

НАЦІОНАЛЬНИЙ УНІВЕРСИТЕТ «ОДЕСЬКА ЮРИДИЧНА АКАДЕМІЯ»
ФАКУЛЬТЕТ ЦИВІЛЬНОЇ ТА ГОСПОДАРСЬКОЇ ЮСТИЦІЇ
КАФЕДРА ЦИВІЛЬНОГО ПРАВА

ШЕРЕШЕВСЬКІ ЧИТАННЯ:

представництво в умовах надзвичайних ситуацій

*МАТЕРІАЛИ
Круглого столу*

*Одеса,
15 грудня 2023 року*

Одеса
Фенікс
2023

За загальною редакцією

доктора юридичних наук, професора *С. Харитонов*,
доктора юридичних наук, професора *І. Давидової*

Упорядники-укладачі:

Давидова Ірина Віталівна – д.ю.н., професор кафедри цивільного права Національного університету «Одеська юридична академія», професор;
Кедик Анна Іванівна – лаборант кафедри цивільного права Національного університету «Одеська юридична академія».

Група організаційного та технічного забезпечення Всеукраїнської наукової конференції:

Глиняна Катерина Михайлівна – к.ю.н., доцент кафедри цивільного права Національного університету «Одеська юридична академія», доцент;
Калитенко Оксана Михайлівна – к.ю.н., доцент кафедри цивільного права Національного університету «Одеська юридична академія», доцент;
Матійко Микола Володимирович – к.ю.н., доцент кафедри цивільного права Національного університету «Одеська юридична академія», доцент;
Омельчук Олександр Сергійович – к.ю.н., доцент кафедри цивільного права Національного університету «Одеська юридична академія», доцент;
Бааджи Наталя Пилипівна – к.ю.н., доцент кафедри інтелектуальної власності і патентної юстиції Національного університету «Одеська юридична академія», доцент;
Кирилюк Алла Володимирівна – к.ю.н., доцент кафедри інтелектуальної власності і патентної юстиції Національного університету «Одеська юридична академія», доцент;
Кедик Анна Іванівна – лаборант кафедри цивільного права Національного університету «Одеська юридична академія».

Матеріали видано за авторською редакцією.

Повну відповідальність за достовірність та якість поданого матеріалу несуть учасники Круглого столу, їхні наукові керівники, рецензенти та структурні підрозділи вищих навчальних закладів та установ, які рекомендували ці матеріали до друку.

III 49 **Шерешевські читання: представництво в умовах надзвичайних ситуацій** : матер. Круглого столу (Одеса, 15 груд. 2023 р.) [Електронне видання] / за заг. ред.: Є. Харитонов, І. Давидової ; НУ «Одес. юрид. академія». – Одеса : Фенікс, 2023. – 130 с. – Режим доступу: ...
ISBN 978-617-8395-51-3

Збірник містить матеріали доповідей з теоретичних і практичних проблем цивільного права та процесу, в тому числі особливостей представництва в умовах надзвичайних ситуацій, інших дотичних тем приватного права, які були оприлюднені на Круглому столі, що відбувся 15 грудня 2023 року в Національному університеті «Одеська юридична академія».

Збірник спрямований на ознайомлення юридичної громадськості з дослідженням науковців у сфері цивілістики і може бути корисний як у навчальному процесі, так і в науковій діяльності.

УДК 347.155

ISBN 978-617-8395-51-3

© НУ «Одеська юридична академія»,
2023

ЗМІСТ

ПЕРЕДМОВА	6
<i>Харитонов Євген Олегович, Харитонова Олена Іванівна</i> ПРЕДСТАВНИЦТВО В УМОВАХ ВІЙНИ: АКТУАЛЬНІ ПРОБЛЕМИ	9
<i>Мінченко Райса Миколаївна</i> ЩОДО РЕАЛІЗАЦІЇ СУДОВОГО СПОСОБУ ЗАХИСТУ ЦИВІЛЬНОГО ПРАВА В ПОРЯДКУ ЦИВІЛЬНОГО СУДОЧИНСТВА	14
<i>Бааджи Наталія Пилипівна</i> ОХОРОНА АВТОРСЬКИХ ПРАВ У СФЕРІ ЗАСОБІВ МАСОВОЇ ІНФОРМАЦІЇ	19
<i>Бабич Ірина Григорівна</i> КОНКУРЕНЦІЯ ДЕЛІКТНОГО ТА ДОГОВІРНОГО ПОЗОВУ В ЦИВІЛЬНОМУ ПРАВІ	24
<i>Гаврік Роман Олександрович</i> ОСОБЛИВОСТІ ЗАСТОСУВАННЯ СПОСОБІВ ЗАХИСТУ СІМЕЙНИХ ПРАВ ДИТИНИ ЇЇ БАТЬКАМИ (ЗАКОННИМИ ПРЕДСТАВНИКАМИ) В УМОВАХ ПРАВОВОГО РЕЖИМУ ВОЄННОГО СТАНУ.....	28
<i>Галупова Лариса Ігорівна</i> ПРОБЛЕМИ ЗАХИСТУ АВТОРСЬКИХ ПРАВ У ЦИФРОВОМУ СЕРЕДОВИЩІ	33
<i>Еннан Р. Є., Мазуренко С. В.</i> ACADEMIC ETHICS AND ACADEMIC INTEGRITY SYSTEM: USA EXPERIENCE (АКАДЕМІЧНА ЕТИКА ТА СИСТЕМА АКАДЕМІЧНОЇ ДОБРОЧЕСНОСТІ: ДОСВІД США).....	37
<i>Калітенко Оксана Михайлівна</i> ОКРЕМІ АСПЕКТИ ВИДАЧІ ДОВІРНОСТІ В УМОВАХ ВОЄННОГО СТАНУ	42
<i>Кирилюк Алла Володимирівна</i> СУБ'ЄКТИ ПРАВА ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ У СФЕРІ МЕДИЦИНИ ТА ФАРМАЦІЇ.....	45
<i>Кривенко Юлія Василівна</i> ІНСТИТУТ ПРЕДСТАВНИЦТВА ГРУПОВИХ ІНТЕРЕСІВ	51
<i>Маковій Віктор Петрович</i> ОСОБЛИВОСТІ ПРЕДСТАВНИЦТВА ЗА ДОВІРЕНІСТЮ В УМОВАХ ПРАВОВОГО РЕЖИМУ ВОЄННОГО СТАНУ	54
<i>Матійко Микола Володимирович</i> ОКРЕМІ ФУНКЦІОНАЛЬНІ АСПЕКТИ ІНСТИТУТУ ПРЕДСТАВНИЦТВА В ЦИВІЛЬНОМУ ПРАВІ	59

*Еннан Р. Є., Мазуренко С. В. кандидати
юридичних наук, доценти, доценти кафедри
права інтелектуальної власності та патентної
юстиції Національного університету
«Одеська юридична академія»*

ACADEMIC ETHICS AND ACADEMIC INTEGRITY SYSTEM: USA EXPERIENCE

**(Академічна етика та система академічної доброчесності:
досвід США)**

The issues of preventing academic misconduct and ethics in the higher education system have recently been increasingly discussed at the global level due to the variety of violations of laws and ethical principles by subjects of the educational process: students, teachers, and administrators. Recently, various forms of academic misconduct, usually called cheating and fraud, have been updated in foreign scientific literature. The first (“cheating”) is usually used to describe the behavior of students, the second (“fraud”) is considered more broadly, but more often still involves violations of officials, teachers and students. In a broad sense, academic misconduct generally refers to actions that violate the accepted norms of an examination, competitive selection, or assignment; behavior that gives the subject an unfair advantage over others, or action that impairs the accuracy and quality of performance of assignments or other academic responsibilities.

There is also a broader understanding of academic misconduct or “academic dishonesty” as the act of breaking established rules in education, especially during exams and writing papers. Thus, several aspects of the concept of “academic violations” can be distinguished: 1) this is behavior that is not consistent with formal or ethical standards; 2) this is behavior aimed at gaining an unfair advantage over others in the learning process, that is, the easiest, in the opinion of students, but an illegal way to solve problems related to the need for them to complete the curriculum. Therefore, such violations undermine the fundamental principles of fair distribution of rewards in the learning process, as a result of which completing exam tasks and testing student knowledge becomes meaningless.

There are many types of academic violations – such as cheating, forgery, plagiarism, sabotage, misrepresentation (lying to justify

absence from knowledge tests), failure to make a personal contribution to an assignment submitted for assessment as a collective project. The term «plagiarism» from the Latin *plagium* (to steal, to steal) is usually used to refer to the appropriation of materials or ideas created by other authors, including «borrowing, without acknowledgment of the source, others' texts, scientific results, hypotheses and interpretations.» Student plagiarism is a violation of academic norms and rules related to the use of someone else's intellectual property as one's own, as well as the refusal of independent, creative activity in the educational process.

The main types of plagiarism used by students: appropriation of material from someone else's source and use (demonstration) of it as their own, including the purchase of work; copying an entire work without indicating the source; submitting someone else's student work under your own name (complete plagiarism). Copying parts, sections of material, data without citing or indicating the source (partial plagiarism). Self-plagiarism is the reuse of one's own previously written work. Plagiarism from foreign language sources can be identified as a separate group, when someone else's work (or part of it) is simply translated into the language of instruction and presented as one's own without indicating the source. Plagiarism is also divided into types: 1) verbatim presentation of someone else's text; 2) paraphrase – conveying the text in your own words, retelling.

The academic integrity system is not the most successful translation of the English academic integrity system (literally, a system of academic integrity). However, this option most clearly reflects the complex nature of such systems in universities, as a tool for regulating the behavior of subjects in the academic environment, which has acquired its relevance since the middle of the last century, when the importance of research activities in economic development, on the one hand, and the number of university students increased – with another. Under these conditions, the incidence of scientific and academic misconduct has increased, raising the question of the need to regulate dishonest behavior among both scientists and students. American researchers note a number of factors that contributed to the increase in violations.

This, for example, is the growing “power of money”, the commercialization of various aspects of social life, including higher education. Market-based regulatory principles have weakened government control and contributed to the development of various forms of abuse. Added to this is increased competition and pressure on students and

researchers to achieve outstanding scientific and academic results. Creating an honest academic culture is not limited to the adoption of academic codes and formal regulations. American college students with a code of ethics showed significantly less involvement in various forms of academic misconduct, such as plagiarism, copying tests on exams, helping others and accepting help during a test, and not collaborating on assignments. The implementation of rules and ethical standards in the university helps to avoid misunderstandings and unfair punishment, as well as to protect the various entities involved in violations. The main condition for the formation of an effective system for regulating violations is the involvement of various agents in the processes of its creation and implementation. Moral engagement involves issues of regulating ethical behavior and responding to interpersonal interactions in an academic environment. Academic engagement involves students considering ways to achieve academic achievement in specific educational settings.

The International Center for Academic Integrity defines academic integrity as a commitment to six fundamental values: honesty, trust, fairness, respect, responsibility and determination. In university academic codes or other regulatory documents related to academic ethics and the regulation of violations, this aspect involves, firstly, the declaration of the basic principles of academic integrity shared by the organization, as well as the definition of ethical behavior and the main forms of deviations from it. It is very important that all these definitions are clearly understood by all participants in the educational and scientific process, in order to avoid misunderstandings and conflict situations during problem solving and procedural actions in specific cases of violations. Ethical principles must also take into account the subjects whose behavior and values they regulate.

The main ethical principles for a researcher are freedom to conduct research; for the teacher – free implementation of student learning and protection of their academic freedoms. Teachers and researchers are also representatives of a particular professional community and employees of a particular organization, so their codes of conduct include elements of organizational and professional codes of ethics and other governing documents. Student codes of ethics should include principles for student integrity, as well as clear definitions of forms of dishonesty that are defined as contrary to standards of academic ethics and equal access to knowledge. The most common components of ethical codes are:

statements about the factors necessary for ethical policy at a university: principles directly related to the mission of the university, its commitment to values; condemnation of dishonest behavior, explanation of the costs borne by the university and each of its representatives in the event of violations; explanation of the essence of prohibited forms of behavior, its types, features; determining the responsibility of various entities in the event of violations; students, teachers, administrative bodies; a description of the necessary procedures depending on the type of violation, as well as the necessary documents that must be filled out by participants in the violation or submitted for commission meetings); forms of punishment depending on the type and frequency of violations.

All these components must not contradict national and regional legislation and university regulations. Codes of student conduct are primarily concerned with the prevention of exam misconduct and plagiarism. At the same time, the code of student ethics is separate from the code of scientific ethics, which exists independently, has its own policy of scientific ethics, as well as a special body regulating issues of monitoring the ethics of scientific research. The codes contain detailed rules for regulating student behavior, clear definitions of various forms of violations, procedures for their identification, sanctions, and also determine the responsibilities of various entities and bodies regarding the conduct of these procedures. The teacher is obliged to report the violation to a special service dealing with student behavior, as well as inform the leadership of the faculty and department, after which the procedure for identifying the violation begins, in which the student himself plays an important role.

Two main procedures determine the formal investigation and recognition of a violation: informal and formal resolution (hearings). In the case of a first or minor violation, and if the student agrees that the violation occurred and with the punishment proposed by the teacher, the matter is resolved informally, as a result of which a special agreement form is signed between the teacher and the student. This document is kept in the student's personal file until the end of his studies. Most often, academic violations fall under informal resolution. Thus, the form indicates such types of violations as: use of unauthorized assistance or materials, including sources not authorized for use by the teacher; prohibited behavior established in the syllabus (methodological manual) for the course; falsification or distortion of data or results of laboratory experiments; using another person's published or unpublished work without

acknowledging the source; use of materials created by another person or organization providing coursework or other academic materials; prohibited acquisition of tests or other academic materials belonging to a faculty member or other official at the university; providing false or misrepresented information to a faculty member or other university official; engaging in other behavior that is considered academic misconduct. As punishments in the form of informal regulation, mainly academic sanctions are indicated: conversation and retaking the assignment; retaking an assignment with a lower grade; negative grade for the assignment; lowering the course grade; removal from the course; negative grade for the course. The outcome of the informal resolution is reviewed with the Student Conduct Officer, who will make the final determination as to whether the instructor's punishment was fair. If a student does not agree with the assessment or decision of the teacher, as well as in the case of more serious violations, a formal settlement procedure is carried out: a special commission is appointed and hearings are held.

ЛІТЕРАТУРА:

1. Кришталь А. О. Порівняльна характеристика проявів академічної недоброчесності в світі. *Матеріали Всеукраїнської науково-практичної конференції викладачів закладів вищої освіти «Правовий дискурс»*. Черкаси, 2021. С.38-39.

2. Академічна чесність як основа сталого розвитку університету. *«Міжнарод. фонд. дослідж. освіт. політики»*; за заг. ред. Т. В. Фінікова, А. Є. Артюхова. Київ: Таксон, 2016. 234 с.

3. Bretag Tracey. Handbook of Academic Integrity. Singapore, 2016. 1097 p.

4. Wangaard D., Stephens J. Creating a Culture of Academic Integrity: a Toolkit for Secondary Schools. Search Institute Press; Mac Win Paedition, 2011. 176 p.

5. Yale Center for Teaching and Learning. Understanding and Avoiding Plagiarism. URL: <https://ctl.yale.edu/writing/using-sources/understanding-andavoiding-plagiarism>