in determining whether sexual harassment exists, the School may take into account acts of discrimination based on gender, sex- or gender-stereotyping, or sexual orientation.

imposition of sanctions up to, and including, termination, dismissal, or expulsion, as determined by the appropriate officials at New England Law.

Retaliation against an individual for raising an allegation of sexual or gender-based harassment, for cooperating in an investigation of such a complaint, or for opposing discriminatory practices is prohibited. Submitting a complaint that is not in good faith or providing false or misleading information in any investigation of complaints is also prohibited.

Nothing in this Policy shall be construed to abridge academic freedom and inquiry, principles of free speech, or the School's educational mission.

## **B. Scope of Policy**

This Policy covers sexual misconduct and applies regardless of the complainant's or respondent's race, color, religion, national origin, ethnicity, age, gender, sexual orientation, disability, genetic information, military status, or status as a veteran. This Policy applies to students, employees (hereinafter understood to broadly include faculty and non-faculty, and full-time, part-time, and temporary, employees), volunteers, independent contractors and vendors. Sexual Misconduct by non-New England Law employees and guests doing business or providing services on School-owned or leased property at School-sponsored events and programs, and/or at events and programs on or off-campus that have sufficient ties to the School (*e.g.*, contractors and vendors) is prohibited by this Policy.

Conduct by employees that constitutes Sexual Misconduct in violation of this Policy is considered to be outside the normal course and scope of employment.

Employees of New England Law should also consult the School's Anti-Harassment Policy (found both in the Faculty Rules and the Employee Handbook) for additional protections that may apply.

The School requires reporting of all incidents of Sexual Misconduct, regardless of the alleged offender's identity or position. This Policy shall apply to conduct that occurs on School-owned or leased property and at School-sponsored events and programs, and at events and programs on or off-campus that have sufficient ties to the School.

Students shall be responsible for their conduct from the time of matriculation through the awarding of a degree, including periods between terms of actual enrollment, study abroad, or suspension, as well as any post-degree program with sufficient ties to the School, such as bar exam preparation held at New England Law. Employees shall be responsible for their conduct from the time of hire until their employment ends.

The School has the authority to combine violations of different policies, such as those in the Standards of Conduct and Discipline in the Student Handbook, or the Employee Handbook, that are related to the same incident under Title IX review, even though they may not be directly related to Sexual Misconduct. The School encourages individuals who believe they have been subject to any Sexual Misconduct to clearly and promptly notify the Title IX Coordinator or a Deputy Title IX Coordinator (described in Section VI, below). However, once a complaint or investigation is initiated under this Policy, it will supersede all other policies and will be used to resolve any and all other ancillary complaints arising out of the same or related incidents or allegations.

## **C. Distribution of Policy**

As part of the School's commitment to providing a working and learning environment free from Sexual Misconduct, this Policy shall be distributed widely to the School community. The School will distribute this Policy to the students and employees by appropriate channels of communications, including posting it on an internet or intranet web site and directly notifying all students and employees of how to access this Policy by an exact URL address or link, and that they may request a paper copy.

The School will make preventive educational materials available to all members of the community and will provide incoming students with a copy of this Policy at a scheduled Title IX informational session as part of their orientation.

## **II. NOTICE OF NON-DISCRIMINATION**

New England Law expressly prohibits discrimination on the basis of race, color, religion, national origin, ethnicity, age, gender, sexual orientation, disability, genetic information, military status, or status as a veteran, or any other basis prohibited by law. For students who have questions about discrimination on the basis of a disability or to file a Section 504 complaint alleging discrimination on the basis of a disability, contact the Director of Student Services at [TitleIXCoordinator@nesl.edu](mailto:TitleIXCoordinator@nesl.edu). Employees should consult the Employee Handbook for information about the disability-related protections that apply.

## **III. PROHIBITED CONDUCT**

"Sexual Misconduct" is a broad, non-legal term that encompasses a wide range of behaviors, including but not limited to, sexual harassment, sex/gender discrimination, sexual assault, rape, stalking, and relationship violence (including dating and domestic violence). It is a violation of School policy as well as applicable law to commit or to attempt to commit these acts.

It also violates this Policy to retaliate against a person who reports Sexual Misconduct, who assists someone with a report of Sexual Misconduct, or who participates in any manner in an investigation or resolution of a Sexual Misconduct report.

The acts listed as Sexual Misconduct or retaliation in this section are also included to clarify nonexclusive *examples* of acts which would qualify as gender-based discrimination or harassment or retaliation against those with protected status under Title IX. VAWA identifies four specific complaints that must be listed as violations of a Title IX Policy: Sexual Assault, Dating Violence, Domestic Violence, and Stalking.

Sexual misconduct can occur between strangers or acquaintances, or people who know each other well, including between people who are or have been involved in an intimate or sexual relationship. It can be committed by anyone, regardless of gender, and can occur between people of the same or different sex or gender. This Policy prohibits all forms of sexual misconduct.

Violations of School policy that do not constitute a violation of this Sexual Misconduct Policy, may nevertheless still be prohibited by the Standards of Conduct and Discipline in the Student Handbook, the Employee Handbook, or any other applicable policies. In the case of a true and direct conflict between this Sexual Misconduct Policy and another School policy, this Sexual Misconduct Policy shall control.

## **A. Sexual Assault (including Rape).**

Sexual assault is actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to:

1. Intentional touching of another person's intimate parts without that person's consent; or
2. Other intentional sexual contact with another person without that person's consent; or
3. Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's consent; or
4. Rape, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent.

## **B. Sexual Harassment.**

**Sexual Harassment** includes both so-called "quid pro quo" and "hostile environment" sexual harassment. Sexual harassment includes same sex harassment; this policy applies equally when the harasser and the victim are the same sex, and whether or not the harasser is gay or lesbian. Unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome physical or verbal conduct directed at a person because of his or her sex or of a sexual nature constitutes sexual harassment when:

1. Submission to, or rejection of, such advances, requests or conduct is made either explicitly or implicitly a term or condition of a student's status or evaluation, or of an employee's employment or, is used as a basis for an academic or other decision affecting a student, or as a basis for an employment or other decision affecting an employee; or
2. Such advances, requests, or conduct have the purpose or effect of unreasonably interfering with a student's academic performance or educational experience or an employee's work performance by creating an intimidating, hostile, humiliating or sexually offensive academic or working environment. For a one-time incident to rise to the level of sexual harassment, it must ordinarily be severe.

While it is not possible to list all circumstances that may constitute sexual harassment, the following are some examples of conduct which may constitute sexual harassment. In any particular case, whether the conduct constitutes sexual harassment will depend upon the totality of the circumstances including the severity, frequency, and pervasiveness of the conduct:

- Unwelcome sexual advances or propositions, whether or not they involve physical touching or not;
- Sexual epithets, jokes, written or oral references or sexual conduct, or gossip regarding one's sex life;
- Comments about an individual's body, appearance, or clothing;
- Comments about an individual's sexual activity, deficiencies, or prowess;
- Displaying of sexually suggestive objects, pictures, cartoons;
- Actions such as leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into or discussions of one's sexual experiences;
- Observing, photographing, videotaping, posting, or making other visual or auditory records of sexual activity or nudity, where there is a reasonable expectation of privacy, without the knowledge and consent of all parties; or

- Sharing visual or auditory records of sexual activity or nudity without the knowledge and consent of all recorded parties and recipient(s)

Other verbal, nonverbal, graphic, or physical conduct may create a hostile environment if the conduct is sufficiently persistent, pervasive, or severe so as to deny a person equal access to the School's programs or activities. Whether the conduct creates a hostile environment may depend on a variety of factors, including: the degree to which the conduct affected one or more person's education or employment; the type, frequency, and duration of the conduct; the relationship between the parties; the number of people involved; and the context in which the conduct occurred.

### **C. Sexual Exploitation.**

**Sexual exploitation** occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's consent.

Examples of behavior that could rise to the level of sexual exploitation include:

- Prostituting another person;
- Recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
- Distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure; and,
- Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire.

### **D. Dating Violence.**

**Dating violence** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship will be determined based on a consideration of the following factors: 1) the length of the relationship, 2) the type of relationship, and 3) the frequency of interaction between the persons involved in the relationship.

### **E. Domestic Violence.**

**Domestic violence** is defined as abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

### **F. Stalking.**

**Stalking** includes conduct directed at a specific person that would cause a reasonable person to— 1) fear for his or her safety or the safety of others; or 2) suffer substantial emotional distress. Such behaviors or activities may include, but are not limited to non-consensual communications (i.e., face-to-face, telephone, email, and social media), threatening or obscene gestures, surveillance, or showing up outside the targeted individual's classroom, residence or workplace. Under Massachusetts law,



stalking means “(1) willfully and maliciously engag[ing] in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) mak[ing] a threat with the intent to place the person in imminent fear of death or bodily injury...”<sup>2</sup>

#### **G. Retaliation.**

**Retaliation** includes threats, intimidation, reprisals, and/or adverse actions related to employment or education. These actions violate this Policy when they are taken in response to a person reporting a complaint of Sexual Misconduct, assisting another in a making such a complaint, or participating in any manner in an investigation or resolution of a Sexual Misconduct report.

### **IV. IMPORTANT CONCEPTS AND DEFINITIONS**

#### **A. Consent.**

Consent must be informed and voluntary, and can be withdrawn at any time. Consent can be given by words or actions as long as those words or actions create mutually understandable permission regarding the scope of sexual activity. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent.

Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

If a person is mentally or physically incapacitated or impaired so that he or she cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious.

Effect of drugs and alcohol on consent: Individuals should be aware of, and carefully consider, the potential consequences of the use of alcohol or drugs. Alcohol and other drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and affirmatively given. If there is a question about whether someone consented to sexual activity after consuming drugs or alcohol, the School will examine the issue from the perspective of a reasonable person. Specifically, the School will consider whether the respondent reasonably should have known about the impact of alcohol and other drugs on the complainant’s ability to give consent.

#### **B. Incapacitation.**

Incapacitation is the inability, temporarily or permanently, to give consent, because the person is mentally and/or physically helpless due to drug or alcohol consumption, either voluntarily or involuntarily, or the person is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. Some signs of incapacitation may include, but are not limited to, lack of control over physical movements (e.g., stumbling, falling down), lack of awareness of circumstances or surroundings, the inability to speak or communicate orally, or the inability to communicate for any reason.

It is a violation of this Policy and Massachusetts law to engage in sexual activity with a person who is incapacitated, regardless of whether the person appeared to be a willing participant. It is especially

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<sup>2</sup> M.G.L. c. 265, § 43.

important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication and potential incapacitation.

### **C. Force.**

The use of force to cause someone to engage in sexual activity is, by definition, non-consensual contact, and is prohibited. Force may include words, conduct, or appearance. Force includes causing another's intoxication or impairment through the use of drugs or alcohol. Under this Policy, force includes the use of any of the following: physical force, violence, or use of a weapon; threats; intimidation and implied threats; and coercion (i.e., forcing one to act based on fear of harm to self or others. Means of coercion may include, but are not limited to, pressure, threats, or emotional intimidation).

### **D. Miscellaneous Definitions.**

- Complainant: The person making the allegations of sexual misconduct.
- Respondent: The person against whom a complaint of sexual misconduct has been made.
- Reporter: A person who has information that sexual misconduct may have been committed by a New England Law student, employee, volunteer, independent contractor and/or vendor, and who initiates a complaint.

## **V. ADDITIONAL ENFORCEMENT INFORMATION**

The federal Equal Employment Opportunity Commission ("EEOC") and the Massachusetts Commission Against Discrimination ("MCAD") investigate complaints of unlawful harassment in employment. The U.S. Department of Education Office for Civil Rights ("OCR") investigates complaints of unlawful Sexual Misconduct by students in educational programs or activities.

These agencies may serve as neutral fact finders and attempt to facilitate the voluntary resolution of disputes with the parties. For more information, contact the nearest office of the EEOC, MCAD or OCR.

## **VI. TITLE IX COORDINATORS AND RESOURCES**

### **A. Title IX Coordinator**

The School has designated the Director of Student Services to serve as the School's Title IX Coordinator ("Title IX Coordinator"). The Title IX Coordinator is responsible for implementing and monitoring Title IX compliance on behalf of New England Law. The Title IX Coordinator's specific responsibilities include, but are not limited to, coordinating training, education, and communications; providing prompt and effective response to reports of Sexual Misconduct in accordance with this Policy; initiating investigations of alleged Sexual Misconduct; maintaining records of reports of Sexual Misconduct, including records of investigations, voluntary resolutions, and disciplinary action, as appropriate; and identifying and addressing any patterns or systemic problems that arise during the review of Sexual Misconduct complaints.

Any inquiries regarding Title IX, VAWA, or this Policy should be directed to either the Title IX Coordinator or any of the Deputy Title IX Coordinators identified in the following Section.

The Title IX Coordinator and the Deputy Title IX Coordinators (collectively, the "Coordinators") also qualify as campus security authorities ("CSA") under federal law. A CSA is "[a]n official of an institution who has significant responsibility for student and campus activities." These Coordinators will be

available to meet with students, employees, and others regarding issues relating to Title IX, VAWA, and this Policy.

Inquiries, Title IX and VAWA complaints should be referred to:

Title IX Coordinator

Director of Student Services

New England Law | Boston  
46 Church Street  
Boston, MA 02116  
617-422-7401

TitleIXCoordinator@nesl.edu

Inquiries about the application of Title IX may also be directed to:

Boston Office for Civil Rights  
U.S. Department of Education  
8<sup>th</sup> Floor  
5 Post Office Square  
Boston, MA 02109-3921  
Telephone: (617) 289-0111  
Facsimile: (617) 289-0150  
Email: OCR.Boston@ed.gov

**B. Deputy Title IX Coordinators**

Deputy Title IX coordinators are responsible for assisting the Title IX Coordinator in implementing and monitoring Title IX compliance at New England Law and for notifying the Title IX Coordinator of any alleged or suspected violations of this Policy and the resolution of such alleged or suspected violations, regardless of whether a complaint is filed.

The Deputy Coordinators are listed below.

For Complaints By/Or Against Students or Employees:

Associate Dean  
New England Law | Boston  
154 Stuart Street  
Boston, MA 02116  
617-422-7230

DeputyCoordinator-Students@nesl.edu

For Complaints By/Or Against Employees

Human Resources Consultant  
New England Law | Boston  
46 Church Street  
Boston, MA 02116  
617-422-7285

DeputyCoordinator-Employees@nesl.edu

### **C. Responsible Employee**

While Sexual Misconduct can be reported to any of the agencies listed online in the New England Law Notice re Sexual Assault and Harassment Resources, Title IX regulations require that these reports be made to a responsible employee (“Responsible Employee”). A Responsible Employee is an employee who has the authority to redress or a duty to report incidents of Sexual Misconduct. When an individual tells a Responsible Employee about an incident of Sexual Misconduct, the individual has the right to expect the School to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. At New England Law, Responsible Employees are any of the Coordinators identified above in this Section. If complaints are made to anyone else, the complainant risks the possibility that it will not come to the attention of the appropriate School official, and therefore not be acted upon.

In addition to contacting a coordinator, individuals who have experienced Sexual Misconduct may contact proper law enforcement authorities, including the local police department. The Title IX Coordinators are obligated to contact the law enforcement agency with jurisdiction over New England Law when the victim has been exposed to sexual violence or bodily harm.

## **VII. REPORTING A COMPLAINT**

### **A. Reporting Sexual Misconduct or Retaliation**

All members of the New England Law community are strongly encouraged to contact the individuals designated below if they observe or encounter any form of sexual misconduct, such as gender-based discrimination or harassment, domestic violence, dating violence, sexual assault, or stalking. They should also report claims of retaliation. This includes conduct by employees, students, or third parties. Reports of Sexual Misconduct and retaliation should be brought as follows;

- *For claims by or against students:* Concerns should be brought to the Title IX Coordinator or to a Deputy Title IX Coordinator responsible for student complaints (i.e., the Director of Student Services or an Associate Dean), as identified in Section VI, above.
- *For claims by or against employees:* Concerns should be brought to the Deputy Title IX Coordinators (i.e., an Associate Dean or the Human Resources Consultant), as identified in Section VI, above.
- *For claims against the Dean:* Concerns should be brought to the Chairman of the Board of Trustees.
- *For claims against third parties:* Concerns should be brought to the Title IX Coordinator or a Deputy Title IX Coordinator, as identified in Section VI, above.

### **B. Prompt Reporting Encouraged**

Complaints of Sexual Misconduct and retaliation should be filed promptly so that the School can effectively address the issue. The School will accept and investigate untimely complaints, but an undue delay in reporting may affect the quality or preservation of evidence or witness testimony that would have been available and might affect the School’s ability to proceed

with the investigation. Where appropriate, complainants are strongly encouraged to report incidents to the local police department and campus security and are also encouraged to contact the local victim/survivor services office, counseling centers, and health care providers for appropriate action. Employees who have experienced or observed or otherwise been made aware of conduct that they believe is contrary to this Policy are encouraged to promptly make a report. Faculty, managers, and department heads who have experienced, observed or otherwise been made aware of conduct that they believe is contrary to this Policy have an obligation to promptly make a report.

### **C. Other Triggers for an Investigation**

New England Law is committed to investigating known or suspected violations of this Policy. In addition to direct or third-party complaints, some common triggers for an investigation may include: a student filing a police report with local police who alert the School, parents calling an administrator to complain, or an administrator receiving an anonymous voicemail, email, or written message alleging Sexual Misconduct. New England Law's ability to investigate in a particular situation, or the extent of the investigation in any given situation, may be affected by any number of factors, including whether the complainant is willing to file a complaint or to consent to an investigation, the location where the alleged conduct occurred, and New England Law's access to information relevant to the alleged violation of this Policy. All parties are expected to fully cooperate with the School's efforts to enforce this Sexual Misconduct Policy.

### **D. Confidentiality**

Where a complainant requests to remain anonymous or that no formal action be taken, the School will evaluate whether we can honor this request. This determination will be made by the Title IX Coordinator where a student is making this request and by an appropriate Deputy Title IX Coordinator where an employee is making this request, after consultation with the Office of the Dean.

The School must balance a request for confidentiality with its obligations to provide a safe and non-discriminatory environment for all community members and to afford a respondent fundamental fairness by providing notice and an opportunity to respond before any action is taken against a respondent. There may be times when the School's obligation to act may override any confidentiality concerns.

When weighing a complainant's request for confidentiality or that no investigation, hearing or discipline be pursued, the School will consider a range of factors, including the following:

- 1) The increased risk that the respondent will commit additional acts of Sexual Misconduct, such as: whether there have been other Sexual Misconduct complaints about the same respondent, whether the respondent has a history of violence, and whether the respondent threatened further Sexual Misconduct or other violence against the complainant or others.
- 2) Whether the Sexual Misconduct was committed by multiple perpetrators.
- 3) Whether the Sexual Misconduct was perpetrated with a weapon.
- 4) Whether the School possesses other means to obtain relevant evidence of the Sexual Misconduct (e.g. security cameras or physical evidence).

- 5) Whether the complainant's report reveals a pattern of perpetration (e.g. via illicit use of drugs or alcohol) at a given location or by a particular group.
- 6) Whether the complainant's safety is at risk.

The presence of one or more of these factors, or other factors unique to the situation, could lead the School to investigate and, if appropriate, pursue discipline or corrective actions. In these and other situations, the School may have an obligation to act even if a complainant requests confidentiality.

In the event that the circumstances of the complaint dictate a full investigation, the investigation will be conducted in a way as to maintain confidentiality to the extent possible under the circumstances. However, the School community should understand that it is not always possible to keep complaints confidential during an investigation, since investigations include private interviews with the complainant, with any witnesses, and with the respondent. Subject to these limitations, the School will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. The School's ability to investigate or take action may be limited based on the nature of the request by the complainant.

If the individual decides not to file a complaint with the School, the School encourages the individual, as appropriate, to seek out the available medical and mental health resources listed in the New England Law Sexual Assault/Sexual Misconduct Notice. Individuals who wish to make a complaint at a later date may contact any of the Coordinators at any time. Please note that a delay in reporting could affect the School's ability to gather information and evidence to determine whether a person is responsible for Sexual Misconduct.

For a list of confidential and non-confidential resources, please review the New England Law Notice re Sexual Assault and Harassment Resources. It includes a list of off-campus counselors, advocates, and health care providers that will generally maintain confidentiality and not share information with the School unless the complainant requests the disclosure and signs a consent or waiver form.

Reports that are made anonymously or by third parties may not initiate the formal complaint process. However, Title IX requires the School to investigate all incidents about which the School knows or has reason to know in order to protect the health and safety of the School community. The School may undertake an initial assessment even in cases where the alleged victim and/or complainant choose not to cooperate or participate. As necessary, the School reserves the right to initiate a complaint, to serve as complainant, and to initiate conduct proceedings without a formal complaint by the victim or complainant.

#### **E. Protections for Those Reluctant to Report Based on Potential Violations**

Students and employees may be reluctant to report incidents because of concerns that their own behavior may be a violation of School policies. The School's primary concern is student and employee safety. Any other rules violations will be addressed separately from the Sexual Misconduct allegation. The use of alcohol or drugs does not make the complainant at fault for Sexual Misconduct. In appropriate circumstances, a student who is found to have engaged in excessive consumption of alcohol or drugs may be offered a chance to get medical

or psychological help in lieu of disciplinary sanctions. Although School policy violations cannot be overlooked, the School will consider the positive impact of reporting an incident involving the Sexual Misconduct Policy when determining the appropriate response to other policy violations. In such cases, any possible negative consequences for the reporter of the problem should be evaluated against the possible negative consequences of not reporting the incident.

## **VIII. RESPONDING TO A COMPLAINT**

### **A. General Principles**

Each complaint that alleges a violation of this Policy will usually be assigned to an individual (the “Officer”) who will be responsible for responding to the complaint. The Officer may be the Title IX Coordinator, a Deputy Title IX Coordinator, or any other person designated by the Title IX Coordinator or Deputy Title IX Coordinator in consultation with the Office of the Dean. Once the Officer has notice of the claim of Sexual Misconduct, the Officer shall take immediate and appropriate steps as discussed further below.

### **B. Initial Assessment**

Upon receipt of a report of a Policy violation, in most cases, the Officer will conduct an initial assessment. The first step of the assessment will usually be a preliminary meeting with the complainant. The purpose of the preliminary meeting is to gain a basic understanding of the nature and circumstances of the report; it is not intended to be a full interview. Prior to the interview, the person should complete the complaint form. While doing so is not required, it will greatly assist the Officer in more efficiently handling the individual’s concerns. The complainant should either bring the completed form to the interview or one will be provided at the initial meeting. At this meeting, the complainant will be provided with information about resources, procedural options and interim measures.

The goal of the initial assessment is to decide whether to proceed with an investigation and also to determine whether any interim measures, as discussed in the next section, are appropriate. As part of the initial assessment, the Officer may meet and discuss the allegations with the respondent. After the initial assessment, the Officer will inform the complainant as to whether there will be an investigation of the complaint pursuant to Section IX, below, or not.

If an investigation is initiated, the complainant should provide a written complaint to the School regarding the alleged violations, if the person has not already done so.

### **C. Interim Measures**

At any time during the process, the Officer, after consultation with the Office of the Dean (and the Title IX Coordinator if there is a student involved), may impose reasonable and appropriate interim measures designed to eliminate the reported hostile environment and protect the parties involved (“Interim Measures”). Interim Measures may be imposed regardless of whether discipline or corrective measures are sought by the complainant or the School. All individuals are encouraged to report concerns about the failure of another

individual to abide by any restrictions imposed by an Interim Measure. The School will take responsive action to enforce the Interim Measures.

The School reserves the right to take immediate action and impose restrictions on any person accused of violating this Policy, or to take any other Interim Measures it deems appropriate, pending the outcome of an investigation and/or disciplinary proceedings. If the School decides at any point that the well-being of a student or employee is at stake, an interim suspension may be imposed on an individual who is suspected of violating this Policy or otherwise poses a risk of safety to others, until the investigation and/or hearing can be completed. This action assumes no presumption or determination of guilt and the investigation will be completed as soon as possible.

At any time during the investigation, New England Law may implement the following Interim Measures:

- Placing an employee on paid or unpaid administrative leave.
- Removing a student from campus and/or current classes.
- Providing access to counseling services.
- Issuing on-campus No Contact Orders.
- Modifying class schedules, rescheduling of exams and assignments.
- Limiting time and access to campus (including reduced access to the library and other School buildings).
- Banning individuals from campus except for classes and required school activities.
- Changing work schedules or job assignments.
- Encouraging voluntary leaves of absence.
- Providing an escort to ensure safe movement between classes and activities.
- Placing a student on imposed leave or separation.
- Any other remedy tailored to the involved individuals to achieve the goals of this Policy.

The School may use these Interim Measures in any combination thereof, or create new measures as needed. The School will take responsive action to enforce the Interim Measures.



#### **D. Sexual Misconduct Involving Bodily Harm**

In the event the School has received a report of Sexual Misconduct involving bodily harm, the School must determine, consistent with state or local law, whether appropriate law enforcement or other authorities should be notified. The person reporting the Sexual Misconduct may choose to file a criminal complaint against the respondent. Any pending criminal investigation or criminal proceeding may have some impact on the timing of the School's investigation, but the School will commence its own investigation as soon as is practicable under the circumstances. New England Law reserves the right to commence and/or complete its own investigation prior to the completion of any criminal investigation or criminal proceeding,

#### **E. Informal Resolution/Mediation**

The initial assessment may result in informal resolution of the complaint without the need for a formal investigation. In general, allegations may be resolved using an informal resolution process if (i) the School determines, in its discretion, that such a process would be appropriate; and (ii) both the complainant and respondent agree to participate. The parties to any such informal process will not be required to deal directly with one another. Instead, one or more representatives, selected by the School, may arrange for or facilitate informal resolution measures between the parties. The parties must be notified of the right to end the informal process at any time during the complaint process. If the complaint involves a student, and only with advance approval of the Title IX Coordinator, the parties may be entitled to advisors who may attend the mediation or other informal resolution process. Allegations of Sexual Assault, however, may not be resolved using mediation or any other informal resolution process that involves direct contact between the parties.

### **IX. INVESTIGATING A COMPLAINT WHERE DEEMED WARRANTED**

#### **A. Generally**

The Officer will conduct or arrange for an investigation into the alleged incident(s) if and only if the determination has been made to proceed with such investigation under Section VIII (B). The investigation will be conducted promptly in a fair and expeditious manner and subject to the confidentiality parameters discussed above. The procedures may be subject to change based on the facts of each situation.

The designated investigator ("Investigator") is primarily responsible for investigating reports and complaints of violations of this Policy. With the exception of personal advisors for complaints of Sexual Assault as detailed in subsection B below, attorneys for the parties will not be allowed to participate in the investigation. The Investigator shall in most cases:

- Conduct a fact-finding inquiry or investigation into the complaint, including appropriate interviews and meetings with the complainant, the respondent, and with witnesses named by both the complainant and respondent.
- Contact parties and witnesses as needed, such as when evidence is disputed or when further information is required.

- Inform the witnesses and other involved individuals of the confidentiality requirements and the prohibition against retaliation.
- Create, gather and maintain investigative documentation, as appropriate.
- Disclose appropriate information to others only on a need to know basis, consistent with state and federal law, and provide if applicable a data privacy notice in accordance with state law.
- Handle all data in accordance with applicable federal and state privacy laws.
- Apply a preponderance of evidence standard to determine whether there has been a violation of Title IX or VAWA. This means that, if the Investigator finds it is more likely than not that the alleged misconduct occurred, the Investigator will conclude that there was a violation of this Policy.

During the course of the investigation, the respondent will be provided with a copy of the complaint or a summary of the allegations and will have the option to prepare a written response to the alleged violations and may assert any cross-complaints. If the Officer decides it would be appropriate, any responses and cross-complaints from the respondent or a summary of that information will be provided to the complainant.

The Investigator should keep the Officer informed of the progress of the investigation and confer with the Officer over the course of the investigation.

## **B. Assistance from Complainant/Respondent and Right to Advisor for Claims of Sexual Assault**

To help ensure a prompt and thorough investigation, complainants are encouraged to provide as much of the following information as possible:

- The name, department, and position of the person or persons allegedly causing Sexual Misconduct or retaliation.
- A description of any relevant incident(s), including the date(s), location(s), and the presence and identities/names of any witnesses.
- Any evidence obtained or preserved that they have in their possession or knowledge.
- The alleged effect of the incident(s) on the complainant's academic standing, educational benefits or opportunities, position of employment, salary, employee benefits, promotional opportunities, or other terms or conditions of employment.
- The names of other students or employees whom the complainant knows to have been subject to the same or similar Sexual Misconduct, or retaliation.
- Any issues or questions that the complainant wants to bring to the attention of the investigator.
- Any steps the complainant has taken to try to stop the Sexual Misconduct or retaliation.
- Any other information the complainant believes to be relevant to the alleged Sexual Misconduct or retaliation.

The respondent is also encouraged to provide as much of the above information as possible that relates to or may be applicable to the respondent in connection with the investigation, as well as any other additional information, including:

- Any information or documentation providing support for any defense or counterclaim.
- The identity or name of any witnesses who can testify on the respondent's behalf or who can contradict the complainant's allegations.
- The identity or name of any witnesses who can testify as to the complainant's competence, including whether or not the complainant was under the influence of any drugs or alcohol.
- Any other information the respondent believes to be relevant to the allegations, defenses or counterclaims.

For complaints of Sexual Assault: Under VAWA, which applies to claims of sexual assault, the parties are entitled to have a personal advisor or support person ("Advisor") of their choice, at their expense, and may be accompanied by the Advisor to any meeting the party is required to attend. An Advisor may only consult and advise his or her advisee, but not speak for the advisee at any of the meetings. This requirement applies solely to claims of Sexual Assault and does not apply to other claims of Sexual Misconduct that arise solely under Title IX.

### **C. Investigation Report**

After the investigation has been completed, the Investigator shall prepare an investigation report. The report should, at a minimum, include a statement of the allegations and issues, the position of the parties, a summary of evidence, findings of fact, and a determination by the Investigator whether this Policy has been violated. The Investigator should explain the reasoning behind any conclusions. The Investigator should provide the report in draft form to the Officer, who may ask for clarification of certain points or for supplemental investigation to occur before the report is finalized. The report is a confidential report that is not subject to disclosure unless at the School's option. In some cases, the investigation may be conducted by an attorney and subject to attorney-client privilege.

## **X. POST INVESTIGATION**

### **A. Review and Determination by Office of the Dean or Dean's Designee(s)**

The investigative report will be reviewed, as appropriate, by the Dean and/or Dean's designee(s) (or by the Chairman of the Board of Trustees if the respondent is the Dean) for a final determination as to whether this Policy has been violated or whether the matter warrants disciplinary action. Where the matter involves a student, the Title IX Coordinator shall participate in the review. The School may determine (a) that there has been no violation(s) under this Policy, (b) that there is insufficient evidence to conclude that there has been a violation under this Policy, or (c) determine that a violation has occurred. The School may also ask for the Investigator or the Officer to take additional steps before finalizing the outcome.

## **B. Disciplinary Actions for Violations of This Policy**

*Students* who are found to have violated this Policy will be subject to disciplinary action, up to and including expulsion or dismissal. The Dean and/or Dean's designee(s), with input from the Title IX Coordinator, should determine the discipline to be imposed on the student, subject to the appeal process described below.

*Non-tenured faculty members or staff members* who are found to have violated this Policy will be subject to disciplinary action, up to and including termination of employment. The Dean and/or the Dean's designee(s) will determine the appropriate level of discipline, which decision shall be final.

*Tenured faculty members* who are found to have violated this Policy will be subjected to disciplinary action, up to and including withdrawal of tenure and termination of employment. The Dean or Dean's designee(s) may unilaterally impose discipline at a level below the withdrawal of tenure, which decision shall be final. Where the discipline to be imposed rises to the level of withdrawal of tenure, the matter will be subject to Rule 4.8 of the Faculty Rules, which provides tenured faculty members with a right to an evidentiary hearing before the appropriate faculty committee, with any recommendation of that committee to withdraw tenure subject to a final decision by the Board of Trustees.

If the *Dean* is found to have violated this Policy, the Chairman of the Board of Trustees may impose discipline up to and including termination of employment, except that if the Dean is a tenured faculty member, tenure may not be withdrawn without following Rule 4.8 of the Faculty Rules.

*Guests and other third parties* who are found to have violated this Policy will be subject to corrective action deemed appropriate by the Dean, which may include removal from the campus and termination of any applicable contractual or other arrangements.

In instances where the School is unable to take disciplinary action in response to a violation of this Policy because a complainant insists on confidentiality or for some other reason, the School will nonetheless pursue, as appropriate, other steps to limit the effects of the conduct at issue and prevent its recurrence.

Discipline and/or corrective actions will also be appropriate if an investigation results in a finding that the complainant has knowingly made a false accusation.

## **C. Written Notice to Complainant and Respondent**

The School will provide written notification to the complainant and the respondent involved of the outcome (i.e., whether a violation of this Policy has been determined to have occurred) within fourteen (14) calendar days after the final determination by the Dean and/or Dean's designee(s), unless the School determines that additional time is required. This notice shall be issued contemporaneously to both parties to the extent practicable. Where, for example, the School decides to meet with the parties and provide written notice at that time, the meetings should occur as close in time as practicable. Neither the

complainant nor respondent will be prohibited from disclosing the outcome of an investigation.

Where the respondent is a *student*:

- If sanctions or corrective actions are to be imposed based on a finding of a Policy violation, the complainant and respondent will be informed of the supplemental procedures (as set forth below).
- The School will generally disclose to the complainant information about sanctions or corrective actions only if these relate directly to the complainant (e.g., a No Contact Order and any other notice required under Title IX), due to applicable privacy laws such as the Family Educational Rights and Privacy Act (FERPA). If the matter involves sexual violence, the applicable laws allow the School to disclose disciplinary sanctions even if they do not directly relate to the complainant.

Where the respondent is an *employee*:

- The complainant will generally not be informed of discipline to be imposed on the respondent in order to protect the respondent's privacy rights.
- If the recommended discipline involves the withdrawal of tenure, the respondent will be notified of the supplemental procedures (as set forth below). If the matter turns into a disciplinary hearing, the complainant will be advised of the hearing and have an opportunity to participate.

**D. Supplemental Procedures Where the Accused Harasser Is a Student**

In cases where the School has found a violation of this Sexual Misconduct Policy, either the complainant or respondent can appeal the level of discipline to the Discipline Committee by submitting, within 20 days of learning of the outcome of the investigation, a written statement to the Office of the Dean explaining why the discipline should be changed, including submitting any supporting materials as are necessary. If there is no appeal, the recommended discipline will go into effect.

*Where there is an appeal:* The Office of the Dean will provide a copy of the appealing party's statement (or a summary of that statement) to the other party, who will have the option of providing a written response. Any written response should be submitted to the Office of the Dean within 20 days after that person's receipt of the appealing party's written statement. The Office of the Dean will transmit to the Discipline Committee copies of the complainant's and respondent's written statements and any supplemental materials that the Office of the Dean wants to bring to the Discipline Committee's attention. The Discipline Committee will promptly review the written materials and may affirm, increase, or decrease the level of discipline and may make this decision based on the written submissions, or may decide, in its sole discretion, to interview the parties or to hold an evidentiary hearing. The decision of the Discipline Committee will be final.

## **E. Supplemental Procedures Where the Discipline Involves the Withdrawal of Tenure**

Where withdrawal of tenure is at stake, the matter will be referred to the appropriate committee pursuant to the Faculty Rules.

## **F. Hearing Procedures**

To comply with applicable legal requirements, hearings provided under this Policy or the Student Handbook and Faculty Rules, and relating to violations of Title IX or VAWA, will be subject to the following requirements:

1. If the matter involves dating violence, domestic violence or stalking, the Title IX Coordinator will be consulted to ensure that the hearings are conducted in a manner that protects the safety of the parties and promotes accountability.
2. Notice of the hearing shall be provided both to the complainant and the respondent.
3. The complainant and respondent will have the same opportunities to make statements at the hearing and to present witnesses and other evidence. Any statements and testimony provided at such hearing shall be made under oath.
4. The complainant and respondent will both have the right to be represented by counsel of their choice.
5. The complainant and respondent will not usually be permitted to cross examine each other, although they can propose questions to the applicable committee members to consider asking. The committee will have full discretion to decide whether to ask the requested questions or not.
6. Evidence regarding the complainant's or respondent's sexual history, if relevant to the matter, will be restricted to the complainant's sexual history with the respondent.
7. In proceedings involving the withdrawal of tenure, a preponderance of the evidence standard will be used to determine whether Title IX or VAWA has been violated. In proceedings challenging the level of discipline for students, the Discipline Committee's determination will be limited to the level of discipline to be imposed based on the School's earlier finding of a violation.
8. The complainant will not be required to be present for the entire hearing. If the respondent is allowed to be present for the entire hearing, the complainant must be afforded the same option. The School may consider arrangements so that the complainant and the respondent do not have to be present in the same room at the same time, such as closed circuit television.
9. Notice of the outcome of the hearing process will be provided simultaneously to the complainant and respondent, and will include information similar to that provided at the end of the investigation, subject to any confidentiality considerations.

## **G. Timing Issues**

The length of time it will take to complete the investigation will vary based on the complexity of the complaint and other factors such as witness availability, delay or uncooperative actions of any necessary party, number of witnesses, holidays and vacation periods, and any other unforeseeable events / circumstances. The School's goal is to resolve all complaints as efficiently and promptly as possible. In general, the resolution of the complaint will be completed within sixty (60) days of the filing of a complaint or from

the report of the suspected violation of this Policy, unless the School determines in its discretion that more time is required. Any pending criminal investigation or criminal proceeding may have some impact on the timing of the School's investigation, and will in some cases result in extending the time period needed to resolve the complaint.

## **XI. PRIVACY**

The School shall protect the privacy of individuals involved in a report of Sexual Misconduct to the extent permitted by law and School policy. A report of Sexual Misconduct may result in the gathering of extremely sensitive information about individuals in the School community. While such information is considered confidential, School policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report of Sexual Misconduct. In such cases, efforts shall be made to redact the records in order to protect the privacy of individuals. An individual who has made a report of Sexual Misconduct may be advised of discipline or corrective measures imposed against the respondent when the individual needs to be aware of the discipline or corrective measures in order for it to be fully effective (such as restrictions on communication or contact with the individual who made the report).

In addition, when the offense involves a crime of violence or a non-forcible sex offense, FERPA permits disclosure to the complainant of the final results of a disciplinary proceeding against the respondent, regardless of whether the School concluded that a violation was committed. Information regarding discipline or corrective measures taken against the respondent shall not be disclosed without the respondent's consent, unless permitted by law as noted above, or unless it is necessary to ensure compliance with the action or the safety of individuals.

## **XII. RETENTION OF RECORDS**

The Title IX Coordinator is responsible for maintaining records relating to Sexual Misconduct, investigations, and resolutions. Records shall be maintained in accordance with School records policies.

Discrimination or Harassment Complaint Form\*

Name of Person Completing this Form: \_\_\_\_\_

Email Address of Person Completing this Form: \_\_\_\_\_

Telephone Number of Person Completing this Form: \_\_\_\_\_

Name of Alleged Victim (if different): \_\_\_\_\_

Name of Alleged Perpetrator: \_\_\_\_\_

Date, Time and Location of the Incident: \_\_\_\_\_

Describe General Category of Discrimination/Harassment (i.e., racial discrimination, sexual harassment, etc.) \_\_\_\_\_

Description of the Incident (Attach additional pages if needed): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please attach non-original copies of any documentation that supports the above Complaint (e.g., emails, text messages, photos, etc.)

Desired Outcome/Relief Sought: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Please check this box if you wish for the Law School not to reveal your and the victim's name to the alleged perpetrator. By checking this box, you understand that the Law School's ability to respond to this Complaint may be limited.

**I hereby attest that this Complaint is being filed in good faith, and that all the above facts are true to the best of my knowledge.**

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

\* Submit your completed form by email or in person to Jacqui Pilgrim, Director of Student Services ([jpilgrim@nesl.edu](mailto:jpilgrim@nesl.edu)) or Acting associate Dean Allison Dussias ([adussias@nesl.edu](mailto:adussias@nesl.edu)) as soon as practicable after the event to which it refers.