



UNIVERSITY OF
SOUTH DAKOTA

SCHOOL OF LAW
Academic Rules and Student Policies

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SCHOOL OF LAW

Academic Rules and Student Policies

Honor System

The Honor System applies to all aspects of student life including, but not limited to, conduct at the Law School, and conduct while working as an intern or while participating in co-curricular activities.

Lying, cheating, stealing, plagiarizing, or breaking of one's word of honor are condemned.

At all times, the student has responsibility for demonstrating those qualities of good character required to obtain certification by the School of Law for admission to the practice of law.

In addition, students are expected to satisfy the standards of conduct appropriate to a professional school and the Rules of Professional Conduct as approved by the Supreme Court of South Dakota.

Unless properly excused or excepted, students are obligated to comply with the academic rules and to observe applicable rules and instructions issued by the faculty.

For breaches of discipline and the requirements of this section, penalties may be imposed to include oral or written reprimand, grade reduction (including the failure of the course), probation, suspension of rights and privileges (i.e., class standing and participation in co-curricular activities), suspension from Law School, and expulsion from Law School. Procedural rules are set out in the Student Disciplinary Procedures found below.

Honor System Policy

The provisions of the Honor System or the Student Disciplinary Procedures do not prevent a faculty member from taking action with respect to honor code violations involving that faculty member's course, course materials or classroom conduct. In any such case the faculty member may, in his/her discretion, refer the matter to the Examiner, as provided in the Student Disciplinary Procedures, or take action against the student concerned if, in the judgment of the faculty member, an appropriate sanction can be imposed within the authority of the faculty member (i.e., imposition of added assignments, special projects, and/or grade reductions including failure of the course).

Action by the faculty member does not bar further consideration by the Examiner and the Disciplinary Board. In the event a matter is referred to the Examiner in accordance with the Student Disciplinary Procedures, the Examiner and Board will give particular consideration to the academic freedom and the authority of the faculty member to deal with the course in its entirety and the classroom conduct of students. The Board should take further action in such cases only if there is indicated a significant breach of discretion or a discriminatory practice.

Course of Study

Hours Required for Graduation

To be recommended by the Faculty for graduation, a student must have completed 90 semester credit hours in residence with a minimum cumulative grade point average of 70. Of these 90 semester credit hours, a minimum of 70 hours must have been completed in substantive classroom law courses. All required courses in the curriculum must be satisfactorily completed, and must be taken in sequence, as designated by the Law School. All coursework must be completed no earlier than 24 months and no later than 84 months after a student has commenced law study in the Law School or another law school from which the school has accepted transfer credit. Students are expected to complete the full-time program within three years and the flex-time program within five years. Exceptions may be



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granted only for exceptional circumstances and may not extend the completion period beyond the 84-month maximum.

Residence

The University of South Dakota School of Law is accredited as a full-time program leading to a juris doctor degree upon completion of 90 semester hours of courses in six full-time semesters. Students enter the School of Law in the fall of each year.

In order to qualify for the juris doctor degree, a student must complete six semesters or their equivalent in residence. A semester in residence is a fifteen-week semester during which a student enrolls for at least 12 credit hours and completes at least nine of these hours with passing grades. The equivalent of a semester in residence is obtained by a combination of at least six credits earned in the summer in courses for which Law School credit is awarded and a summer externship, provided that the combination yields at least 12 credit hours and the student completes at least nine of these hours with passing grades. Enrollment for the purpose of this rule must be continuous throughout the semester.

A student may not satisfy the six-semester requirement by completing the summer externship and more credit hours than the normal course load in other semesters. A student who plans to complete the degree requirements in less than three calendar years shall notify the Law School before the beginning of the third semester in residence. All coursework must be completed no earlier than 24 months and no later than 84 months after a student has commenced law study in the Law School or another law school from which the school has accepted transfer credit. Students are expected to complete the full-time program within three years and the flex-time program within five years. Exceptions may be granted only for exceptional circumstances and may not extend the completion period beyond the 84-month maximum.

Flex-Time Program Requirements

Students enrolled in the flex-time program are required to take 15 credits, including Torts, Property, Foundations of Law, Fundamental Legal Skills I & II, and Legal Research Foundations, in their first year of study, and the remainder of the full-time first-year curriculum in their second year of study. Flex students in good standing at the end of their 1L year (after the completion of two years in the flex-time program) may take summer courses.

Flex-time students may apply to transfer to the full-time program after completion in good standing of their 1L year. Students must complete four additional semesters and one summer term of at least six credit hours. Flex-time students who are not in good standing at the end of their 1L year are subject to the dismissal and probation provisions of the Law School's Academic Rules and Student Policies.

Students who begin as flex-time students, including flex-time students who transfer to the full-time program, are not ranked with full-time students. Instead, each flex-time student is informed of the quintile in which the student's cumulative grade point average would rank in the class with which the student matriculated. However, if a student who matriculated as a flex-time student graduates with a cumulative grade point average that – as measured against the class with whom he or she graduates – would make the student eligible for honors, such honors may be conferred. This rule does not confer an official rank on any such student; therefore, a determination that a student who matriculated into the flex program is eligible for honors will not affect the rank or honors eligibility of any student who matriculated as a full-time student.

Flex-time students may participate in co-curricular activities after the completion of 30 credit hours in Law School. (Effective 4/30/01)

Academic Work Load

The juris doctor degree requires completion of 90 credits. The full-time program is completed within three years. The course of study in the School of Law is intended to occupy the full time of students. For each fall and spring semester, a full-time student must take at least 12 hours per semester and may take up to 18 hours. No student may take more than 18 hours in any semester, and no exceptions to this limitation may be granted.



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Repeating Courses

A student must satisfactorily complete all required courses in the curriculum in order to meet graduation requirements. Required courses in which a failing grade is received must be repeated the next time the course is regularly offered. A student who repeats a course will be evaluated and assigned a course grade in the same manner as other students who are taking the course at that time. A student receiving a failing grade in an elective course may substitute another course or he or she may repeat the course. A student may not improve his or her cumulative grade point average by repeating a course. If a student is required to repeat a course, or elects to repeat a course, all grades received in that course will be entered on his or her permanent record, but only the original grade will be used in computing the cumulative grade point average.

Adding and Dropping Courses

Adding Courses. A student who wishes to add a course must do so within the first six school days of the semester or the first three school days of a summer session. Students may add courses by contacting the Office of the Dean.

Dropping Courses. Permission to drop a required course will not be granted except for medical or other unusual and exceptional reasons. Elective courses may be dropped only during the first 30 school days of the semester, or if requested beyond the first 30 days, for medical or other unusual and exceptional reasons. The same rules apply for dropping courses during the summer session, except that the request must be made within the first five school days of the session. A student who is permitted to withdraw from a course will receive a grade of "W" if passing the course at the time of withdrawal. Unilateral withdrawal by a student from a course without proper prior permission, where required, will result in a grade of 50 for that course. Such grade will be used in computing the student's cumulative grade point average. Students may drop courses by contacting the Office of the Dean. Students may also make add and drop changes through USD's WebAdvisor but must notify the Office of the Dean of any changes.

Course Requirements

Students shall receive from the instructor, prior to the Law School's drop/add date in the semester, a written statement of course requirements, including components of grading, attendance, identification of required texts, the instructor's office hours, and other special student responsibilities. A statement of daily assignments is not required. The written statement required by this rule is subject to change by written notice. Student questions or complaints about alleged violations of this rule shall first be discussed with the instructor involved and thereafter may be processed only through the Office of the Dean. The Dean shall enforce this rule through appropriate means.

Class Attendance and Preparation

Regular and punctual class attendance and preparation by students are an important part of the learning process and accordingly are required of all students. Students should be aware that the School of Law is obligated to certify to the various boards of state bar examiners that each student has been in regular attendance in classroom instruction, and that the School intends to refuse to certify a student whose attendance has not been regular. If the instructor has announced standards of attendance and participation at the beginning of the term, a student may be excluded from the course or from the final examination in the course whenever that student has accumulated an unreasonably large number of absences or instances of unpreparedness in the course. The instructor shall notify a student orally or in writing that he or she accumulated too large a number of absences or instances of unpreparedness before the student is excluded. The instructor shall inform the administrative office in writing of the exclusion of any student under this rule. A student who is excluded from a course or final examination because of excessive absences or instances of unpreparedness shall receive a withdrawal (W), if adequate justification is made, or a withdrawal with a grade of 50 as indicated by the instructor. No exclusion shall be made under this rule unless the professor has announced at the beginning of the term his or her requirements concerning attendance or preparation. As a rule, the School of Law does not provide video or audio tapes of classes for students who are absent from class. Students are instead encouraged to get notes from other students. In rare instances, exceptions will be made for students who, due to health issues or military duty, have to be gone from class for more than one week.



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Upper Level Writing Requirement

Each student shall complete an “upper level writing requirement” in order to be qualified to graduate from The University of South Dakota School of Law. This requirement may be satisfied in one of four ways. The first way is by enrolling in and satisfactorily completing a “W” course during one semester of the student's second or third year of Law School. One or more such courses shall be offered each fall and spring semester, but not during the summer term. “W” courses will be identified on the schedule of courses by the presence of a “W” (writing required by professor as part of course) or “W/O” (writing requirement component at option of the student) near the number of the course on the schedule. The substance of the writing requirement of each “W” course will be determined by the professor teaching the course, who will also grade the written work. The requirement will be fulfilled by a substantial written product (a minimum equivalent of 25 double-spaced, typewritten pages) based on significant independent legal research by the student. At least two separate drafts must be submitted to the professor for the “W” requirement to be satisfied. The professor shall report satisfactory completion of the “W” component of the course separately to the Registrar in order for the Registrar to indicate on the student's record completion of the requirement for graduation. The percentage of the course grade allocated to the paper is at the discretion of the professor subject to syllabus notice requirements. The student must achieve a passing grade for both the paper and any separate course work in order to complete the writing requirement. Students do not earn additional credit for “W” courses because of the writing involved.

The second way the upper level writing requirement may be satisfied is by taking Independent Research with the express agreement by the professor that the course is to be taken in satisfaction of that requirement. The paper must be the equivalent of at least 25 pages double-spaced in length and be based on significant independent legal research by the student. At least two separate drafts must be submitted to the professor for the “W” requirement to be satisfied by Independent Research. The agreement to use Independent Research to satisfy the “W” requirement must be clearly indicated on the form submitted by the student and signed by the professor to initiate the class.

The third way the upper level writing requirement may be satisfied is by writing an appellate brief under the supervision of a faculty member. The brief must be the equivalent of at least 25 pages double-spaced in length. It must be based on significant independent legal research by the student. It may be on an issue that the student previously researched for a brief submitted with another student in a moot court competition. At least two separate drafts must be submitted to the faculty member for the “W” requirement to be satisfied by this option.

The fourth way the upper level writing requirement may be satisfied is by writing a law review article under the supervision of a faculty member. The article must be the equivalent of at least 25 pages double-spaced in length. It must be based on significant independent legal research by the student. It may be on an issue that the student previously researched for a law review article submitted to the USD Law Review. At least two separate drafts must be submitted to the faculty member for the “W” requirement to be satisfied by this option.

Extern Education Policy

The Law School's Extern Education Program is a credit-based program during the academic year and the summer to full time students who have earned a minimum of 44 credits, and flex students who have earned a minimum of 40 credits. An externship offers the student a direct personal experience in the lawyering process, client responsibility and applied legal ethics by involving the student in the actual practice of law under the supervision of a practicing attorney. Students who have completed the course in Evidence as well as their second year may appear in court while under the supervision of an attorney pursuant to the South Dakota Supreme Court Rules of Student Practice and the corresponding rules of the United States District Court. Each term, the externship program consists of both a classroom instruction component and a field component. During the term, students may register for 1-3 credits per semester, and 6 credits during the summer. The course is pass/fail.

The student must not only adhere to the demands required by the supervising attorney and the law firm concerned, but must also be available to participate in the irregular requirements of assisting in client needs and court calendars. Students do not observe academic holidays.



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Experiential Learning Policy Governing Clinics and Externships

In order to support student interest in gaining exposure to multiple areas of law, the desire to gain substantial practical training, and the need to satisfy the experiential learning requirement for graduation, the following policy limits have been put in place:

- Students may earn no more than a total of 15 combined clinic and externship credits;
- Students may earn no more than a total of 12 clinic credits;
- Students may earn no more than a total of 9 externship credits;
- Subject to the credit cap limits, students may enroll for credit in the same clinic or same field placement for no more than two semesters, or for no more than one summer and one semester;
- Students may not enroll in both a clinic and an externship during the same semester;
- Students may enroll in no more than one clinic per semester;
- Students may enroll in no more than one externship per semester;

For the purpose of this policy, practicum courses will be treated as clinics.

Transfer Credit

The Dean may grant a maximum of 40 hours of credit for law courses taken in other American Bar Association approved law schools. No transfer credit may be granted for any course in which a student received a grade lower than a "C" or its numerical equivalent. At least 50 hours of credit must be earned at The University of South Dakota School of Law. Grades earned in transferred courses are not used in computing the cumulative grade point average. Students will not be permitted to take required courses outside The University of South Dakota School of Law except for those that are transferred into a student's degree program by a transfer student and taken before he or she matriculates at USD School of Law.

Distance Education

A student may not receive more than four credit hours in any semester, nor more than a total of 12 credit hours, for distance-education courses. These credits may include transfer credits for distance-education courses offered by other ABA-approved law schools that comply with ABA Standard 306. Distance-education courses offered by other academic units may not be counted for credit toward the J.D. degree as interdisciplinary courses or through joint-degree programs.

Student Complaints Relating To Program of Legal Education

(effective 7/01/2013; approved by faculty 1/23/2013)

(a) A student who wishes to bring to the attention of the Law School a significant problem that directly implicates the school's program of legal education and its compliance with A.B.A. Standards should file a written complaint with the Associate Dean who oversees academic and student matters. The written complaint must include a sufficient description of the problem to permit the Associate Dean to investigate the matter, the specific A.B.A. Standard at issue, and the student's name, mailing address, email address, and phone number. The standards may be found (as of September 2016) at: http://www.americanbar.org/groups/legal_education/resources/standards.html.

(b) Absent unusual circumstances, within twenty-one days after receiving the complaint described in subsection (a) the Associate Dean shall advise the student in writing of the resolution of the complaint. The resolution communicated by the Associate Dean shall be final.

(c) The Associate Dean, or designated delegate, shall maintain a record of complaints described in subsection (a), including the resolution of any such complaints, for eight years from the date of final resolution of the complaint.

(d) This section shall not apply to student complaints that are covered by the individual grade appeal process, the Honor Code, or by University complaint procedures, including but not limited to, complaints relating to discriminatory harassment or sexual harassment.



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(A.B.A. Standard 510)

Grading

The School of Law uses the following grading system for final grades:

90-99 A Outstanding intellectual achievement
80-89 B Above average professional competence
70-79 C Professional competence
60-69 D Below average professional competence
50-59 F Failure

Other marks are used to indicate varying grades of work as follows:

F - Failure: The grade of “F” carries an assigned value of 50. Neither hours of credit nor residence credit is given for the grade of “F”; however, such grade is used in computing the cumulative and semester grade point averages. The grade “F” cannot be converted into a higher grade by repeating the course in which the “F” was received. (See Repeating Courses, above.)

N - Pass, F - Fail: The Externship Program, SD Law Review, Moot Court, ADR Board, Trial Advocacy, and Independent Research credits are graded on a Pass/Fail basis. The grade of “N” carries no assigned value and is not used in computing a student's cumulative grade point average. The grade of “Fail” carries an assigned value of 50 and will be used in computing a student's cumulative grade point average. No other courses will be graded Pass/Fail without prior approval of the Faculty and Dean.

I - Incomplete: This grade indicates that the student was unable to complete the course for some reason beyond his or her control though doing passing work. A grade of “I” must be converted to a final grade upon completion of any examination and all required work within one academic semester following the Incomplete or it will be recorded as “F”; provided however, that upon showing by the student of good cause in a writing which sets forth the reasons for an extension, the faculty member may grant one additional semester to complete the work. The approval of the faculty member shall be recorded and the matter placed in the student's academic records. The grade of Incomplete carries no assigned value and is not used in computing a student's cumulative grade point average. The grade of “F” resulting from the conversion of “I” carries the value of 50 and will be used in computing a student's cumulative grade point average.

W - Withdrawn: This grade signifies withdrawal from the course by permission of the Dean and instructor with no grade assigned.

WF - Indicates a course from which the student withdrew while doing unsatisfactory work. This grade carries a value of 50, and will be used in computing a student's cumulative grade point average.

For any upper level class with more than 10 students, the average grade may not exceed 89. If the average exceeds 89, the Law School registrar will adjust all the grades for the class to produce an average of 89.

Notification of Final Grades

(Effective Spring 2003)

Final grades will not be posted. Students may obtain their individual grades through USD's WebAdvisor as grades for each class are posted or from the Office of the Dean after grades for all courses have been compiled. The confidentiality of grades will be preserved at all times.



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Transcripts

Two transcripts will be kept of each student's academic work: the unofficial transcript kept by the School of Law, Dean's Office; and the official transcript kept by the Office of the University Registrar.

Use of Cumulative Grade Point Average

The student's cumulative grade point average, determined from the School of Law's transcript within the range 50-99, shall be used to determine:

- academic standing;
- class rank;
- satisfaction of residency requirements;
- satisfaction of normal course load requirements;
- eligibility to:
 - (a) participate in, be selected to the board of, and continue in any co-curricular activity;
 - (b) pursue independent study;
 - (c) participate in a joint degree program;
 - (d) take courses outside the Law School;
 - (e) receive scholarships, honors, awards, and certain loans.

Dean's List

Students achieving a grade point average of at least 85 or who are in the top ten percent of their class for that semester, whichever group is smaller, and who have enrolled in 12 credits, 10 of which are numerically graded, will receive distinction on the Dean's List.

Sterling Honor Society

Students who rank in the top ten percent of their graduating class at the end of the sixth semester will receive recognition as the Law School's Sterling Honor Graduates.

Latin Honors

Students will be eligible for Latin Honors at graduation based on the following: (1) Students who rank in the top 5% of the graduating class will be eligible to receive the designation of summa cum laude; (2) students who rank in the top 10% of the graduating class, but who were not eligible for summa cum laude, will be eligible to receive the designation of magna cum laude; and (3) students who rank in the top 15% of the graduating class, but who were eligible for neither summa cum laude nor magna cum laude, will be eligible to receive the designation of cum laude. The determination for Latin Honors will be made at the end of the fifth semester.

Additional Graduation Honors

Students who rank in the top twenty percent of the graduating class at the end of the sixth semester, and who are not otherwise recognized as Sterling Honor Society recipients, will receive High Honors recognition. Students who rank in the top thirty percent of their graduating class at the end of the sixth semester, and who are not otherwise recognized as Sterling Honor Society or High Honors recipients, will receive Honors recognition. Receipt of these honors will not preclude the receipt, if eligible, of Latin Honors. (N.B. Students will no longer receive these awards after the conclusion of the 2018-2019 academic year.)

Graduation Honors for Flex Students

If a student who matriculated as a flex student graduates with a cumulative grade point average that – as measured against the class with whom he or she graduates – would make the student eligible for honors, such honors may be conveyed. This rule does not, however, confer an official rank on such students; therefore, a determination that a student who matriculated into the flex program is eligible for honors will not affect the rank or honors eligibility of any student who matriculated as a full-time student.



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Graduation Honors for Transfer Students

Transfer students shall be eligible for the receipt of all available graduation honors.

Determination of Honors Status for Transfer Students. The cumulative grade point averages of the members of the graduating class will be recalculated, *for this purpose only*, using only the second and third year grades and excluding the first year grades. The transfer student's final cumulative grade point average will then be compared to the recalculated cumulative grade point average of each member of the graduating class. If this comparison yields a finding that the transfer student's cumulative grade point average places him or her in the top ten percent, twenty percent, or thirty percent of this recalculated grouping (or, for Latin Honors, in the top 5%, 10%, or 15%), he or she will be eligible for the corresponding set of honors.

This policy will not confer an official rank on the transfer student; therefore, the determination that a transfer student is eligible for graduation honors will not affect the rank or honors eligibility of any student who matriculated as a first-year student.

This policy will not affect the standard rank calculation or determination of graduation honors for students who matriculated during the first year of law school.

Early Graduates

Students who graduate early – typically, in December of the final year of enrollment – will be eligible for the receipt of honors pursuant to the same policies that apply to all other graduates.

Prizes and Awards

Law students are recognized for outstanding contributions each year.

- | | |
|---|---|
| ABA/BNA Book Awards | Intramural Negotiations Awards* |
| Advocacy Award | Horace R. & Dorothy L. Jackson Memorial Award* |
| ALI-ABA Scholarship and Leadership Award | John W. Larson/Delta Theta Phi Award* |
| American Bankruptcy Law Journal Prize | Law Review Award* |
| Hannah Anderson Award* | Lexis Law Publishing Award |
| Roger & Claudia Baron Awards* | Sam Masten Intramural Moot Court Awards* |
| Barristers' Certificates | George S. Mickelson Memorial Award* |
| Justice Frank Beiglemeier Award* | Moot Court Competition Awards |
| Alan Bogue Memorial Excellence in Legal Writing Awards* | National Association of Women Lawyers Award |
| Alan Bogue Moot Court Awards* | Phi Delta Phi Highest Grade Award |
| CALI Excellence for the Future Awards | Kurt Preszler Award* |
| Gary G. Colbath, Sr. Award* | Roy K. Rietz Award* |
| Fred & Luella Cozad Award* | William K. Sahr Award* |
| Alan Cross Tax Award* | Donald R. Schultz Award* |
| Dean's Certificate for Outstanding Performance | South Dakota Trial Lawyers Association Award |
| Gavel Award | State Bar Real Property, Probate & Trust Section Award* |
| John F. Hagemann Public Service Award* | Thomas Sterling Honor Society |
| Roland W. Hagemann Prize in Water Law* | Student Bar Association President Award |
| Edward W. Hope Award* | West Publishing Company Awards for Outstanding Scholastic Achievement |
| R.D. Hurd Volunteer Law School Society Certificates | Women in Law "Eleanor M. Keuter" Award* |
| Indian Law Award | Gayla Gull Worthington Award* |
| Intramural Client Counseling Awards* | |

*Award has monetary prize.

Good Academic Standing

In order to remain in good academic standing, law students must attain, and then maintain, throughout their enrollment a level of academic performance sufficient to permit the award of the degree of juris doctor. This requires a minimum cumulative grade point average of 70.00 ("C") based on official grades kept and issued by the School of Law.



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Dismissal from Law School

A student with a cumulative grade point average below 70 at the end of the first two semesters, or at the end of any semester thereafter, shall be ineligible to continue in the School of Law and dismissed. Under these rules, dismissal is mandatory and continuance on probation is discretionary. A student disqualified with a cumulative average of less than 67.5 is ineligible to petition the Admissions Committee for probationary readmission. A student disqualified with a cumulative average of at least 67.5 is eligible to petition the Admissions Committee to be readmitted on probation. The terms of probation are set by the Admissions Committee. Students who have withdrawn from Law School without completing the first year of study, but after completing at least one full semester, and who have been readmitted to the Law School, are required to achieve a cumulative grade point average of 70 or above at the end of the completed first year of study or be dismissed and ineligible to continue.

Application for Academic Probation

A dismissed student, with a cumulative average of at least 67.5, may, upon written application to and in the discretion of the Admissions Committee, be readmitted on a probationary status for the following semester, subject to such conditions as the committee may impose. The student bears the burden of establishing his or her ability to satisfactorily complete the Law School's educational program and be admitted to the bar. The Law School shall not continue the enrollment of a student whose inability to do satisfactory work is sufficiently manifest so that the student's continuation in school would inculcate false hopes, constitute economic exploitation, or detrimentally affect the education of other students.

If, at the end of that semester, the readmitted student has not satisfied the conditions of readmission, the student shall be dismissed. The Admissions Committee may in its discretion grant a second semester of probationary status.

In dealing with requests for probation, decisions of the Admissions Committee shall be final. A tie vote of the committee shall be deemed a denial of the request. All decisions of the Admissions Committee shall be expeditiously transmitted to the student.

In no event shall a student be allowed to enter upon the fifth or sixth semester of Law School while on probation.

Students on academic probation are ineligible to register for and attend a summer session in the Law School.

Under Board of Regents Policy 2:9, a student may appeal the Admissions Committee's decision to deny readmission on probation or the probationary conditions to the associate dean, who will attempt to resolve the matter. If the matter is not resolved, the dean is designated by the president to make the final decision on the appeal.

Withdrawal From Law School

Complete withdrawal from the Law School is a formal process and can be accomplished only after giving written notification to the Dean. A student who withdraws without notifying the Dean will be ineligible for readmission.

First-year students who withdraw before the final day to withdraw and receive a full tuition refund may defer enrollment for a year. First-year students who withdraw at any other time during the academic year or who fail to re-enroll for the second semester are not eligible to return to school. Instead, they must compete with other applicants for the year in which they wish to return. The reason for the later withdrawal or failure to re-enroll and the quality of work done prior to withdrawal or failure to re-enroll are considered when students reapply. (Students are considered first-year if they have fewer than 30 semester hours of credit at the time of withdrawal or failure to enroll.)

Unless granted a leave of absence by the Dean, second- and third-year students who withdraw or fail to enroll for any semester during the academic year must obtain permission from the Admissions Committee if they wish to re-enroll. The reason for the withdrawal or failure to re-enroll and the quality of work done prior to withdrawal or failure to re-enroll are considered when students reapply.

The Dean may grant a second-year or third-year student a leave of absence for up to one year, if the student shows good cause.



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Tuition and refundable fees are assessed or refunded, as appropriate, according to the date of official withdrawal, as provided by the University's withdrawal policy.

Final Examinations

Final Examinations and Rescheduling of Final Examinations

A student shall take an examination at the designated time and place unless prior authority for a change in time is granted by the Associate Dean, upon a written request from the student involving either planned or unplanned events.

Planned events are foreseeable and include, for example, two scheduled examinations on the same day, three exams scheduled on consecutive days, significant family events, and National Guard or reserve military duty. Unplanned events are unforeseeable and include, for example, sudden deaths of close relatives and accidents occurring within the two weeks before or during the examination period. Examinations given on consecutive days do not constitute exceptional circumstances.

With planned events, the student shall submit a written request on the form provided by the Dean's Office to the Associate Dean for permission to take the examination at other than the scheduled time. If the request involves two scheduled examinations on the same day, the student shall submit the request on or before the last date to drop a Law School course. For other planned events, the student shall submit the request at least 30 calendar days before the scheduled examination date.

The request must be approved by the Associate Dean. If permission is granted, the student may be given the same or a different examination at the rescheduled time. An examination rescheduled because of a planned event normally will be rescheduled at a time earlier than the time originally scheduled. With unplanned events, the Associate Dean will work with the student to reschedule the examination. The student may be given the same or a different examination at the rescheduled time, which may be earlier or later than the time originally scheduled. Failure to take an examination as scheduled, except as provided above, shall result in a grade of "F" with an assigned value of 50. Re-examination is not allowed.

A student who arrives late for an examination will not be permitted additional time beyond that designated in which to complete the examination. Failure to turn in an examination at the designated time and place, and failure to file any final papers required in any course at the designated time and place, shall result in a grade of "F" with an assigned value of 50, or a reduction of grade, at the discretion of the instructor, unless excused in writing by the instructor. A student so excused will receive a grade of Incomplete (I). The grade of "I" must be converted to a final grade within one academic semester following receipt of the Incomplete, provided however, that upon showing by the student of good cause in writing which sets forth the reasons for the extension, the instructor may grant one additional semester to complete the work.

All examinations shall be administered by the Dean's Office and are subject to proctoring. No course materials may be taken into an examination room except those specifically authorized by the instructor, in which case authorized material shall be subject to inspection by a proctor to insure compliance. A student who is permitted to leave the examination room shall not speak with anyone, except the instructor and/or proctor, regarding any matter. Cell phones and similar electronic devices are prohibited in the examination room and the use of such devices during the examination by students taking an exam is prohibited, unless specifically authorized by the professor. Emergency calls should be made to the Dean's Office, 605-677-5443. If deemed necessary, students may leave their cell phone in the Dean's Office and allow staff to take calls.

All final examinations, and when practicable, all other written work, shall be identified and graded by number only, and without knowledge on the part of the instructor of the identity of the writer of the examination or paper.

In addition to points added or subtracted for classroom attendance and preparation, and upon prior notice by the professor, the final grade may consist of a grade for participation and performance of course requirements, a grade for papers, a grade for interim examinations, a grade for a final examination, or any combination of the above; provided, however, that the major portion of any final grade shall represent an evaluation of written work, except in



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the Extern Program, Trial Techniques, and Appellate Advocacy. After final grades are submitted, an instructor may submit a written request for a grade change explaining the basis for the change. Requests for final grade changes must be approved by the Dean.

Appeals Of Final Grades or Other Final Academic Decisions – Use Form in Appendix

Under Board of Regents Policy 2:9, a student may appeal a final grade or other final academic decision made by an instructor to the associate dean, who will attempt to resolve the matter. If the matter is not resolved, the dean is designated by the president to make the final decision on the appeal.

Under Board of Regents Policy 2:9, a student may appeal a final academic decision made by the associate dean to the chair of the Academic Standards & Curriculum Committee. If the matter is not resolved, the dean is designated by the president to make the final decision on the appeal.

Under Board of Regents Policy 2:9, a student may appeal a final academic decision made by the registrar to the associate dean. If the matter is not resolved, the dean is designated by the president to make the final decision on the appeal.

Law students wishing to appeal a final grade or other final academic decision made by an instructor or by the associate dean **must use the appropriate appeals form, available in the appendix**, in accordance with Board of Regents Policy 2:9, found at <https://www.sdbor.edu/policy/documents/2-9.pdf>. Appeals must be initiated by the student through discussion with the decision maker. The student must have this discussion within 30 calendar days of being notified of the decision that is being appealed. If notification occurs within 15 calendar days of the end of a term, the discussion must occur, at the latest, within 15 calendar days of the start of the next term. The student must also adhere to the other deadlines in the appropriate appeals form.

Independent Research

After two semesters of law study, students may submit proposals for Independent Research to any instructor. Such proposals shall conform to the Faculty Guidance below. The hours assigned to any project shall not exceed two credits in any one semester or summer session. No student may submit and have approved more than four Independent Research proposals nor receive more than eight credit hours for such work during his/her Law School residence (except by permission of the Academic Affairs and Curriculum Committee). A cumulative grade point average of 70 is required before submission for approval of any proposal for Independent Research. Independent Research is graded on a Pass/Fail basis.

Faculty Guidance Regarding Independent Research

The faculty believes that as part of the professional, graduate education of law students, opportunities for independent research and study are essential. To that end, the faculty has authorized the Independent Research (Law 877) course.

This protocol is intended to serve as a guide to all members of the faculty who undertake to supervise Independent Research projects. It is specifically designed to express the faculty's belief that, in order to implement faculty goals, student activity receiving academic credit for Independent Research will presumptively be conducted pursuant to the following guidelines:

- All students enrolling for Independent Research projects must comply with registration and eligibility requirements.
- Independent Research projects will culminate in a professional quality *written* work product.
- Prior to the submission of the final written product, the student will, in a timely fashion, submit a detailed written outline of the project including, at a minimum, the following:
 - A timetable for completion;
 - A statement of research objectives;
 - A statement of legal issues to be resolved;
 - A description of research methodology to be employed.
- Submit one or more written “drafts.”



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- Meet with the supervising faculty member to discuss the outline or drafts.
- Comply with other requirements of the faculty supervisor (e.g., compilation of research bibliography).
- At the discretion of the faculty member, the final written work product will be submitted to the Law Library for inclusion in the appropriate permanent file.

Special Academic Requirements for Journals and Boards

A cumulative grade point average of 75 is required for selection, participation, and continuation in any co-curricular activity, including *The South Dakota Law Review*, the Moot Court Board, the Alternative Dispute Resolution Board, and Trial Advocacy Team competition. Students will not be permitted to serve on more than one co-curricular activity board. A maximum of four credits may be earned for co-curricular activity.

Co-curricular members of boards and staffs may receive pass/fail credit for participation. The faculty advisor for each Journal, Board or Team approves the award of credit. Credit may be awarded as follows:

The South Dakota Law Review

One hour of credit per semester for members of the board of editors who complete their editorial responsibilities, for staff writers who write publishable case notes or comments and complete their staff responsibilities in the first semester, and for staff writers who complete their staff responsibilities in the second semester. No student may receive more than a total of four hours of credit.

Moot Court Board

One hour of credit per semester for members of the Moot Court Board who complete a written appellate brief and compete in a regional or national Moot Court tournament approved by the School of Law. No student may receive more than four hours of credit.

Alternative Dispute Resolution Board

One hour of credit per semester for members of the Alternative Dispute Resolution Board who compete in at least one interschool competition during that semester. No student may receive more than four hours of credit.

Trial Advocacy Competition

Participation in trial advocacy competitions requires a commitment of time and offers unique educational opportunities to hone skills for courtroom presentation. Team members compete with students from other law schools. Students may earn one credit hour per semester for participation on trial team, with an overall cap of two credits. In order to earn a credit during a semester, the student must compete in at least one interschool trial team competition during that semester.

Student Practice Rules and Policies

Student opportunities to make court appearances may arise in various instances, including externships for credit during the summer or academic year (if available), in non-credit situations when the student has secured a paid or non-paid summer internship, when a graduate is employed following graduation and prior to the bar, when a student is working for a lawyer as a paid or non-paid intern during the school year, or when a student is participating in a Law School *pro bono* programs.

Student Practice Eligibility

Law students who have completed four semesters of law school can participate in legal work of varying kinds under the applicable rules and with the supervision of a lawyer, including making court appearances in both the state courts and the federal district court. (SDCL 16-16-1; SDCL 16-18-2.2; SDCL 19-13-2 thru 19-13-5 (Rules 502(a-d); and LR 83.2(I) of the Rules of Practice for the United States District Court for the District of South Dakota. Students working in other states should consult that state's rules.) To qualify to make a court appearance, a law student should consult the rules above, but basically must: a) be certified by the dean of the law school as a person of good character, competent ability and adequately trained as a legal intern, (b) be introduced to the court in which he or she is appearing by a lawyer authorized to practice law in South Dakota, and (c) not receive compensation directly from the client but only from the student's employer/contractor nor receive compensation if receiving credit, and (d)



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certify in writing that he or she has read and is familiar with the rules of professional conduct of the Supreme Court of South Dakota and relevant practice rules of the jurisdiction.

How to Apply for Certification

Student certification forms for both the South Dakota state courts and the federal district court can be obtained from the Director of Experiential Learning. A student should obtain the appropriate form(s) three weeks in advance of an anticipated court appearance date to allow for the form to be signed by the dean and received by the court(s). A certification for the particular court may remain effective for a period up to eighteen months. A supervising attorney who is a member of the State Bar of South Dakota also must approve the temporary certification of the law student. Each time a student changes supervisors or positions, re-application for practice eligibility must be obtained.

Limitations on Court Appearances

- a) No limitations - Students participating in an externship for credit during the summer after the 2L year or during the 3L year, a summer internship (paid), or during employment after graduation, are not limited in the number of court appearances they may make during the certification period.

- (b) Limitations - Students participating in the Law School's pro bono programs and working as paid interns (not for credit) during the academic year, are limited in the number of court appearances they may make in a semester as follows:
 - Students in pro bono programs are limited to three appearances per semester.
 - Students interning in a paid position during the academic year are limited to three appearances per semester.

Students should arrange appearances so that classes are not missed. Absences for court appearances are not excused unless specifically excused by the instructor of the class missed.

Interdisciplinary Courses

Second- and third-year law students may take up to six credit hours in other divisions of the University and apply them to the 90 credit hours required for the juris doctor degree. The School of Law extends this privilege to assist in broadening a law student's education by the pursuit of new disciplines. Students desiring to exercise this option may register for one of the courses on the list of approved courses (found in the curriculum section of the Law School *Catalogue*, at <http://www.usd.edu/law/academics.cfm>) without obtaining special approval. Students wishing to take a course not on the list must submit their request, course description and reason in writing to the Office of the Dean for approval *before registration*. Approval will not be granted for courses on topics which are covered by courses offered in the School of Law, such as administrative law, constitutional law, and business law.

Only in exceptional circumstances will a student be permitted to receive law credit for more than one interdisciplinary course per semester. As an exception, a student will be allowed to receive six credits of approved non-law courses to be taken in the summer. Students with less than a cumulative grade point average of 75 are ineligible to take courses outside the Law School. Interdisciplinary non-law course grades are not used in computing a student's cumulative grade point average.

In addition, law credit will not be given for courses taken *prior* to entry to Law School, or in a *previous* academic period while in Law School if approval was not obtained. Law students must obtain a grade of "C" or better in the approved graduate course in order to receive law school credit.

Law students must complete an interdisciplinary form provided by the Office of the Dean in order to receive law credit if the course is not on the preapproved list, which is contained in the Law School Catalog. It is the student's responsibility to obtain from the outside instructor permission to take the interdisciplinary course.

Law students taking approved interdisciplinary courses in other schools of the University are subject to the rules and regulations of the college or school governing the program and courses they are taking. In addition, admission to



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these courses will be governed by the regulations of the department or school in which the student takes the course. Students must pay applicable tuition and fees for these courses.

Joint Degree Program

The School of Law offers a joint degree program leading to the juris doctor degree and a master's degree from The University of South Dakota in three years in the following disciplines:

School of Business

- JD/Master of Professional Accountancy
- JD/Master of Business Administration

Cross-Disciplinary Studies

- JD/Master of Science in Administrative Studies

School of Education

- JD/Master of Arts in Education Administration

College of Arts & Sciences

- JD/Master of Arts in English
- JD/Master of Arts in History
- JD/Master of Arts in Political Science
- JD/Master of Public Administration
- JD/Master of Arts in Psychology

Admission to the joint degree program is a formal process and requires approval from the School of Law, admission to the participating master's program, and is conditioned upon a cumulative grade point average of at least 75 upon the completion of the first year of law school or a subsequent semester.

Students admitted to this program take courses concurrently leading to both degrees. Students who defer Law School graduation until the master's degree is completed may receive up to nine credit hours toward the 90 credit hours required for the juris doctor degree. Each master's program determines the amount of law credit it will accept for its degree, so the amount may vary. Law students may not receive law credit for more than one course each semester outside of the School of Law without permission of the Associate Dean. If students do not complete the requirements for the master's degree by the time of their graduation from the School of Law, only six hours of the credit earned toward the master's degree will be counted toward law school graduation requirements. Students must pay applicable tuition and fees for these courses.

Although law students may not begin the joint degree program until successfully completing at least the first year of law school with a cumulative GPA of 75, applicants to the School of Law may simultaneously apply for admission to any master's program approved as a joint degree program. Students not simultaneously applying to the School of Law and to a master's program may apply to the joint degree program until the end of their fifth semester in the School of Law.

Application and acceptance to a master's program is the applicant's responsibility. Classes taken in a master's program prior to matriculation in the School of Law will not receive law school credit. Only those courses approved as a graduate course for this program will qualify for law credit.

Law students must have a cumulative grade point average of 75 to be admitted and to continue in the joint degree program. Non-law courses taken in the joint degree program are not used in computing a student's cumulative grade point average. Law students must obtain a grade of "B" or better in the approved graduate course in order to receive law school credit.



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Law students interested in the joint degree program should visit with School of Law Associate Dean and the respective joint degree advisor in the school or college, as noted in specific information about each program in the School of Law *Catalog* (see www.usd.edu/law/).

Dual Degree in Environmental Law

Vermont Law School and The University of South Dakota School of Law offer a Dual Degree Program that enables qualified students to earn two degrees in three years: a JD from South Dakota and a Master of Environmental Law and Policy from Vermont Law School. Financial aid is available for this program through Vermont Law School. Students must pay applicable student and fees for these courses.

University of South Dakota first-year law students initially seek approval to participate in the Dual Degree Program from their Law School's Office of the Dean. Approved students then apply to Vermont Law School for the MELP part of the Dual Degree early in the spring semester of their first-year of law school. If accepted, they register for courses later in the semester. Dual Degree students attend the nine-week Summer Session at Vermont Law School between their first and second years of law school. Students may also complete an approved internship at an organization or law firm involved with environmental work. Vermont Law School will work with South Dakota to arrange for and supervise an appropriate internship. Dual Degree students share the remaining credits required for their JD degree with the MELP degree, thus reducing the overall MELP 30 credit requirement.

Employment While Attending Law School

Whether outside or inside the Law School, students should devote substantially all working hours to the study of law. Regular and punctual class attendance is necessary to satisfy residence and class hour requirements. It is thus the policy of the School of Law that students will not work more than 20 hours per week during any semester in which they are enrolled for 12 or more class hours. **First-year students are strongly discouraged from working unless absolutely necessary.**

Bar Admission

Should you elect to practice law in South Dakota it is necessary for you to fulfill a number of requirements including, but not limited to (see <http://ujs.sd.gov/>, select "Information for...", click "Attorneys," then click "Bar Exam," and see "Rules and Regulations for Admission to Practice Law in South Dakota"):

- Furnish satisfactory evidence that you graduated from a law school accredited by the American Bar Association or that you will so graduate prior to the examination, or that you have successfully completed all of the requirements for graduation prior to the examination (SDCL 16-16-6);
- An applicant for admission without examination shall pay a fee of four hundred fifty dollars. An applicant shall also pay the National Conference of Bar Examiners the applicable fee for preparation of an initial or supplemental character report. If an applicant fails to appear for the examination, the fee paid shall only be applied to the next scheduled combined Multistate Essay Examination, Multistate Performance Test and Multistate Bar Examination. The fees thus paid to the secretary shall be retained in a special fund and shall be paid out by the state court administrator when authorized by the secretary for the compensation and necessary expenses of the board of bar examiners.
- Each applicant for admission without examination shall also file a request for preparation of a character report and application with the National Conference of Bar Examiners. Such request and application shall be accompanied by the fee prescribed by the National Conference of Bar Examiners.
- The Bar Exam application and required number of copies must be postmarked by November 1 for the February examination and by April 1 for the July examination, and must be accompanied by the correct fee and a recent photograph of the applicant.
- Pass satisfactorily an examination conducted by the Board of Bar Examiners (SDCL 16-16-6);
- Be at least eighteen years of age (SDCL 16-16-2);
- Be a person of good moral character (SDCL 16-16-2).

Students register for the South Dakota Bar Examination in the final year of law school. Bar examiners in South Dakota, and all other jurisdictions, require a certification of character from the Dean of the Law School. As a result, law students are required to update their character and fitness information by the last day of the spring semester of



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each year in the Law School's Dean's office. This information is used by the dean to certify the student's character for bar admission. Without this updated information from the student, the dean will be unable to certify a student for bar admission.

A list of bar admission offices for all jurisdictions is found on the National Conference of Bar Examiners' web site at www.ncbex.org. Some states require law students to register for their bar examination within a few months of enrolling in law school. Select the appropriate jurisdiction on the list for information about bar admission requirements.

Equal Opportunity

The School of Law provides equal opportunity for the study of law and entry into the legal profession in accordance with policies of the South Dakota Board of Regents, the governing body for higher education in South Dakota; the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association, the accrediting agency for United States law schools; and the Association of American Law Schools, a nonprofit corporation that promotes improvement of the legal profession through legal education and of which the School of Law is a member.

Relevant Policies

- South Dakota Board of Regents Policy 1:17, 1:17.1, 1:18, 1:19 (Harassment Including Sexual Harassment; Prevention of Sexual Assault, Domestic Violence, and Stalking; Human Rights Complaint Procedures; Equal Opportunity, Non-Discrimination, Affirmative Action)
- American Bar Association Section of Legal Education and Admissions to the Bar Standards 205 (Non-Discrimination and Equality of Opportunity), 206 (Diversity and Inclusion), and 207 (Reasonable Accommodation for Qualified Individuals with Disabilities)
- Association of American Law Schools Bylaws, Section 6-3 (Diversity: Non-Discrimination and Affirmative Action), Association of American Law Schools Executive Committee Regulation 6.32

These policies may be viewed on the Law School's website (www.usd.edu/law/).

Student Disciplinary Procedures

I. Disciplinary Board. The Disciplinary Board shall consist of five members: three students and two members of the full-time faculty of the School of Law. The student members shall be appointed by the Dean of the School of Law annually from nominations submitted by the Student Bar Association. The faculty members shall be appointed by the Dean. The Dean shall designate one faculty member of the Board to serve as Chair. The Board members shall be appointed no later than the tenth day of September of each school year. In addition to the Board appointments previously mentioned, there shall be appointed three student alternate and two faculty alternate Board members. The alternate Board members shall serve at such times as one of the regular Board members withdraws from a particular hearing. The choice of such alternate shall be made by the Chair. The Dean may appoint additional student or faculty alternates, if at any time a sufficient number of alternates is not available to constitute a five-person board.

II. Purpose of the Disciplinary Board. The Disciplinary Board shall handle such Honor Code violations involving law students at The University of South Dakota School of Law as are properly referred to it.

III. Examiner. The Dean shall appoint a member of the faculty to act as Examiner in all disciplinary matters. The Examiner shall be appointed at the same time as members of the Board. In the case of recusal by the Examiner from a particular matter, the Dean shall appoint another faculty member to act as Examiner for that matter.

IV. Confidentiality. All matters that come before the Examiner or the Board are confidential and shall be maintained as such.

V. Allegations of Misconduct. All allegations of misconduct intended to be processed in accordance with these procedures shall be submitted to the Examiner. Allegations may be made by faculty, students or staff. The person or persons making the allegations shall provide the Examiner with a signed written statement of specific acts constituting the alleged misconduct and all known information in support of the allegations, including names of any



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known witnesses, statements, or other data. The allegations should be stated in terms of: (1) proscribed misconduct as specified in Part XV of the Student Disciplinary Procedures (entitled Honor System); or (2) failure to meet the standards expected under the Rules of Professional Conduct approved by the Supreme Court of South Dakota; or (3) failure to meet instructions and directions issued by faculty or other proper authority. The Honor System and standards of professional conduct apply when students participate in clinical training, externships, or summer employment.

A faculty member may impose an appropriate academic sanction, with the approval of the Dean, with respect to misconduct that affects the student's performance in that course. The faculty member who imposes the academic sanction, or any other faculty member, student, or staff member may also make an allegation of misconduct based on the same conduct. With respect to any allegation involving misconduct for which an academic sanction has been imposed, the Examiner and Board shall consider the fact that an academic sanction has been imposed. After a determination by the Examiner or the Board, a faculty member may not impose an academic sanction with respect to misconduct in that faculty member's course which is greater than or inconsistent with the action of the Examiner or the Board.

VI. Notice and Preliminary Procedure. Upon receipt of the allegations as set out in paragraph V above, the Examiner shall give written notice to each individual student accused of misconduct (the respondent(s)). The notice shall advise the respondent of: (a) the specific allegation(s) into which the Examiner shall inquire and about which he/she shall assemble relevant evidence and information; (b) the respondent's right to remain silent; (c) the respondent's right not to respond to the notice, but within seven consecutive days from the date of notice to submit a statement or other relevant information or data concerning the allegations; and (d) the respondent's right to counsel. The Examiner shall give the Dean simultaneous notice of the receipt of any allegation(s) of misconduct against any respondent.

A. Pre-hearing Procedure. The Examiner shall promptly inquire into the allegation(s) and assemble the relevant facts and data. The Examiner shall consider the information available, including any material submitted by the respondent and such action as may have been imposed by any faculty member concerned.

B. Examiner's Recommendation. The Examiner shall make his or her recommendation to the Board either that a hearing be held, that a private reprimand be issued without a hearing, or that no further action be taken by the Board with respect to the allegation(s). The Examiner may not dispose of any matter before making a recommendation.

It is the responsibility of the Board in its discretion to determine how to proceed.
Normally, a hearing should be held when there exists evidence of a probable significant breach of the Honor Code.

A private reprimand may issue from the Board when the facts are not in dispute, a breach of the Honor Code exists but has not led to harm to the public or to other students, and the breach is not so significant as to justify a hearing and formal decision.

A private reprimand shall be issued in writing, stating the reason for issuance.

If the Board determines that no hearing shall be held, or that a private reprimand shall be issued, the assembled materials shall be forwarded to the Dean. The Dean shall provide the respondent prompt written notice of the Board's decision.

VII. Hearing. If the Board determines that a hearing shall be held to determine the veracity of the allegation(s), it shall promptly fix the time and place for the hearing, and the Chair shall advise the respondent by service of a written notice.

VIII. Hearing Procedures. Once notified by the Chair, the respondent shall have ten working days from the date of receipt of service to prepare for the hearing. The notice shall advise the respondent of all allegation(s) to be



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considered, as stated in paragraph V above, and of the respondent's rights to appear in person and be represented by counsel of choice, to examine witnesses and other evidence that will be considered by the committee, and to make a statement and present evidence in the respondent's behalf.

The Examiner shall present the case supporting the allegations; the respondent is responsible for presenting evidence in his or her behalf. Unless otherwise determined by the Chair, the hearing shall consist solely of the presentation of the Examiner's case for the validity of the allegations, presentation of the respondent's evidence, and evidence of exculpatory or mitigating circumstances. The Examiner and respondent may cross-examine witnesses and present rebuttal evidence and evidence of exculpatory or mitigating circumstances. The veracity of any allegation must be established by a preponderance of the evidence.

The rules of evidence do not apply, but the Board shall exercise care to assure that all matters considered are relevant and true. **Anonymous statements shall be excluded.** The Chair shall rule on all questions of procedure and questions as to what information will be considered by the Board in its deliberations. The Board shall assure that the respondent is provided the rights set out above and that the proceedings are conducted in accord with the dictates of fundamental fairness.

The hearing shall be closed, except for the respondent and his or her counsel. The Chair has discretion to admit additional individuals to the hearing upon the request of respondent, submitted in advance.

IX. Record of the Hearing. A tape recording of the proceedings shall be made.

X. Findings and Determination. The Board shall meet immediately following the hearing and determine whether the allegations are supported by a preponderance of the evidence. The Examiner will not meet with the Board during its deliberations. A finding that an allegation is supported by a preponderance of the evidence requires three affirmative votes by the members of the Board. If the Board finds an allegation is supported by a preponderance of evidence, it will determine an appropriate sanction. The sanction agreed upon requires an affirmative vote by three members of the Board, except that a sanction which includes expulsion or suspension from school will require four affirmative votes of the Board. The private reprimand is also an available sanction. Once the Board has approved its findings and recommendation of sanction, they shall be delivered to the Dean.

XI. Appeal and Final Action. The Dean shall forward, in writing, the findings and recommendation to the respondent. The respondent will be advised that he/she has five working days from receipt of the notice of findings and recommendation to file an appeal with the Dean. After the Dean has received an appeal from the respondent, has been advised by the student that no appeal will be submitted, or the time for filing notice of intent to appeal has elapsed, the Dean shall act on the record and rule on any appeal. The Dean may approve or disapprove the action of the Board, in whole or in part. If the Dean disapproves the action of the Board in whole or in part, the Dean may substitute a different finding and less severe sanction or return the matter to the Board for further review and consideration. In no case may the Dean add to the findings or impose a more severe sanction than that recommended by the Board. Any action by the Dean, other than returning the case to the Board for further review and consideration, shall be considered a final action. The Dean shall promptly notify the respondent in writing of the final action.

XII. University Appeal. The respondent may file a written appeal of the Dean's final action to the President of The University of South Dakota. The respondent shall have ten calendar days after service of the Dean's final action to file the appeal. The respondent shall provide a copy of the appeal to the Dean. The appeal shall not be subject to any other formal requirements except a reasonable expression of his/her desire to appeal the Law School determination and the basis thereof. Upon receipt of the appeal, the President shall advise the Dean of the Law School that an appeal has been filed. A record of the proceedings will be made available to the President. The President shall act on the appeal within his/her discretion, which may include modification of the final action of the Dean.

XIII. Placement in Student's File. When the matter is concluded, the Dean shall place in the respondent's file the Board's findings and recommendations, the Dean's final action, and the President's action, if any. Pursuant to an



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appropriate release from the respondent, the Dean may provide this information, along with any necessary explanation or additional documentation, to a bar admission authority.

XIV Notice. A copy of these procedures shall be published, provided to each of the new students at the beginning of their first year, and posted on the Law School bulletin board.

XV. Honor System. The honor system applies to all aspects of student life, including but not limited to conduct at the Law School, conduct while working as clinical intern or extern, participating in co-curricular activities, and in summer employment. Lying, cheating, stealing, plagiarizing, or breaking of one's word of honor are condemned. Students are also expected to conform their conduct to standards appropriate to a professional school and the Rules of Professional Conduct as approved by the Supreme Court of South Dakota. Unless properly excused or excepted, students are obligated to comply with the academic rules and to observe applicable rules and instructions issued by the faculty. Students at all times must demonstrate those qualities of good character required to obtain certification by the School of Law for admission to the practice of law. Faculty and students shall report such violations of this section that raise a substantial question as to another student's honesty, trustworthiness or fitness to apply for admission to the bar.

Student Records Policy

This policy is intended to implement the requirements of FERPA, and to the extent that there is any dispute concerning the terms and conditions of the policy, the provisions of FERPA will prevail in each instance, notwithstanding anything in the policy which may seem to provide otherwise. Students are provided access to forms used by them to authorize release of information related to character and fitness to boards of bar examiners, including the National Conference of Bar Examiners; letter of recommendation authorization; request to inspect records; and directory information non-disclosure.

I. Definitions. For the purposes of this policy, the School of Law uses the following definitions of terms.

Student: Any person who attends or has attended the School of Law, beginning at 8:00 a.m. on the first day the student begins attending class. This policy does not apply to applicant files or to files of accepted applicants who do not matriculate.

Education records: Any record (in any medium, including handwriting) maintained by the School of Law or an agent of The University of South Dakota or the School which is directly related to a student, except:

1. A personal record kept by a staff member if it is kept in the sole possession of the maker of the record and is not accessible or revealed to any other person except a temporary substitute for the maker of the record.
2. Records maintained by The University of South Dakota Department of Public Safety, Student Health Services, and the Office of Disability Services, if the records are maintained solely for the purposes of that department, are revealed only to persons within that department or to other authorized persons as provided by FERPA, and those departments do not have access to education records maintained by the School of Law.
3. Alumni records which contain information about a student after s/he is no longer in attendance at the School of Law and which do not relate to the person as a student.

School official: A person employed by the School of Law or The University of South Dakota in an administrative, supervisory, academic or research, or support staff position; a person serving on an institutional governing body; a student serving on a School of Law committee while performing his/her responsibilities as a committee member; a person employed by or under contract to the institution to perform a special task, such as an attorney or an auditor; or a person or organization acting as an official agent of the institution and performing a business function or service on behalf of the institution.



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Legitimate educational interest: A school official is determined to have legitimate educational interest if the information requested is necessary for that official to: a) perform appropriate tasks that are relevant and necessary to the accomplishment of an employment responsibility of the inquirer; b) perform a task related to a student's education; c) perform a task related to the discipline of a student; d) provide a service or benefit relating to the student or student's family, such as health care, counseling, job placement, or financial aid. Access to information under this definition does not constitute authorization to share information with a third party without the student's written permission. Questions regarding "legitimate educational interest" should be referred to the Dean, Associate Dean, or Assistant Dean.

II. Annual Notification. Students will be notified of their FERPA rights annually by publication in the *Academic Rules and Student Policies*, by notice posted on TWEN, and on the Law School's website. The *Academic Rules and Student Policies* is available to all students electronically on the Law School's portal.

III. Procedure to Inspect Education Records. Students may inspect and review their education records upon written request to the Office of the Dean. The written request must identify as precisely as possible the record or records the student wishes to inspect. The Office of the Dean will make the necessary arrangements for access as promptly as possible, but no later than 45 days from the receipt of the request, and notify the student of the time and place that the records may be inspected. When a record contains information about more than one student, the student may inspect and review only the records which relate to him/her, or a record that has been redacted to protect the privacy of other students.

IV. Right of School of Law to Refuse Access. The School of Law reserves the right to refuse to permit a student to inspect the following records:

1. The financial statement of the student's parents, if applicable.
2. Letters and statements of recommendation for which the student has waived his/her right of access.
3. Records connected with an application to another unit of The University of South Dakota, if that application was denied.
4. Those records which are excluded from the definition of education records, above, or for which refusal is otherwise authorized by law.

V. Refusal to Provide Copies. The School of Law reserves the right to deny copies of education records if it would create an unreasonable burden on the School of Law. In that case, the student retains the right to review the records personally or through an agent.

VI. Fees for Copies of Records. The fee for copies will be \$.25 per page.

VII. Disclosure of Education Records. The School of Law will disclose information from a student's education records only with the written consent of the student, except:

1. To school officials who have a legitimate educational interest in the records. School officials may not release any information to a third party without the written consent of the student, except as specified below. Faculty letters of recommendation which are made from the recommender's personal observation or knowledge do not require a written release from the student who is the subject of the recommendation. However, if the student wishes the recommender to include personally identifiable information from a student's education record (such as grades, GPA, etc.), the student must provide the faculty member with a signed release.
2. Upon request to officials of another school in which a student seeks or intends to enroll. The School of Law will make a reasonable attempt to inform the student prior to the disclosure, unless the request was initiated by the student.



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3. To certain officials of the U.S. Department of Education, the Comptroller General of the United States, the Attorney General of the United States, and state and local educational authorities, in connection with certain state or federally supported education programs, and as otherwise authorized by law.
4. To persons or organizations providing financial aid to students or determining financial aid decisions, on the condition that the information is deemed necessary to: 1) determine eligibility for the aid; 2) determine the amount of the aid; 3) determine the conditions for the aid, or 4) enforce the terms and conditions of the aid.
5. If required by a state law requiring disclosure that was adopted before November 19, 1974.
6. To organizations conducting certain studies for or on behalf of the University or the School of Law to develop, validate, and administer predictive tests, to administer student aid programs, or to improve instruction.
7. To accrediting organizations to carry out their functions.
8. To parents of an eligible student who claim the student as a dependent for income tax purposes.
9. To comply with a judicial order or a lawfully issued subpoena. The School of Law will make a reasonable attempt to inform the student prior to the disclosure, unless ordered not to do so by the subpoena.
10. To appropriate parties in a health or safety emergency.
11. To a victim of an alleged crime of violence, including a non-forcible sex offense, who requests the final results of any institutional disciplinary proceeding against the alleged perpetrator of that crime with respect to that crime.
12. To parents regarding the student's violation of any federal, state, or local law, or of any institutional policy or rule governing the use of alcohol or a controlled substance, if: 1) the student is under the age of 21 at the time of the disclosure; and 2) the institution has determined that the student committed a disciplinary violation with respect to that use or possession.
13. To Veterans Administration officials, the Immigration and Naturalization Service, military recruiters, or the Internal Revenue Service, under certain conditions. A student's consent to release information from his/her education record to a third party, when required, must be submitted to the Office of the Dean in writing. Such written consent must:
 - 1) specify the records to be released;
 - 2) state the purpose of the disclosure;
 - 3) identify the party or class of parties to whom disclosure may be made; and
 - 4) be signed and dated by the student. The written request may be submitted by fax but not by email.

When a student authorizes the release of information, as described above, the School of Law will notify the third party that they are not permitted to disclose the information to others without additional written consent of the student.

Names of any other student(s) involved, including a victim or witness, may not be disclosed without written consent of the other student(s).

Records of deceased students. From the date of death of a student or former student, records previously available only to that student or with the student's consent may, within the first 25 years following the student's death, be released to the following:



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1. The personal representative of the student's estate;
2. The parents of the student; or
3. Upon the closing of the student's probate estate or two years after the student's death, if no probate estate has been opened, the student's next of kin or the takers of the student's residuary estate under his or her last will or will equivalent.

Following the 25th anniversary of the student's death, the records of the student may be released upon good cause shown, in the sole discretion of the school administration.

Any written statement by the student prior to death or in the student's last will to the contrary may supersede the above rules.

VIII. Record of Requests for Disclosure. The School of Law will maintain a record of all requests for and disclosures of information from a student's education records, except for the release of directory information as specified below, or when required by law not to record the request or disclosure. The record will indicate the name and address of the party making the request and the legitimate interest the party had in requesting or obtaining the information. The record may be reviewed by the student.

IX. Directory Information. The School of Law has designated the following items as "directory information": student name, address, telephone number, email address, date and place of birth, hometown, major field of study, past and present participation in officially recognized activities, enrollment status (full- or part-time), class, dates of attendance, degree(s) conferred (including dates), honors and awards received (but not scholarships), previous school(s) attended, and photograph. The School of Law and The University of South Dakota may disclose any of these items without prior written consent, unless notified by the student in writing to the contrary by the 10th day of classes in the fall. Nondisclosure stipulations remain in effect until removed in writing by the student, even if the student has withdrawn or graduated.

A request form to prevent disclosure of some or all directory information is available in the Office of the Dean.

This policy only applies to School of Law educational records and directory information. Students should contact the University Registrar's office if they want to prohibit release of similar information by The University of South Dakota.

X. Correction of Education Records. Students have the right to request to have corrected records that they believe are inaccurate, misleading, or in violation of their privacy rights. (Note: The right to request the correction of a student's education record does not include the right to contest a grade received in a course. Grade grievances are handled through the Student Grievance Policy and Procedure, Section III, found in the *Academic Rules and Student Policies*.) The procedure for the correction of records is as follows:

1. A student must submit a request to amend a record in writing to the Office of the Dean of the School of Law. The request must identify the part of the record s/he wants changed and specify why s/he believes it is inaccurate, misleading, or in violation of his/her privacy or other rights.

2. The School of Law may comply with or deny the request. If the request is denied, the Office of the Dean will notify the student of the decision and advise him/her of his/her right to a hearing and to challenge the decision through the Student Grievance Policy and Procedure found in the *Academic Rules and Student Policies*.

As set out in Section V, paragraph E of the Student Grievance Policy, if the Examiner determines that the student is not entitled to the full relief sought by his/her challenge, the student must be notified of the right to a formal hearing. If the student wishes to exercise his/her right to a hearing, the student must request the hearing in writing within ten (10) days. The student may be assisted in the grievance process by one or more individuals, including an attorney, at the student's expense. (Students who have ceased attendance or graduated retain the right to a hearing.)



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3. If the School of Law determines that the challenged information is not inaccurate, misleading, or in violation of the student's right of privacy, it will notify the student that s/he has a right to place in his/her educational record a statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision.

4. The statement submitted by the student shall be maintained as part of the student's education record as long as the contested portion is maintained. If the School of Law discloses the contested portion of the record, it must also disclose the student's statement.

5. If the School of Law determines that the information is inaccurate, misleading, or in violation of the student's right of privacy, it will correct the record and notify the student, in writing, that the record has been corrected.

XI. Types, Locations, and Custodians of Education Records.

1. Type of record: Student records, including admission records, cumulative academic records, progress records, and disciplinary records (if student is found to be in violation; pending records are sole-possession records held by the hearing examiner.)

Location: Office of the Dean

Custodian: Registrar

2. Type of record: Occasional records, including graduate assistant hours, carrel assignments, directory information, etc.

Location: Office of the Dean

Custodian: Dean or designee

3. Type of record: Placement records

Location: Career Services Office

Custodian: Assistant Dean

4. Type of record: Law Library records, including records of unpaid fines, lost books, etc.

Location: N/A; records are destroyed after matter is resolved

Custodian: Law Librarian or designee

Audiovisual Policy

Audiovisual equipment and staff are available for specified educational purposes only (e.g., for videotaping assigned student presentations in classes) and not for videotaping class sessions for which the student is planning to be absent. All videotapes for use in classroom assignments are to be provided by the student unless otherwise instructed. As a rule, the School of Law does not provide video or audio tapes of classes for students who are absent from class. Students are instead encouraged to get notes from other students. In rare instances exceptions will be made for students who, due to health issues or military duty, have to be gone from class for more than one week. Students may arrange to audiotape a class in which the student intends to be absent, with the permission of the professor. Audio equipment and cassettes are to be provided by the student.

Mailbox Policy

The student mailboxes located in the dean's office suite may be used only for communications from Law School faculty and staff and Law School-affiliated organizations. Telephone messages to individual students and mail addressed to individual students are placed in these mailboxes by Law School staff. Because of the postal monopoly of the United States Postal Service, personal messages not sent through the mail may not be placed in these mailboxes.

Commercial Solicitation Policy

South Dakota Board of Regents and The University of South Dakota policies prohibit unauthorized commercial solicitation or sales of all kinds in University buildings (including the Law School) and on University property.



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Student organizations affiliated with the Law School are authorized to engage in commercial solicitation or sale of goods or services to students within the Law School building. This authorization includes only solicitation or sale of goods or services to support the non-profit activities of the organization. This authorization includes the use of the mailboxes in the Dean's Office, notices on appropriate bulletin boards, and use of the table by the windows in the north hall of the first floor.

Alcohol and Drug Policy

University policy prohibits “the expenditure of organizational funds on alcoholic beverages” and “the informal collection from the members . . . of monies to be spent on alcoholic beverages.” In instances when there is a cash bar, other guidelines apply, such as:

1. Non-alcoholic beverages must be equally available and on display;
2. A reasonable portion of the budget for the event must be designated for the purchase of food items, and food must be available throughout the event;
3. Alcohol service must be discontinued well before the event is expected to end;
4. Alcohol use should never be the primary focus of the event; and
5. Advertising may not mention the availability of alcohol in a prominent way.

A complete copy of the University's policy is found at http://www.usd.edu/campus-life/student-services/upload/Student_Handbook_2013-2014-updated.pdf, *University of South Dakota Student Handbook*.

The applicable Board of Regents policy (3:4.2.D., which is referenced in the *USD Student Handbook*) is available at http://www.ris.sdbor.edu/policy/3-Student_Affairs/3-4.doc.

Bulletin Board Policy

All items posted on Law School bulletin boards must have at the top the organization's/person's name and the date placed on the board. Items larger than 8 1/2" x 11" must be approved by the Associate Dean, Assistant Dean, or Program Assistant. All items posted will be removed at the end of one week unless special approval is obtained from the Office of the Dean. The Dean's Office will initial and write an extension date at the top of the item. Any item not containing the specified information will be removed immediately.

University Policies and Procedures

The University of South Dakota Student Handbook contains additional policies and procedures that apply to law students and that are not covered within. Please refer to those policies and procedures in *The University of South Dakota Student Handbook* found among the University policies on the portal at <http://link.usd.edu/111>.

The provisions in this handbook are subject to change without notice and do not constitute a contract or offer to contract with any person.

APPENDIX

FORM – Appeals Of Final Grades or Other Final Academic Decisions

This form outlines the process by which students may appeal an academic decision involving such matters as final course grades or dismissal from a program. The form itself should be used only if the Step 1 discussion with the academic decision-maker does not produce a satisfactory resolution and the student wishes to pursue the matter to the next level. Additional pages may be attached if more space is needed. Before pursuing an appeal, students should consult Board of Regents Policy 2:9 at http://www.sdbor.edu/policy/2-Academic_Affairs/documents/2-9.pdf.

STEP 1: Initial discussion to question the academic decision

The student must initiate the appeal by contacting the instructor or other individual responsible for the decision (i.e., the academic decision-maker) to question the decision and explain the reasons for doing so. If notification of the decision that is being appealed is provided to the student within 15 calendar days before the end of a term (fall, spring, or summer), the discussion must occur at the latest **within 15 calendar days** of the start of the next term. If notification occurs more than 15 calendar days before the end of the term, the student must have this discussion **within 30 calendar days** of being notified of the decision. **Within the first 30 calendar days** after notification of the decision, the student may petition the president’s designee (see p. 3) for an extension of this timeline if circumstances prevent timely appeal.

STEP 2: To be completed by the student

If the student wishes to pursue the appeal following the discussion with the academic decision-maker, s/he should complete the section immediately below and submit a signed copy to the designated mediator **within 5 working days** of the discussion. (See page 3 for help in identifying the individual who will serve as mediator.) The mediator will provide a copy of this form to the decision-maker and then will consult with the student and the decision-maker in an attempt to resolve the matter.

Name (please print)

Student ID

What academic decision are you appealing?

What is the basis for your appeal (i.e., what is unfair about the decision)?

What was the outcome of your discussion with the individual responsible for the decision?

Date notified of decision: _____

Date of discussion with decision-maker: _____

Student’s Signature

Date



STEP 3: To be completed by the academic decision-maker

The academic decision-maker should describe below the Step 1 discussion with the student, explaining his/her rationale for the academic decision being appealed, and then return to the mediator a signed copy of this form **within 10 working days** of receiving it.

Name (please print)

Signature

Date

STEP 4: To be completed by the designated mediator

The role of the mediator is to facilitate resolution of the appeal through discussion with the student and the academic decision-maker. The mediator is not empowered to change the decision being appealed or to insist that the decision-maker do so. Discussion with the decision-maker and the student should be initiated **within 10 working days** of receipt of this form from the academic decision-maker. Following discussion, the mediator should describe below the attempt to reach resolution and its outcome. **Within 10 working days** of initiating the discussion with the parties, a copy of the completed form is due to the student and the decision-maker.

Name (please print)

Signature

Date

STEP 5: Final Appeal

If the matter is unresolved after mediation, the student may appeal to the president's designee (see p. 3) **within 10 working days** of receipt of this completed form from the mediator. The appeal at this stage must be submitted as a letter that clearly lays out the basis for the appeal and why it should be granted. A copy of this form (completed and with all required signatures) must accompany the Step 5 appeal letter. Any supporting documentation should also be provided. Upon receipt of the appeal documents, the president's designee will contact the student and offer to discuss the appeal. **Within 15 working days** of receiving the Step 5 documents, the designee will notify all parties of the decision regarding the appeal.

ROLES IN THE ACADEMIC APPEALS PROCESS SCHOOL OF LAW

Grades & Other Academic Decisions	Decision-maker	Mediator	USD President's Designee
Law grades	Instructor	Associate Dean	Dean
Academic decisions by Associate Dean	Associate Dean	Chair, Academic Standards & Curriculum Committee	Dean
Academic decisions by Registrar	Law School Registrar	Associate Dean	Dean

Program	Decision-maker	Mediator	President's Designee
Law*	Admissions Committee	Associate Dean	Dean

*Dismissal is automatic based on grades. Students may appeal for readmission.