

Professional Responsibility

Eric M. Fink
efink@elon.edu
336.279.9334
Office Hours: calendly.com/emfink

Elon Law School
Fall 2019
Monday & Wednesday, 3:00 - 4:15 pm
Room 204

Description

This course is intended to acquaint students with the organization and regulation of the legal profession, the nature of the attorney-client relationship, and the duties that attorneys owe to clients and others. Upon successfully completing the course, students should be familiar with the ABA Model Rules of Professional Conduct and other sources of law governing the legal profession, and be able to apply these rules to ethical issues that arise in legal practice. The course will also help prepare students for the Multistate Professional Responsibility Examination (MPRE), but will not cover all of the topics tested on that exam.

Course Material

Leah Christensen & Brooks Holland, Learning Professional Responsibility (2d ed., West Academic 2018) (“Casebook”)

ABA Model Rules of Professional Conduct (2018) (Online at the [ABA website](https://www.americanbar.org/abapubs/products/standards/2018_model_rules_professional_conduct/) and various print editions)

Suggested supplement (optional): Grace M. Giesel, Mastering Professional Responsibility (2d ed., Carolina Acad. Press 2015)

The course website, emfink.net/ProfessionalResponsibility, has links to legal authorities, subject outlines, and study aids.

Policies

Grading

Your grade will be based on in-class performance (10%), three mid-term quizzes (10% each) and a final examination (60%). The in-class performance component depends on

your preparation before class,¹ regular and prompt class attendance, and constructive engagement during class. The midterm quizzes and final exam will consist of multiple choice questions, similar in format to the Multistate Professional Responsibility Examination (MPRE). The midterm quizzes will be given in class and will be open book/notes. The final exam will be given during the exam period and will be closed book/notes; you will receive a copy of the ABA Model Rules for use during the exam.

Attendance

Elon Law School has adopted the following attendance policy for all courses:

The Law School administers a policy that a student maintain regular and punctual class attendance in all courses in which the student is registered, including externships, clinical courses, or simulation courses. Faculty members will give students written notice of their attendance policies before or during the first week of class. These policies may include, but are not limited to: treating late arrivals, early departures, and/or lack of preparation as absences; imposing grade or point reductions for absences, including assigning a failing grade or involuntarily withdrawing a student from the class; and any other policies that a professor deems appropriate to create a rigorous and professional classroom environment.

In case of illness or emergency, students may contact the Office of Student and Professional Life, which will then notify the student's instructors. A student may notify the faculty member directly of a planned absence and should refer to individual faculty members regarding any policy that may apply. In the case of prolonged illness or incapacity, the student should contact the Office of Student and Professional Life.

Excessive absences (more than 2 classes) may result in a reduction of your grade.

Honor Code

The Law School honor code applies to all activities related to your law school study, including conduct during class and examinations.

Topical Outline & Reading Assignments

1 Law as a Regulated Profession

1.1 Professional Gatekeeping & Regulation

- Casebook: Chapters 1-4
- ABA Model Rules: Preamble & Scope

1.2 Professional Discipline

- Casebook: Chapters 5-7
- ABA Model Rules: 1.0, 5.1-5.7, 8.1-8.5

¹Elon Law School's standards and ABA guidance for awarding course credit assume at least two hours of out-of-class student work for each hour of classroom instruction.

2 Maintaining an Ethical Law Practice

2.1 Advertising & Solicitation

- Casebook: Chapters 8-13
- ABA Model Rules: 7.1-7.6

2.2 The Attorney-Client Relationship

- Casebook: Chapters 15 & 16
- ABA Model Rules: 1.8(f), 1.13, 1.14, 1.16, 1.18, 4.2, 6.1, 6.2, 6.3

2.3 Attorney Fees & Client Property

- Casebook: Chapters 17 & 18
- ABA Model Rules: 1.5, 1.8, 1.15

2.4 Law Firms

- Casebook: Chapters 19-24
- ABA Model Rules:

Quiz 1: Maintaining an Ethical Law Practice

3 Duties to Clients

3.1 Scope of Representation & Authority

- Casebook: Chapters 26 & 26
- ABA Model Rules:

3.2 Competence & Diligence

- Casebook: Chapters 28 & 29
- ABA Model Rules: 1.1, 1.3, 1.14, 2.1

3.3 Communicating with Clients

- Casebook: Chapters 30 & 31
- ABA Model Rules: 1.2, 1.4, 1.6, 1.13, 1.14, 1.16, 2.1

3.4 Confidentiality & Privileges

- Casebook: Chapters 32 & 33
- ABA Model Rules: 1.6, 1.9(c), 1.13, 1.18, 4.4(b)

3.5 Conflicts of Interest

- Casebook: Chapters 34-38
- ABA Model Rules: 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.18, 6.4, 6.5

3.6 Special Client Issues: Diminished Capacity & Organizations

- Casebook: Chapters 39-40
- ABA Model Rules:

3.7 Special Lawyer Roles: Evaluation & Third-Party Neutral

- Casebook: Chapters 41 & 42
- ABA Model Rules:

Quiz 2: Duties to Clients

4 Limits on Zealous Advocacy

4.1 Good Faith in Litigation

- Casebook: Chapters 43, 44, & 46
- ABA Model Rules: 3.1-3.9

4.2 Maintaining the Integrity of the Tribunal

- Casebook: Chapters 45, 47, & 48
- ABA Model Rules: 1.2(d), 1.6, 3.1, 3.3, 3.4(b), 4.1, 8.4

4.3 Special Lawyer Roles: Witnesses & Prosecutors

- Casebook: Chapters 49 & 50
- ABA Model Rules:

4.4 Interactions with Non-Clients

- Casebook: Chapters 51-54
- ABA Model Rules: 1.6, 3.5, 4.1 4.2, 4.3

Quiz 3: Limits on Zealous Advocacy