

## **II. HONOR CODE AND PROCEDURES**

Matters of academic dishonesty by law students are governed by the Honor Code. That Code is enforced by the Honor Board. Law students are responsible for knowing the Code, complying with its requirements, and reporting known violations to the Honor Board by notifying the Professor Whitney Heard, Faculty Advisor. Although it may be difficult, it is essential that you accept the responsibility for reporting violations, both here at the Law Center and later on in your practice. As students and attorneys you will be on your honor to behave ethically and to ensure that others do so as well.

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## **2017-2018 Honor Board Members**

### **Presenters**

Robert Turner Johnston – Co-Chief Presenter  
Shannon Terry – Co-Chief Presenter  
Braden Burgess  
Catherine Diktaban  
Christopher Lee  
William Henry Legg  
Justin Rightmer

### **Representatives**

Brian “Cal” Mundell – Chief Representative  
Tyler Hubert  
Mary Katherine “Katie” Lee  
Sonia Lopez  
Rebecca “Paige” Martin  
Allegra Melton  
Shannon Collins Schroeder

### **Student Justices**

Danielle Charron – Chief Student Justice  
Edgar Hernandez  
Michael J. “Jake” McClellan  
Lindsay Thorpe  
Andrew Vaughan  
Lorena Zapata

### **Faculty members**

Whitney Heard – Faculty Advisor  
Meredith Duncan – Chief Faculty Justice  
Emily Berman  
Sapna Kumar  
Doug Moll  
Teddy Rave  
Jessica Roberts

## **HONOR CODE PREAMBLE**

Matters of academic dishonesty by law Students are governed by the Honor Code. The Code is enforced by an Honor Board, which consists of a six Faculty members and six Students, sitting in panels of three (Hearing Panels); seven Student Presenters, who investigate possible violations of the Code and bring those they believe may have merit to the attention of the Honor Board; seven Student Representatives to advise or assist a Student accused of violating the Honor Code; and one or more Faculty Advisors, to assist the Presenters and Student Representatives in discharging their duties.

## **STUDENT RESPONSIBILITY**

Law Students, like lawyers, should not lie, cheat, or steal, or tolerate those who do. Consequently all Students are responsible for knowing the Code, complying with its requirements, and reporting known violations to the Honor Board by notifying a Faculty Advisor. It is essential that you accept the responsibility for reporting violations, both here at the Law Center and later on in your practice. As Students and as attorneys, you will be on your honor to behave ethically and to ensure that others do so as well.

## **THE HONOR CODE**

### **ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS.**

#### 1.01. Constructive Notice.

Every Student is charged with knowledge of all provisions of this Code.

#### 1.02. Definitions.

As used in the Honor Code, the terms listed below are defined as follows:

- (a) "Academic materials" means all books or other audiovisual materials related to legal education, including Student notes and outlines, either owned, held by, or accessible from the University of Houston Law Center (Law Center) or by its students, faculty, or employees.
- (b) "Admission" means the earlier of the time when a Student sits for his or her first class at the Law Center or when a Student participates in an extracurricular activity at the Law Center.
- (c) "Board" means the Honor Board established by this Code.
- (d) "Code" means this Honor Code.
- (e) "Competition" means any activity related to the educational purposes of the Law Center in which a Student participates with the objective of winning a trophy, plaque, certificate, prize, money, academic credit, or other recognition, and includes, but is not limited to, interschool and intra-school moot court and mock-trial events, and law review and journal candidate selections.
- (f) "Employee" means any person employed by or at the Law Center other than a Faculty member.
- (g) "Faculty" means any person employed by or at the Law Center to teach any course offered by the Law Center or any other person teaching a course for which the Student expects credit.
- (h) "Faculty Advisor(s)" means the member(s) of the Faculty appointed by the Dean of the Law Center to receive complaints of alleged Code violations, assist the Presenters or Student Representatives, as set out in the Honor Board Procedures, or to consult with an accused Student or an accused Student's representative concerning a pending matter.

(i) "Graduation" means the time when a Student's degree is posted to his or her official record at the University of Houston.

(j) "Hearing Panel" means the one Faculty member and two Student members of the Honor Board designated to determine whether a Respondent has violated the Honor Code and, if so, to determine what sanction that Respondent should receive.

(k) "Honor Board" means the six Faculty members and six Student members either selected by or confirmed by the Student body to hear and resolve allegations of Honor Code violations during a given year.

(l) Intentionally.

A person acts intentionally with respect to a material element of an offense when:

(1) If the element involves the nature of his or her conduct or a result thereof, it is his or her conscious objective to engage in conduct of that nature or to cause such a result; and

(2) If the element involves the attendant circumstances, he or she is aware of the existence of such circumstances or he or she believes or hopes that they exist.

(m) Knowingly.

A person acts knowingly with respect to a material element of an offense when:

(1) If the element involves the nature of his conduct or the attendant circumstances, he or she is aware that his or her conduct is of that nature or that such circumstances exist; and

(2) If the element involves a result of his conduct, he or she is aware that it is practically certain that his or her conduct will cause such a result.

(n) Negligently.

A person acts Negligently with respect to a material element of an offense when he or she should be aware of a substantial and unjustifiable risk that the material element exists or will result from his or her conduct. The risk must be of such a nature and degree that the actor's failure to perceive it, considering the nature and purpose of his conduct and the circumstances known to him or her, involves a gross deviation from the standard of care that a reasonable person would observe in the actor's situation.

(o) "Plagiarism" means Negligently, Intentionally, Knowingly, or Recklessly engaging in conduct that violates the Code as defined in the Law Center's Plagiarism Policy, which is incorporated by reference and attached to this Code as Appendix A. By way of example and not by way of limitation, plagiarism as defined in the policy includes quoting, paraphrasing, or otherwise using another's words or ideas as one's own without crediting the source in a way that clearly indicates the nature and extent of the source's contribution to the Student's work.

(p) "Presenter" means any of the seven Students confirmed by the Student body to investigate claims that a Student may have violated the Code and, if they believe that such allegations may be true, to present the evidence supporting that belief to a Hearing Panel.

(q) Recklessly.

A person acts Recklessly with respect to a material element of an offense when he or she consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his or her conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him or her, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation.

(r) "Respondent" means a Student accused of a Code violation and referred to a Hearing Panel to resolve that allegation.

(s) "Student" means any person who has accepted Admission to the Law Center and has neither graduated, transferred to another institution or field of study, withdrawn, nor been expelled.

(t) "Student Representative" means any of the seven Students confirmed by the Student body to represent Respondents alleged to have violated the Code and to present arguments and evidence on the Respondent's behalf to a Hearing Panel.

(u) "Unauthorized Aid" or "Unauthorized Materials" means any assistance prohibited by the Code, the rules of the relevant contest or competition, or the professor of the relevant class or project, whether the aid or materials is offered, sought or otherwise acquired by a Student and whether actually used by a Student. By way of example and not by way of limitation, unauthorized aid or materials includes possession of MP3 players, cell phones, camera phones, or information obtained from a person or other source.

#### 1.03. Times Students' Conduct is Covered by the Code.

The Code covers Students at all times after Admission to the Law Center and before Graduation from the Law Center, as those terms are defined in section 1.02. Thus, conduct occurring before Admission or in gaining Admission is not covered. Conduct occurring after Admission and reported to the Faculty Advisor before Graduation, transfer, or withdrawal is covered, even though the conduct occurs between sessions or even though the Student is not registered for the particular session. Conduct reported to the Faculty Advisor for the first time after Graduation, transfer, or withdrawal, even though the conduct occurs prior to Graduation, transfer, or withdrawal, is not covered. When conduct is reported to the Faculty Advisor and he or she has reason to believe the Student accused may be close to Graduation, as above defined, the Faculty Advisor shall take such steps as are necessary to delay Graduation until a final decision is made in the matter. When conduct is reported to the Faculty Advisor, and the Student accused transfers or withdraws before a final decision is made, the report of conduct becomes part of the Student's permanent record.

#### 1.04. Conduct Covered By the Code.

(a) Except as provided in Article 3, no Student conduct constitutes a violation of this Code.

(b) Except as provided in Article 3, no departure from the procedural provisions of this Code constitutes a violation of this Code.

(c) Except as otherwise explicitly provided, a Student does not commit a violation unless he or she acts Intentionally, Knowingly, Recklessly, or Negligently as the definition of the violation requires, with respect to each element of the offense.

(d) A requirement of proof of negligence is satisfied as well by proof of intent, knowledge, or recklessness. A requirement of proof of recklessness is satisfied as well by proof of knowledge or intent. A requirement of proof of knowledge is satisfied as well by proof of intent.

#### 1.05. Posting of Code.

Before the beginning of each academic semester or term, a Student member of the Honor Board shall ensure that incoming Students are provided a copy of this Code at orientation in the Student handbook materials, and shall ensure that a copy of this Code is posted on the official Law Center webpage and on the Honor Board bulletin board so that a copy of the Code is available to Students at all times.

#### 1.06. Amendment of Code.

(a) Either Students or Faculty may propose amendments to this Code. For an amendment proposed by Students to be considered, it must be supported by a petition signed by at least twenty-five (25) Students. For an amendment proposed by Faculty to be considered, it must be supported by at least six tenured or tenure-track Faculty members.

(b) The Faculty must submit the text of any sufficiently supported proposed amendment to the Code for publication in Briefly and post it in the Commons and on the Honor Board's bulletin board. The proposed text must be published for a comment period of at least 30 days prior to being considered for final action by either Faculty or Students. The posting must include information regarding the purpose(s) of the proposed amendment and how Students may offer comments during the comment period. The comment period begins on the next day following the publication date in Briefly. An initial proposal for amendment may be further amended in response to comments received, but any such amended initial proposal does not need to be resubmitted to Students for further comment prior to scheduling a vote on it unless the amendment materially and substantially alters the purpose and effect of the initial proposal.

(c) Any amendment to this Code requires an affirmative vote by a majority of all Students voting in an election called for that purpose, as well as the approval of a majority of the Faculty voting at a duly called meeting in which those amendments are an agenda item, as provided in the Faculty Bylaws.

(d) The effective date of any amendment to this Code adopted in accordance with paragraph (c) is 20 days after its adoption by both the Faculty and the Students, unless a later date is required by statute, specified in the amendment, or required by University of Houston policy

## **ARTICLE 2. THE HONOR BOARD, PRESENTERS, STUDENT REPRESENTATIVE, AND FACULTY ADVISOR(S)**

### 2.01. The Honor Board.

(a) (1) The Board shall consist of six Faculty members selected by the Students and six Student members selected by majority vote of a panel consisting of the outgoing President of the Student Bar Association, the outgoing Student Chair of the Board and a Faculty Advisor, and thereafter confirmed individually by a majority of Students voting in the annual spring elections. If enough interested and qualified Students are available, no fewer than two must be selected from each class, as defined in paragraph (2).

(2) For selection of Student members, all Students are divided into three classes by credit hours as of the end of the preceding Fall semester as follows:

First Year: no fewer than 12 or more than 30;

Second Year: no fewer than 31 or more than 60;

Third Year and LL.M. Students: more than 60 and LL.M. Students.

(3) No Student who has been placed on probation for any reason at the Law Center may either stand for election to or serve on the Honor Board during his or her period of probation.

(4) As soon as practicable after their confirmation to the Honor Board, the newly-confirmed Student members shall select one of their number to serve as Student Chair. The Student Chair shall (i) select which Student members of the Board not otherwise disqualified shall sit on any Hearing Panel; and (ii) participate in the selection of the next year's Student members of the Honor Board, as described in paragraph (a)(1).

(5) Faculty members of the Honor Board are selected by Students in the annual spring elections, with each Student casting six votes, one for each Faculty member that he or she would like to elect to the Honor Board. Those receiving the six highest vote totals are selected. All Tenured or Tenure Track Faculty members are eligible to be elected to the Honor Board except that (i) neither the Dean nor any Vice or Associate Dean may be elected while holding those offices; (ii) any Faculty member who has served on the Board for two consecutive years may remove himself or herself from consideration the following year; (iii) any Faculty member who will be on leave for an entire academic year is not eligible for election during that year; (iv) Faculty Advisors [defined in section 1.01(h), above] are not eligible for election; and (v) Faculty members for whom service would present an extraordinary hardship as determined by the Dean are not eligible for election.

(b) Student and Faculty members of the Honor Board shall serve a term beginning immediately upon their confirmation or election and ending with the last day of the semester of the confirmation or election of the new Honor Board the following spring, provided, however, that if a Respondent has been formally notified that he or she has been charged with misconduct prior to that confirmation, any Student or Faculty member who was a member of the Honor Board in good standing at the time that notice was sent and not otherwise disqualified from hearing that Respondent's case may be appointed to or continue to sit on a Hearing Panel convened to resolve those charges.

(c) The Honor Board shall hear cases of alleged violations of the Honor Code in Hearing Panels of three. Each panel consists of one Faculty member, who shall preside over the panel, and two Student members.

(d) Each member of the Honor Board must disqualify himself or herself for cause, as defined in section 4.04(a) (2), or if Board members harbor such a strong bias or prejudice in favor of the Respondent that they do not believe that they can afford a fair hearing to all parties. In the event of such a disqualification, another member of the Board of the same category (that is, Student or Faculty) as the disqualified member shall be appointed to sit in the disqualified person's stead.

(e) As soon as practicable after their confirmation to the Honor Board, the Faculty members shall select one of their number to serve as Faculty Chair. The Faculty Chair shall select which Faculty member of the Board not otherwise disqualified shall sit on any Hearing Panel.

## 2.02. Presenters.

(a) A chief Presenter and six associate Presenters shall be selected by majority vote of a panel consisting of the outgoing President of the Student Bar Association, the outgoing Student Chair of the Board, and a Faculty Advisor to the Board and confirmed by a majority of Students voting in the annual spring elections, for a term identical to that of members of the Board.

(b) When an alleged violation of the Code is brought to the attention of the Chief Presenter by the Faculty Advisor, he or she shall appoint two Presenters (one of whom may be him/herself) who are not otherwise disqualified to investigate the matter and, if necessary, to present it to a Hearing Panel for resolution.

(c) A Presenter is disqualified from serving if in the same circumstances as a member of the Board would be disqualified from sitting on a Hearing Panel under paragraph 2.01(d).

## 2.03. Student Representative.

(a) A chief Student Representative and six associate Student Representatives shall be selected by majority vote of a panel consisting of the outgoing President of the Student Bar Association, the outgoing Student Chair of the Board, and a Faculty Advisor to the Board and confirmed by a majority of Students voting in the annual spring elections, for a term identical to that of members of the Board.



(b) A Student Representative is disqualified from serving if in the same circumstances a member of the Board would be disqualified from sitting on the Board; and each also may decline to serve in the circumstances in which a member of the Board could do so, except that a Student Representative's bias in favor of the Student that he or she is representing is not a disqualifying circumstance.

(c) The Student Representative or alternate Student Representative, if selected by the Respondent to represent him or her, shall marshal all relevant evidence tending to show that no violation occurred or that the Respondent did not commit the violation and present the same at the hearing, subject to any procedures established by, or rulings made by, the Board or the Hearing Panel hearing the matter.

#### 2.04. Faculty Advisor(s).

The Dean shall appoint one or more Faculty Advisors to the Board. The duties of a Faculty Advisor are as follows:

(a) To receive allegations that a Student may have violated the Code, and bring them to the attention of the chief Presenter if they allege conduct that, if true, would violate the Code;

(b) To oversee and, if requested, to assist the Presenters investigating an alleged violation of the Code in discharging their responsibilities, as set forth in greater detail in this Code, in the Honor Board Procedures, or in any procedures established by, or rulings made by, any Hearing Panel;

(c) To arrange for a proper venue to hold any required hearing and to ensure that proper equipment is available to make a record of it;

(d) To meet with a Respondent's representative to discuss any procedural issues involving the Respondent's hearing, if requested to do so; and

(e) To perform such other duties that are not inconsistent with this Code as may be assigned from time to time by the Dean or Associate Dean for Academic Affairs.

### **ARTICLE 3. VIOLATIONS OF THE CODE AND DEFENSES.**

#### 3.01. Law Examinations.

(a) A Student violates the Code if he or she:

(1) Knowingly or Intentionally receives Unauthorized Aid before or during an examination;

(2) Knowingly or Intentionally provides Unauthorized Aid to another Student before or while the other is taking an examination; or

(3) Knowingly or Intentionally takes more time to complete an examination than permitted by the Faculty member or other proctor giving the examination.

(4) Subparagraph (2) does not apply to a post-examination discussion by a Student who has taken the examination, unless the Faculty member giving the examination has specified otherwise, or unless the Student intends or knows that the discussion will reach another who has yet to take or complete the examination.

(b) A Student violates the Code if he or she:

(1) Fails to take reasonable measures to ascertain what does or does not constitute Unauthorized Aid in connection with an examination and as a consequence Negligently or Recklessly receives or uses such aid before or while taking an examination;

(2) Fails to take reasonable measures to ascertain what does or does not constitute Unauthorized Aid in connection with an examination and as a consequence Negligently or Recklessly furnishes or

provides such aid to another Student before or while the other is taking an examination.

(3) Recklessly or Negligently takes more than the amount of time to complete an examination than permitted by the Faculty member or other proctor giving the examination.

(4) Subparagraph (2) does not apply to a post-examination discussion by a Student, unless the Faculty member giving the examination has specified otherwise, or unless the Student intends or knows that the discussion will reach another who has yet to take or complete the examination.

(c) A Student violates the Code if he or she Negligently, Recklessly, Knowingly or Intentionally does not comply with any specific instruction the Faculty member or an administration official has imposed to protect the security of the examination before, during, or after the examination.

(d) Aggravated Offenses.

(1) A violation of paragraph (a) is an aggravated offense under this Code, and is penalized as provided in section 5.02(a).

(2) A violation of paragraph (c) also is an aggravated offense under this Code, except when the Respondent is able to show by clear and convincing evidence that neither the examination in question nor any copy thereof was shown to, or retained, copied, or otherwise memorialized by, any person.

3.02 Competitions.

(a) A Student violates the Code if he or she:

(1) Knowingly or Intentionally receives or uses unauthorized materials or aid before or in connection with a competition.

(2) Fails to take reasonable measures to ascertain what does or does not constitute unauthorized use of materials or aid in connection with a competition, and, as a consequence, Negligently or Recklessly receives or uses such materials or aid before or during a competition.

(b) A Student violates the Code if he or she:

(1) Knowingly or Intentionally furnishes or provides unauthorized materials or aid in connection with a competition to another Student before or while the other is engaged in the competition.

(2) Fails to take reasonable measures to ascertain what does or does not constitute unauthorized use of materials or aid in connection with a competition, and, as a consequence, Negligently or Recklessly furnishes or provides such materials or aid to another Student before or while the other is engaged in the competition.

(c) A violation of subparagraph (a) (1) or (b) (1) is an aggravated offense under this Code, and is penalized as provided in section 5.02 (a).

3.03. Failure To Review Or Apply Law Center Plagiarism Policy.

Every submitted draft and the final version of every paper referred to in sections 3.04 and 3.05 of this Code is subject to the Law Center Plagiarism Policy, which is incorporated by reference and attached to this Code as Appendix A, and the draft or final version may be submitted only after the Student(s) submitting it has or have reviewed that policy and determined that the draft or final version being submitted conforms to the policy. Failure to conduct such a review or determination violates this Code. This violation is a strict liability offense.

3.04. Research or Seminar Paper or Any Written Assignment.

(a) A Student violates the Code if, in submitting a draft or final version of a research, seminar, or similar paper or any written assignment for which the Student expects credit, an honor, or a certain status, he or she Knowingly or Intentionally plagiarizes the work of another, to any significant extent.

- (b) A Student violates the Code if he or she Knowingly or Intentionally permits another to plagiarize his or her work in preparing a submitted draft or final version of a research, seminar, or similar paper or any written assignment for which the other expects credit, an honor, or a certain status, to any significant extent.
- (c) When a Faculty member imposes restrictions on the giving or receiving of aid in the preparation of a research, seminar, or similar paper or any written assignment for credit, an honor or a certain status, a Student violates the Code if he or she Knowingly, or Intentionally gives or receives aid contrary to those restrictions on either a submitted draft or final version of the document.
- (d) For purposes of paragraphs (a), (b), and the “receiving aid” portion of paragraph (c), a Student is presumed to have acted Knowingly or Intentionally if the materials that allegedly have been plagiarized are not cited in the draft or article in a manner consistent with the UHLC Plagiarism Policy, which is incorporated by reference and attached to this Code as Appendix A.
- (e) A Student violates the Code if he or she engages in the conduct described in paragraphs (a), (b), or (c), but does so Negligently or Recklessly rather than Intentionally or Knowingly.
- (f) A Student violates the Code if he or she Intentionally or Knowingly engages in the conduct described in paragraphs (a) or (b), except not to any significant extent.
- (g) As used in this section plagiarism has occurred to a “significant extent” unless clear and convincing evidence demonstrates that the paper in question is almost entirely the Student’s own work.
- (h) It is a defense to a charge of plagiarism in connection with a submitted draft that the Student has complied with the professor’s instructions regarding attribution and identification of the nature and extent of the sources’ contributions to the Student’s work on that draft.
- (i) A violation of paragraphs (a), (b), or (c) is an aggravated offense under this Code, and is penalized as provided in section 5.02(a).

### 3.05. Journal and Law Review Papers.

- (a) A Student violates the Code if, in preparing a draft or final version of a journal or law review paper for which the Student expects credit or an honor, he or she Knowingly or Intentionally plagiarizes the work of another to any significant extent.
- (b) A Student violates the Code if he or she Knowingly or Intentionally permits another to plagiarize his or her work to any significant extent in preparing a draft or final version of a journal or law review paper for which the other expects credit or an honor.
- (c) For purposes of paragraph (a) and the “receiving aid” portion of paragraph (b), a Student is presumed to have acted Knowingly or Intentionally if the materials that allegedly have been plagiarized are not cited in the draft or final version of the Student’s work in a manner consistent with the UHLC Plagiarism Policy, which is incorporated by reference and attached to this Code as Appendix A.
- (d) A Student violates the Code if he engages in the conduct described in paragraphs (a) or (b), but does so Negligently or Recklessly rather than Intentionally or Knowingly.
- (e) A Student violates the Code if he Intentionally or Knowingly engages in the conduct described in paragraphs (a) or (b), except not to any significant extent.
- (f) As used in this section plagiarism has occurred to a “significant extent” unless clear and convincing evidence demonstrates that the paper in question is almost entirely the Student’s own work.
- (g) It is a defense to a charge of plagiarism in connection with a draft that the Student has complied with the journal’s or law review’s instructions regarding attribution and identification of the nature and extent of the sources’ contributions to the Student’s work on that draft.

(h) The violations described in paragraphs (a) or (b) are aggravated offenses under this Code, and are penalized as provided in section 5.02(a).

### 3.06. Pledges and Attendance.

(a) A Student violates the Code if he or she Knowingly or Intentionally makes a false pledge on any paper or examination.

(b) A Student violates the Code if he or she does any act in connection with an attendance roll, oral or written, that is false, misleading or deceptive concerning that Student's or any other Student's attendance, or fails to do any act in connection with an attendance roll, oral or written, that results in false, misleading or deceptive information concerning that Student's or any other Student's attendance, including but not limited to stating or implying that any Student was present in class by signing or otherwise responding to such a roll if that student left the class prior to its conclusion. It is a defense to prosecution under this section that the Student received the professor's permission to be recorded on any roll as present for the entire class.

(c) A Student who Intentionally or Knowingly omits to execute, in whole or in part, any required pledge violates the Code except where the Student has omitted the pledge because of a suspected Code violation and has timely reported the matter to the Faculty Advisor to the Honor Board.

### 3.07. Academic Materials.

(a) A Student violates the Code if he or she Recklessly, Knowingly, or Intentionally destroys, mutilates, defaces, obliterates or otherwise damages Academic Materials not his or her own.

(b) A Student violates the Code if he or she misappropriates Academic Materials not his or her own.

(c) A Student violates the Code if he or she Intentionally or Knowingly removes from the Law Center, moves, mis-shelves, secludes or otherwise acts with respect to Academic Materials not his or her own so as to create a substantial and unjustifiable risk that those materials will not be available to others who need them.

(d) A Student violates the Code if he or she Intentionally or Knowingly disrupts or modifies access to computer or wireless services or Academic Materials at the Law Center.

### 3.08. Obstruction of Justice.

A Student violates the Code if he or she either

(a) Intentionally or Knowingly commits any act involving intimidation, coercion, dishonesty, fraud, deceit or misrepresentation in connection with any proceeding relating to the investigation, prosecution or adjudication of any Student's conduct alleged to be in violation of the Code, or

(b) Knowingly authorizes, encourages, or permits another to engage in conduct described in paragraph (a), whether that other person is subject to this Code and whether that other person is the Student's representative or otherwise formally subject to his or her control.

(c) A violation of paragraph (a) or paragraph (b) of this section is an aggravated offense under the Code, and shall be sanctioned as provided in section 5.02(a) even if the underlying offense to which it relates is not an aggravated offense.

### 3.09. Duty to Report, Method.

If any Student, Faculty member or employee observes or otherwise reasonably believes that a Code violation has occurred, he or she shall promptly notify a Faculty Advisor to the Board, except that a Student candidate for or member of a law review or journal may report suspected plagiarism to a Faculty advisor to that publication instead, should he or she so desire. A Student violates this Code if he or she fails to perform this duty to report.

### 3.10. Duty to Testify.

Students, Faculty and employees shall answer questions concerning an alleged violation of the Code put to them by Presenters investigating a possible violation of the Code, and shall appear and testify at any hearing held under this Code upon request by a Presenter, by a Respondent or the Respondent's representative (if the request has been either agreed to by the Presenters handling the matter or approved by the Faculty Advisor or the Hearing Panel). A Student's failure to perform any of these duties constitutes a Code violation.

### 3.11. Attempt, Solicitation and Conspiracy.

(a) A Student violates the Code if, acting with the kind of culpability otherwise required for a violation, the Student attempts to commit, conspires with another to commit, or solicits the commission of that violation, as those terms are used in the Texas Penal Code.

(b) It is no defense to an attempt or solicitation charge that, under the attendant circumstances, it was factually or legally impossible to commit the violation attempted or solicited, if that violation could have been committed had the attendant circumstances been as the accused Student believed them to be.

(c) It is no defense to an attempt, conspiracy, or solicitation charge that the violation involved was actually committed.

(d) A violation of paragraph (a) is an aggravated offense under this Code, if the underlying offense is an aggravated offense, but not otherwise.

## **ARTICLE 4. PREHEARING AND HEARING PROCEDURES.**

### 4.01. Impartial Investigation of Charges; Notification to Respondent and Other Interested Parties; Respondent's Waiver of Rights.

(a) Initiating Investigation. The two Presenters charged with investigating an alleged Honor Code violation shall proceed as called for in the Honor Code Procedures.

(b) Written Notice. A Respondent is entitled to be provided with written notice within a reasonable time after a determination has been made that he or she may have violated the Honor Code, and notice must include the charges against him or her, the possible members of any Hearing Panel that could be convened, the Presenters selected to appear at that hearing, and a copy of the Honor Board Procedures, all as specified in greater detail in those Procedures. A notice substantially conforming to that set out in Appendix B to this Code is sufficient.

(c) A Respondent may waive any right given him or her in the Code.

### 4.02. Pretrial Proceedings.

No formal pre-hearing discovery is available prior to an Honor Panel hearing. Preparation for that hearing is conducted in accordance with applicable Honor Board Procedures.

### 4.03. Admitted Violations and Related Proceedings.

(a) A Respondent or his or her representative(s) and the Presenters involved in the Respondent's matter may discuss possible resolutions of the outstanding charges, as long as those discussions are conducted in conformity with applicable Honor Board Procedures. If the parties agree to such a resolution, they shall so advise the Faculty Advisor, who in turn shall inform the Hearing Panel assigned to the matter.

(b) At the hearing, the presiding official shall admonish the Respondent of the consequences of admitting to the violation, including the fact that the Respondent is waiving his or her rights to confront

the evidence against him or her, to present evidence on his or her behalf, and to be shown to have violated the Code by clear and convincing evidence. The presiding official shall also advise the Respondent that any agreement reached between the Presenters and the Respondent or his or her representative concerning recommendations for any sanctions to be imposed is not binding on the Hearing Panel and that, in the event the Hearing Panel elects to impose other or more severe sanctions, the Respondent will not be permitted to withdraw his or her acknowledgment of a violation of the Code. If after being advised of these matters, the Respondent persists in his or her admission of a violation, the presiding Hearing Panel member shall accept it and consider any evidence that either the Respondent or the Presenters wishes to offer as to the appropriate penalties to impose. The Hearing Panel shall then retire and select appropriate penalties in accordance with the limitations and factors set out in section 5.02(a) of this Code.

(c) If a Respondent changes his or her mind about acknowledging a violation of the Code shortly before the hearing, or, after initially indicating a desire to acknowledge a violation, appears at the hearing and announces that he or she no longer desires to acknowledge a violation, upon motion of an investigating Presenter or on the Hearing Panel's own motion, the presiding official shall continue the hearing.

#### 4.04. Contested Hearing Before Panel.

(a) (1) Composition of Hearing Panel. Prior to the disposition of other preliminary matters, including pre-hearing motions, a Respondent may move to disqualify any member of the Hearing Panel for cause, but does not have any peremptory challenges.

(2) Disqualification for "Cause."

(i) For this purpose "cause" with respect to a Student member includes any instance in which the member's own grade in a class reasonably could be affected by a ruling against the accused.

(ii) With respect to a Faculty member, it includes any instance in which the alleged violation involves a class taught by or an activity supervised by that Faculty member, or any other instance in which the Faculty member currently teaches the Respondent.

(iii) With respect to both Student and Faculty members, it also includes any instance in which the member is either a complainant or a witness either for or against the Respondent or in which the member is shown to have a personal bias or prejudice for or against the accused.

(iv) Unless a member agrees that he or she is disqualified under those standards, the matter must be decided by a majority vote of those other members of the Hearing Panel who have not disqualified themselves.

(b) The Respondent and Presenters are entitled to have an impartial Hearing Panel composed of three Board members in the same numbers of student and faculty members as defined in section 1.02(j) of this Code. If the Hearing Panel is not constituted as required when the panel convenes for the hearing, and the Faculty Advisor is unable at the time of the hearing to have sufficient qualified alternates available to bring the Hearing Panel's total to three, the hearing will be rescheduled unless the composition of the Hearing Panel is waived by the Respondent And Presenters.

(c) Each Hearing Panel may adopt any reasonable procedures for conducting the hearing that are not inconsistent with the Honor Board Procedures.

(d) Opportunity to be heard. A Respondent is entitled to be present at the hearing and to confront and cross-examine the witnesses against him or her. A Respondent may choose to offer evidence, including testimony, on his or her own behalf, and may also be required to testify concerning the facts giving rise to the charges at issue, at the instance of either the Presenters or the Hearing Panel, unless such testimony is immune from compulsion due to a constitutional privilege against self-incrimination. The

Respondent is entitled to be accompanied by either a lay person or an attorney, and may choose to be represented by a Student Representative, subject to the Hearing Panel's right to control the proceedings as set forth in paragraph (c).

(f) Those persons necessary to its business must be present at any Honor Code proceeding. Such necessary persons include members of the Hearing Panel, the Presenters, the Respondent, his or her designated representative(s), and any witnesses. In addition, the Law Center's Associate Dean for Academic Affairs, Associate Dean for Student Affairs, the Faculty Advisor to the Board, and counsel for the University of Houston (or their respective designees) may attend such a proceeding. A Respondent may, by three (3) day written notice to the Faculty Advisor, open the proceeding to Students and Faculty of the Law Center.

#### 4.05. Deliberations of the Hearing Panel.

(a) Any person accused of a violation of this Code is presumed innocent.

(b) A member of the Hearing Panel shall not vote to find a violation unless satisfied by clear and convincing evidence that the accused committed the charged violation.

(c) A two-thirds majority of those members or alternate members of the Hearing Panel actually sitting in a given case is required both for a finding that the Respondent violated the Code and to impose a particular penalty.

(d) If a Respondent is found to have violated the Code, he or she, along with a Presenter, shall be allowed to present evidence as to the appropriate penalty to impose, prior to the Hearing Panel making its decision in that regard.

(f) The Hearing Panel shall announce its decision to those present when it reaches its decision. The presiding Hearing Panel member shall advise Respondent of the availability of Dean-review, as required by section 6.01.

#### 4.06. Discussing Code Matters.

(a) In any pending Code matter, except to the extent necessary for impartial investigation, as required by section 4.01 or to the extent authorized by section 4.05(f), the Honor Board Procedures, or by law, the findings made during investigation, as well as the deliberations and decisions of the Hearing Panel, and any appeals taken from those decisions, must be held in confidence by all persons having knowledge of them unless the Respondent authorizes disclosure.

(b) As used in this section, a Code matter is pending until a final decision is rendered as provided in the Honor Board Procedures.

#### 4.07. Authorization to Promulgate and Implement Procedures.

The Honor Board is authorized to promulgate and to implement any and all pre-hearing and hearing procedures not inconsistent with the Code that the Board deems necessary or appropriate for enforcement of the Code. Such procedures are not part of this Code.

### **ARTICLE 5. PENALTIES.**

#### 5.01. Permissible Penalties.

Upon finding that a Respondent has violated the Code, the Hearing Panel shall assess one or more of the following penalties, and no others:

(a) Permanent suspension from the Law Center and loss of some or all prior law credit.

(b) Suspension from the Law Center for a stated period of time and loss of some or all prior law credit,

with the Hearing Panel also determining the date the suspension takes effect.

(c) Suspension from the Law Center for a stated period of time, or for an indeterminate period, with readmission authorized upon such terms and conditions as the Hearing Panel deems just, with no loss of prior law credit except for that of the course or competition involved, if any, or for that course as well as other courses taken that same semester.

(d) Probation for a stated or maximum period of time, upon such terms and conditions as the Hearing Panel deems just.

(e) A requirement that the Respondent complete additional course work as the Hearing Panel deems just, with the Hearing Panel having the option of setting the minimum acceptable grade for the course work.

(f) A full or partial loss of credit in any course involved in the violation, including entry of a grade of "W" or "I."

(g) A reduction in the grade earned in any course involved in the violation, including changing that grade to "F" or its numerical equivalent.

(h) A requirement that the Respondent retake all, or a portion of, any course involved in the violation.

(i) A requirement that the Respondent forfeit any office that he or she holds in a Law Center organization, or that the Respondent not hold any such office in the future.

(j) A requirement that the Respondent make restitution for any monetary loss occasioned by the violation.

(k) A requirement that the Respondent perform some service to the Law Center or its Students.

(l) A private reprimand.

#### 5.02. Determinations of Appropriate Penalties.

(a) In the event a Respondent is found to have violated the Code, any of the penalties in section 5.01 may be imposed so long as they are consistent with one another and applicable to the violation involved. However, if a Respondent either pleads guilty to or is otherwise found to have committed an aggravated violation of the Code, the Hearing Panel's penalties shall include a suspension from the Law center as set forth in sections 5.01(a), (b), or (c).

(b) In all cases, whether resolved by plea or contested hearing, in deciding which penalties to impose, the Hearing Panel also may consider:

(1) The violation involved;

(2) The Respondent's culpable mental state when engaging in the violation;

(3) The actual or potential injury caused by the Respondent's misconduct;

(4) The Respondent's prior history of violations, if any;

(5) The extent to which the violation raises a substantial question as to the Respondent's honesty, trustworthiness, or fitness to practice law in other respects;

(6) The Respondent's apparent acceptance or lack of acceptance of responsibility for committing the violation;

(7) The Respondent's apparent remorse or lack of remorse for committing the violation;

(8) Any material assistance provided by the Respondent in the investigating or hearing process with regard to other individuals;



(9) Sanctions imposed in similar cases; and

(10) The existence of any other aggravating or mitigating factors presented to the Hearing Panel.

5.03. Honor Code Penalties Separate from other Sanctions.

(a) Any penalty assessed by the Hearing Panel is separate and distinct from any other sanction assessed by any Law Center Faculty member, the central campus, any Student organization, or any other appropriate authority. Any resolution by another organization or authority does not affect the burden of proof in a hearing under this Code, nor does it prevent the Board from making its own determination of whether the Respondent violated the Code. Any sanctions that have been or may be assessed or imposed outside the Code process may be taken into account by the Hearing Panel.

(b) Assessment of any penalty or failure to assess any penalty by the Hearing Panel or by any other authority identified in section 5.03(a) does not prevent the Faculty member in whose course the violation occurred from assigning any grade that the Faculty member believes to be appropriate, including an “F” or its numerical equivalent, to the violator.

5.04. The Office of Student Services shall monitor those Respondents found to have violated the Code to ensure compliance with penalties imposed under Article 5, and shall advise the Honor Board of any apparent noncompliance with those penalties.

**ARTICLE 6. REVIEW AND RECONSIDERATION.**

6.01. Dean Review and Hearing Panel Reconsideration.

(a) A Respondent found to have violated the Honor Code is entitled to seek review by the Dean or his or her designation of both the finding that a violation occurred and of any sanction imposed, as set out in the Honor Board Procedures.

(b) An investigating Presenter can appeal any penalty imposed on a Respondent found to have violated the Honor Code as set out in the Honor Board Procedures, but may not appeal a determination by a Hearing Panel that a Respondent did not violate the Code.

6.02. Authorization to Promulgate and Implement Procedures.

The Honor Board is authorized to promulgate and to implement any and all procedures not inconsistent with the Code for Dean review and Hearing Panel reconsideration that the Board deems necessary or appropriate for enforcement of the Code. Any such procedures are not part of this Code.

**ARTICLE 7. POST HEARING PROCEDURES.**

7.01. Newly Discovered Evidence.

At any time after a Hearing Panel has found a violation of the Code, whether or not the finding has become final, the Respondent involved may file with a current Faculty Advisor to the Board a written motion for a new hearing on the basis of newly discovered evidence, but only in accordance with the Honor Board Procedures.

7.02. Lack of Substantial Justice.

At any time after a Hearing Panel has found a violation of the Code and the finding has become final, the Respondent involved may file with a current Faculty Advisor to the Board, but only in accordance with the Honor Board Procedures, a motion for a new hearing on the ground that some fundamental unfairness so undermined the prior proceeding that substantial justice was not done.

7.03. Authorization to Promulgate and Implement Procedures.

The Honor Board is authorized to promulgate and to implement any and all post-hearing procedures not inconsistent with the Code that the Board deems necessary or appropriate for enforcement of the Code. Any such procedures are not part of this Code.

## Appendix A

### University of Houston Law Center Plagiarism Policy

#### I. Introduction

This Policy is intended to provide general ethical guidance to you for writing papers in law school, other than in-class examinations, by explaining what constitutes plagiarism in violation of the University of Houston Law Center's Honor Code. This Plagiarism Policy is incorporated by reference into and made part of the University of Houston Law Center's Honor Code. Papers covered by this policy can be broadly categorized into six distinct types: (1) take-home or other out-of-class papers or examinations, (2) instrument drafting, (3) reports, (4) briefs, (5) seminar or other research papers, and (6) law journal notes and comments.

It is extremely important that you be aware of what this policy requires of you. Here's why:

- A failure to review and familiarize yourself with these guidelines and how they apply to the assignment you have *before* turning in *even a draft* of a covered paper constitutes a violation of the University of Houston Law Center Honor Code, *and that is so even if the paper ends up not violating this policy*. In other words, *there is no acceptable excuse for preparing a paper covered by this policy without having first reviewed this policy carefully and determining how it applies to the project in which you are engaged*.
- If you turn in *even a draft* of a paper covered by this policy that violates this policy, and your conduct in doing so is found to be negligent, reckless, knowing, or intentional, your behavior constitutes a violation of the University of Houston Law Center Honor Code.
- If it appears that you used plagiarized material in your paper to a significant extent, as defined in Section 3.04A of the Honor Code, and your decision to plagiarize the material was done knowingly or intentionally, the *minimum* sanctions that will be imposed will include
  - Loss of credit in the course involved;
  - A grade of "F" recorded on your transcript;
  - Suspension from the Law Center for at least one semester; and
  - Inclusion of your violation in your permanent student file, as a result of which it will be made available to every bar admission authority to which you apply.
- Moreover, in determining whether you acted knowingly or intentionally, the issue will *not* be whether you knowingly or intentionally intended to commit the offense of *plagiarism*. Rather the issue will be whether you knowingly or intentionally engaged in acts or omissions that violate *this policy*. In other words, a defense like "I didn't cite to [a given authority] because I didn't know I had to," when this policy makes it clear that you *did* have to cite to that authority, is a knowing or intentional violation, even if, at the time you committed it, you did not intend in your own mind to "cheat."

- Finally, in determining whether you acted intentionally or knowingly, an Honor Board hearing panel will be influenced primarily by objective evidence of the writing itself, rather than by the statement of the writer as to his subjective intent in preparing that writing. Thus, for example, if the allegedly plagiarized paper contains extensive material taken substantially verbatim from a source that is not cited to in that paper, there will be a presumption that the reason the failure to cite occurred was to conceal the source involved from the person grading the paper—a presumption that will be difficult, if not impossible, to overcome.

## **II. Minimum Ethical Standards**

Two basic precepts determine the minimum standards applicable to the preparation of all papers covered by this policy: (1) compliance with ethical standards of honesty, and (2) compliance with academic standards of individual analysis and original thought. Compliance with minimum ethical standards and penalties for failure to do so are the subject of this policy.

### **A. Overview.**

Violations of minimum academic standards are not punishable as plagiarism under this policy, but are punishable pursuant to the rules and instructions of the individual teacher who assigned the covered writing. Academic standards of individual analysis and original thought pertain to all works covered by this policy. Of course, a writing that does not meet minimal ethical standards is also unacceptable academically, even though such writing may contain acceptable ingredients of academic work.

To avoid the problem of insufficient individual analysis and original thought in your paper, when addressing the ideas of others, you should explore, analyze, and provide your own opinions concerning the strengths and weaknesses of those others' ideas. You need to infuse your review of others' work with your own words and thoughts, so that your paper is not merely a patchwork of other peoples' ideas.

Whether the product of ethically acceptable collaboration or consultation is academically acceptable will be determined by the degree of individual effort that is indicated by the teacher as expected in the particular writing assignment.

### **B. The basic Standard: Misappropriation of Another's Language or Ideas Without Giving Due Credit to the Source**

Implicit in the determination of minimal ethical standards is the policy that a writer may not appropriate in his writing either the language or the ideas of another without giving due credit to the source of such language or ideas, except as otherwise specifically provided herein.

- Unless informed to the contrary by your professor, this obligation applies not only to the final version of the paper involved but also to any submitted draft of that paper. When submitting a draft, the student does not commit plagiarism if the borrowed material is clearly marked as being borrowed, even if attribution to the original source is omitted in

the draft. In the final version of the paper, proper attribution must be included, and the borrowed material must be identified “in a way that clearly indicates the nature and extent of the source’s contribution to the student’s work.”

- The “other source” from which you may not take language or ideas without proper attribution includes both published and unpublished works. Thus, it is as wrong to turn in a paper laced with unattributed quotes or ideas taken from a fellow student’s unpublished seminar paper as it is to include unattributed quotes or ideas from a published law journal piece.

### C. What Constitutes “Giving Due Credit to the Source”

What constitutes giving credit to the source of borrowed language or ideas “in a way that clearly indicates the nature and extent of the source’s contribution to the student’s work” varies according to the circumstances, but here are some useful rules of thumb:

- A significant phrase, a term or phrase coined by the author of the source, a sentence, or a longer passage in a writing, taken verbatim from another’s writing, *must be* identified by quotation marks and citation as coming from that other source to avoid the imputation of an intent to misappropriate.
- Where a passage or significant number of sentences or phrases in a writing closely resembles, with only slight variations in language, those of another source and no identification of the other source is made in the writing by quotation marks and citation to that other source, an imputation of intent to misappropriate will be made. *Mere change of a few random words does not constitute acceptable paraphrasing.*
- Even footnoting a part of another’s writing that you have used in your paper may not be sufficient to avoid plagiarism. You must give credit to the source of borrowed language or ideas “in a way that clearly indicates the nature and extent of the source’s contribution to the student’s work.” To give that credit, you must put in quotation marks any significant phrase, term or phrase coined by the author of the source, sentence, or longer passage that you have incorporated verbatim into your paper from another’s writing. For example, suppose you incorporate four sentences verbatim from a law journal article into your paper, and you put a footnote crediting the law journal article at the end of each of those sentences, but you do not put the sentences in quotes. You have not “clearly indicated the extent to which” the law journal article contributed to your paper, which violates this policy. If you either (1) put quotation marks around each sentence and footnote each sentence, or (2) put the sentences in a block quote with a footnote after the last quoted sentence, you properly are indicating you borrowed both the language and the ideas of the law journal article. If you acceptably paraphrase each sentence or the four sentences together, you do not need quotes around the sentences; you just need to put a footnote after each sentence. That way you properly are indicating you borrowed the ideas, but not the language, of the law journal article. Acceptable paraphrasing is described below.
- Likewise, citing through to the sources cited by a paper from which you are taking material does not prevent the unacknowledged use of that paper from constituting plagiarism. For example, suppose you incorporate four sentences from a seminar paper of a friend into your paper, and you do not give your friend’s paper credit for the sentences. Also, after each of those sentences, your friend has a footnote citing to primary sources from which your friend got the language or ideas for the sentence, and you use those same

footnotes in your paper, again without citing to your friend's paper. You have plagiarized from two different parts of your friend's paper: his sentences and his footnotes. Your use of those four sentences from your friend's paper in your own paper constitutes plagiarism, *even though you cited to the same sources that your friend used*, because the underlying sentences are those of your friend, not you. Using your friend's sentences without crediting his paper is plagiarism even if it would normally not be proper to cite to secondary sources (like your friend's paper) rather than to the primary sources your friend cited in the footnotes. The only way to avoid the problem if you are not permitted to cite to secondary sources is to examine all of the original sources and prepare your own discussion of them without regard or reference to the thoughts expressed in your friend's paper. Even if you rewrite your friend's sentences so your sentences bear little resemblance to your friend's, you have borrowed your friend's ideas and have simply paraphrased them; so you still have to give credit to your friend's paper.

#### **D. What Constitutes “Acceptable Paraphrasing”**

It is possible to use the words or thoughts of another in your paper without using quotation marks to set them off if you have paraphrased those words or thoughts in an acceptable manner. What then constitutes an “acceptable paraphrasing” of another's work? Acceptable paraphrasing consists of a restatement by the writer *in his or her own words* of another writer's ideas.

- To constitute such an acceptable paraphrasing, however, your words and sentence structure, and even sentence order, cannot closely resemble those used by the other source. Rather, someone reading your paper and comparing it with the original should be able to readily conclude that you have materially supplemented the other's words and ideas with your own.
- While an acceptable paraphrasing does away with the need to put the other writer's words or thoughts in quotes, it does *not* dispense with the requirement that your paper include due reference(s) to the other work as the source of your ideas.
- In that regard, your citation(s) to that other writing must be made with sufficient accompanying explanation to enable the reader to determine what portion of your work is intended as a paraphrase of the other. For example, if your citations and explanations strongly suggest that much less of your work has been drawn from another source than is in fact the case, it is possible that you will be found to have intended to conceal the extent of that other work's contribution to your own. The likelihood of that happening increases as the extensiveness of the paraphrasing and the lack of clarity of your citations and explanations increases.

#### **E. Ethical Limitations on Consulting Other Persons or Sources**

Except in the case of take-home or other out-of-class examinations, your consultation with another person for purposes of obtaining ideas to be used in a covered writing is ethically acceptable, unless the teacher for whom the writing is being prepared expressly provides otherwise. However, collaboration in the actual writing of a paper to any extent is ethically unacceptable on the part of all collaborators, unless the teacher otherwise expressly provides.

- For example, your use of any writing, dictation, or other form of communication prepared for you or for anyone else by another and presented by you as your own work is unethical

and violates this plagiarism policy.

- Likewise, except as provided in section III.B below, your use of any writing or other form of communication taken from the Internet or some other source and presented by you as your own work is unethical and violates this plagiarism policy.
- Moreover even when consultation or collaboration with others is ethically permissible, disclosure of those whom you consulted or collaborated with and the extent that their ideas contributed to your work is ethically required, if your writing is based on ideas suggested by such source to any substantial extent.

## **F. Citation to Sources**

Finally, a word about citation to sources. A citation is meant to be more than an empty gesture. Rather, a citation by you to a source in a writing covered by this policy means that you have actually read that source (or, at a minimum, that portion of it that you have cited, together with any other portions needed to place the cited portion in proper context), unless you explicitly indicate to the contrary.

- Thus, citation to any source that you have not actually read, without such a disclaimer, is unethical and violates this plagiarism policy. For example:
  - o *Freedman V. Briarcroft Prop. Owners*, 776 S.W.2d 212, 218 (Tex. App.—Houston [14th Dist.] 1989) (citing *Jay-Lor Textiles v. Pacific Compress Warehouse*, 547 S.W.2d 738 (Tex. Civ. App.—Corpus Christi 1977) ). This citation indicates you have read *Freedman*, but not necessarily *Jay-Lor*.
  - o *Jay-Lor Textiles v. Pacific Compress Warehouse*, 547 S.W.2d 738, 739 (Tex. Civ. App.—Corpus Christi 1977), *cited in* *Freedman V. Briarcroft Prop. Owners*, 776 S.W.2d 212, 218 (Tex. App.—Houston [14th Dist.] 1989). This citation indicates you have read both *Jay-Lor* and *Freedman*.
- On occasion, it may be infeasible or impractical to read a primary source that is referred to in a secondary source—such as where the primary source is not available. In such cases, you must make it clear that you read the secondary source only, by citing, or quoting from and citing, the secondary source citing the primary source, as illustrated in the first citation example above, or by citing, or quoting from and citing, the secondary source only.

## **III. Application of Standards**

This section of the policy applies the precepts set out in section II to particular types of writing assignments that you are apt to encounter in law school.

### **A. Take-Home or Other Out-of-Class Papers or Examinations**

In the case of take-home or other out-of-class papers or examinations, only sources specified by the teacher may be used. Your answers must be prepared in conformity with all of the minimal ethical standards for covered writings set out above in section II, unless your teacher otherwise specifies.

The inclusion of any materials in your answer derived from unapproved sources or discussion with

other persons are ethically unacceptable, unless your teacher otherwise specifies.

## **B. Instrument Drafting**

The drafting of instruments, such as pleadings, wills, trusts, contracts, statutes, and the like, may be done by use of relevant forms or drafting products prepared by others. Such use is permissible and is generally desirable unless the teacher expressly indicates otherwise. Thus, no ethical question is involved except in the case of unauthorized reference or use. The extent to which you must identify the sources that you used will vary, depending on what your particular teacher instructs you to do.

However, the use of forms and other drafting products will in all instances require individual adaptation to meet the needs of the particular situation. Frequently, other additions will be desirable as well. The extent to which such adaptation and additions are desirable will depend on the circumstances of the particular situation. Thus, the adoption in full of a single form or other product with only the addition or substitution of identifying names is academically unacceptable unless expressly authorized by the teacher. The preceding sentence shall not apply to routine nonsubstantive documents that do not require research or analysis, such as affidavits of service, returns of service, verifications, signature blocks, notices of deposition, and the like.

1 Traditional final examinations, while not covered by this policy, are subject to their own academic honesty standards, as set out in section 3.01 of the Honor Code.

## **C. Reports**

Reports, such as book reviews and similar critiques, by nature consist to a substantial extent of a summary of a primary source or sources. Extensive paraphrasing of such sources is ethically permissible without specific reference to the source, although specific identification is academically desirable for purposes of clarity. Whenever verbatim quotations are made from a primary source, appropriate identification of the source as described in section II, is required, and failure to provide the appropriate identification is a violation of this policy.

In addition, in preparing your report, some analysis and evaluation of relevant primary source(s) usually will be academically required. That analysis and evaluation should contain your own substantial contribution, and may contain the thoughts of other sources that you reviewed as well. In the event that others' thoughts are used, they must be appropriately identified as provided in section II.

## **D. Briefs**

Briefs are summaries of the law on particular issues. Accordingly, it is academically desirable to provide in a brief as thorough a summary as is practical. The entire brief must be the product of your own efforts, along with those of any other persons with whom you are allowed to collaborate by your teacher, and all primary and secondary sources used in preparing it must be documented in accordance with the ethical standards set out in section II above. However, to the extent that a research digest is used merely for purposes of finding citations to primary or secondary sources, reference to this digest is not ethically required. In the event that a research digest is relied upon for purposes other than obtaining references to primary sources, due reference to such digest is



ethically required by appropriate quotation from or paraphrase of the relevant portion, and by citation thereto.

An academically acceptable brief should also contain elements of analysis, organization, policy, and persuasive argument. Any of these elements may be derived from other sources, to the extent permitted by your teacher. In the event that you use such sources, due reference to them in accordance with the ethical standards set out in section II above is ethically required.<sup>2</sup>

<sup>2</sup> Briefs can also be ethically or academically unacceptable for reasons other than those set out in this policy. For example, false or misleading references (1) to the record in the matter, (2) to authorities that you cite, or (3) to arguments or authorities advanced by your opponent are all both ethically and academically unacceptable.

### **E. Seminar or Other Research Papers**

Seminar or other research papers are the most advanced and sophisticated legal writing that most of you will be called on to produce in law school. Such papers generally differ from briefs in a number of respects, including the greater emphasis they place on open-ended legal and policy issues, the greater demands they place on your ability to develop and articulate creative solutions to those issues unconstrained by precedent, and the greater quantitative and qualitative research demands they make on you. Because of the extensive demands such papers make on students, they are the most common source of instances of plagiarism, but because they are the most valued form of writing by the faculty, they are the most rigorously prosecuted violations as well. You need to scrupulously comply with all of the ethical standards and academic requirements set out in section II in preparing such papers.

### **F. Law Journal Notes and Comments**

Law journal notes and comments, like seminar or other research papers, require the highest degree of compliance with the ethical and academic standards set out in section II above. Because such works are so carefully reviewed, instances of plagiarism in connection with them very likely will be detected. However, if the plagiarism is not discovered until after publication of the note or comment involved, the reputations of both the author and the Law Center will be damaged. This possibility leads the Law Center to be especially rigorous in prosecuting alleged instances of plagiarism involving law journal notes and comments, and counsels special vigilance on the part of students preparing such works to assure you understand and comply with all aspects of the Law Center's plagiarism policy.

## **IV. Conclusion**

This policy statement is designed to address the major issues that have arisen at the Law Center concerning what constitutes plagiarism, both from an ethical perspective and from one focusing on academic acceptability. Because the standards of ethical acceptability have been articulated at such length and are reasonably certain in their application, it is expected that henceforth a plea of ignorance or mistake as to their requirements on your part will rarely, if ever, be acceptable.

The purpose of this policy—as well as how it will operate in practice—is to provide clear standards as to what constitutes plagiarism to obviate a plea of ignorance of the wrongfulness of particular conduct in all but the most rare and extreme situations. If you are confronted with a situation that you cannot reasonably resolve by reference to this policy, you should seek any needed clarification from the teacher who gave you the writing assignment *before turning in any draft or final paper required by that teacher in connection with the assignment*. Although teachers should endeavor to be clear as to their requirements, ultimately the burden is on *you* to (1) carefully review this policy *before* beginning any assignment to which it applies; (2) consult it *regularly and repeatedly* as you prepare your assignment to make sure that you are acting in conformity with it; and (3) if you have any doubts on that score, resolve them with your teacher *before* turning in the assignment.

## Appendix B

### Notice of Alleged Honor Code Violation

#### University of Houston Law Center Honor Board

**[Name and address of student charged]**

Pleased be advised reasonable grounds exist to believe you have violated Honor Code Section(s) **xxx** on or about **[date]** in connection with **[specify course if any]** **[concisely state the conduct]**. An Honor Board hearing on the matter will be held **[time and date]** at **[place]**. A copy of the Honor Code Procedures that will govern that hearing are enclosed for you information.

A Hearing Panel consisting of one faculty member and two student members selected from the attached list will preside at your hearing. Also appearing on that list are the persons (called Presenters) who will present the case against you. If you believe that any of these persons might have a bias against you that would allow you to challenge them for cause, your attention is called to sections **xxx** and **xxx** of the Code

You are entitled to be represented by counsel or other representative of your choice. A Student Representative is available to you through the Honor Board, or you may retain private counsel.

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Presenter

**[Date]**

## **UHLC HONOR BOARD PROCEDURES**

**2007-2008**

### **Part I. Pre-Hearing Phase Of Honor Board Proceedings**

1.01. Definitions. All terms that are capitalized in these Procedures are terms defined in the Honor Code, and have the same meanings as given to them there.

1.02. Processing of Alleged Honor Code Violations.

(a) When a Faculty Advisor is notified of a possible violation of the Honor Code, he or she shall advise the Chief Presenter, who shall appoint two Presenters (one of whom may be himself or herself) who are not disqualified under the standards of section 2.02(c) of the Code to conduct a careful investigation of the matter. Those Presenters shall determine whether reasonable grounds exist to believe that the Respondent has violated the Code and, if so, in what respects; notify a Faculty Advisor to the Board and the Respondent of the charges to be brought against him or her; marshal all relevant evidence tending to show that a violation occurred and that the Respondent committed it; and present the same before the Hearing Panel convened to resolve those charges, all subject to these Procedures or rulings made by the Board. An investigating Presenter who has reason to believe that any evidence he or she receives is the subject of any prior sealed summary may obtain any such summary from the Dean of the Law Center to ascertain whether cause exists for pursuing the earlier matter.

(b) Consultation with Faculty Advisor(s).

Many of the duties of a Faculty Advisor to the Honor Board as set out in section 2.04 of the Code involve assisting investigating Presenters with their duties in connection with suspected or charged Honor Code violations. Consequently, investigating Presenters have an obligation to consult with a Faculty Advisor to the Board during the performance of their duties and, in particular, to do so in connection with major decisions arising during the investigation and presentation phases of any Honor Code proceeding.

1.03. Summary of Decisions Requiring Consultation between Investigating Presenters and Faculty Advisor.

Investigating Presenters must consult with a Faculty Advisor:

(a) Concerning any significant difficulties encountered in conducting an investigation;

(b) To obtain the Faculty Advisor's tie-breaking vote as to whether to bring charges before a Hearing Panel when the two Presenters involved in the matter disagree as to the propriety of doing so, as set forth in section 1.04 of these Procedures;

(c) Concerning any tentative decision by the investigating Presenters not to bring charges before a Hearing Panel, prior to their notifying the Respondent who is the subject of that investigation of that decision, to ensure that the investigation they have conducted to that point is adequate;

(d) To ensure that in the event a decision not to bring charges before a Hearing Panel is approved, a proper record is made of the nature of the investigation conducted and the reasons for that decision being made;

(e) In the event that a decision is made to bring charges before a Hearing Panel, to review the form

of notice to be sent to the Respondent and to advise the Board of the pendency of the proceeding, as set forth in section 1.05 and Appendix A of these Procedures;

(f) To obtain any needed assistance in preparation for Respondent's Hearing before the Hearing Panel;

(g) Concerning any extraordinary events arising outside of the Hearing itself that appear reasonably likely to threaten the fairness or integrity of the Hearing;

(h) To discuss the most appropriate course of action in the event that the Presenters become concerned that pending formal charges cannot be established by clear and convincing evidence, as set forth in section 1.06 of these Procedures;

(i) Concerning any apparent need for a Faculty member to assist in the presentation of the case against the Respondent at his or her Hearing;

(j) Concerning any proposed submission by the Presenters in connection with appellate or record-keeping activities, as provided in Parts III and IV of these Procedures.

#### 1.04. Initial Assessment Of Evidence.

Based on the information acquired the investigating Presenters shall determine whether sufficient evidence exists to sustain the charges under investigation.

(a) If the two Presenters agree that sufficient evidence exists, they shall notify the Board's Faculty Advisor, who shall inform the Associate Dean for Student Affairs and the members of the Board that a proceeding is contemplated, the identity of the Respondent involved and the nature of the charges. The Presenters shall also prepare a draft notice to send to the Respondent involved that is substantially in the form provided in Appendix B to the Code and contains the information specified in section 1.05(a) of these Procedures, and shall review it with the Faculty Advisor prior to sending it.

(b) If the two Presenters agree that sufficient evidence does not exist, before concluding their investigation they shall prepare a report for the Board's Faculty Advisor setting out the nature of the alleged violation, the steps they took to investigate those charges, and the outcome of those steps. The Faculty Advisor can either concur in the Presenters' determination or require that the Presenters investigate the matter further. If the former occurs, the Faculty Advisor shall send the report to the Associate Dean for Student Affairs for processing as provided in section 4.01 of these Procedures. If the Faculty Advisor requires more investigation, at the conclusion of that investigation the two Presenters shall submit to the Faculty Advisor both the investigating Presenters' report and any evidence obtained during the investigation.

(c) If the two investigating Presenters cannot agree whether sufficient evidence exists, they shall inform the Faculty Advisor. The Faculty Advisor can make a determination either that such evidence exists, in which case those involved shall proceed as provided in paragraph (a), or that it does not exist and is not likely to be uncovered, in which case those involved shall proceed as provided in the last sentence of paragraph (b), or that further investigation is necessary before making a final decision, in which case the Presenters shall investigate the matter further. If a Presenter does not wish to go forward in such circumstances, he or she may withdraw from the matter, in which case an alternate Presenter must be appointed in accordance with section 2.02(b) of the Code.

#### 1.05. Written Notice.

(a) Within a reasonable time after determining that reasonable grounds exist for believing that a Respondent has violated the Code, the investigating Presenters shall, after obtaining the approval of the Faculty Advisor as to its form, prepare and deliver a written notice to the Respondent, by hand, by certified mail, return receipt requested, or by email to the Respondent's Law Center email address. The notice should substantially conform to that set out in Appendix B to the Honor Code and shall

(1) contain a concise statement of the charge against the Respondent, including which provisions of the Code the Respondent allegedly has violated,

(2) inform the Respondent that in fifteen days (or such longer time as fairness in that particular case requires) the Board will hold a Hearing on the matter,

(3) identify the Presenters assigned to the case,

(4) identify the three Board members who will constitute the Hearing Panel assigned to the matter, or, if the Panel members are not yet selected, list the twelve Board members from whom the Hearing Panel will be selected,

(5) notify the Respondent of the availability of a Student Representative, and

(6) provide a copy of the Honor Board Procedures.

(b) If the Notice is mailed, it must be mailed to the last recorded address in the Respondent's Law Center records. Notice shall not be sent to the Respondent or to any other person by email unless delivery in person or by mail as set out above has been attempted unsuccessfully.

(c) Any amendment of the written notice requires the approval of the Faculty Advisor.

#### 1.06. Disqualification of Member of Hearing Panel or Presenter.

(a) Both the Presenter and the Respondent are entitled to move to disqualify a Hearing Panel member or a potential Hearing Panel member for cause.

(1) Not more than five (5) calendar days after receiving the notice required in section 1.05(a), a Respondent or Presenter may move to disqualify for cause, as defined in section 4.04(a) (2) of the Code, any Presenter or member or potential member of the Hearing Panel assigned to the matter by notifying the affected person, the Presenter assigned to the matter, and the Faculty Advisor by mail or email. If the motion to disqualify for cause is not timely made, it is waived.

(2) Persons sought to be disqualified for cause shall advise the presiding member of the Hearing Panel, if the Panel is selected, or the Faculty Advisor if the Panel is not selected, whether they contest the motion. Once a Hearing Panel has been selected, contested motions to disqualify a member of the Hearing Panel are resolved by the Panel, with the member involved not voting. A tie vote results in the challenged Panel member not being disqualified. The Hearing Panel shall decide contested motions to disqualify a Presenter.

(b) To the extent possible, the Hearing Panel shall resolve all contested motions to disqualify a Presenter or a Panel member sufficiently in advance of the scheduled Hearing to permit substitutions to be made without continuing the Hearing. When substitutions are made, the Respondent is not entitled to additional notice of the newly constituted Panel.

(c) When the Hearing Panel convenes to begin the Hearing

(1) the Faculty Advisor shall have arranged for potential substitute Panel members to be available on short notice to prevent continuance of the Hearing if Respondent successfully moves to

disqualify for cause a substituted member of the newly constituted Panel,

(2) the Respondent may move to disqualify for cause a substituted Panel member only if the substituted member was not listed as a possible Panel member in the original notice sent to Respondent. If contested, the motion will be resolved in accordance with paragraph (a) (2) of this section.

#### 1.07. Discretion to Terminate Proceedings Prior to Hearing.

(a) If at any time after the initiation of formal charges but prior to the convening of a Hearing before the Panel, the accuser recants or the Presenters come to believe they have insufficient evidence to sustain their burden of proof respecting a charge at that Hearing, they shall inform the Faculty Advisor of that fact and explain the reasons for that belief.

(1) If the Faculty Advisor agrees the Presenters do not have sufficient evidence to sustain the charge, he or she shall cancel any Hearing scheduled in the matter and notify all interested parties. Thereafter the Faculty Advisor shall summarize the entire matter in writing, shall seal, number, and sign his or her summary, and deposit same with the Associate Dean for Student Affairs. At the end of 365 days, the Associate Dean for Student Affairs shall destroy that summary unopened.

(2) If the Faculty Advisor disagrees with the Presenters' belief that they do not have sufficient evidence to sustain the charge, the prosecution of the matter shall continue. If one or more of the Presenters does not wish to go forward in such circumstances, he, she, or they may withdraw from the matter, in which case an alternate Presenter must be appointed in accordance with section 2.02(b) of the Code. The Hearing Panel shall grant a continuance in such circumstances.

(b) A decision to terminate proceedings as provided in this section does not constitute a determination of the validity of the charges on the merits, is not subject to review, and does not prevent reopening the matter should additional evidence become available.

#### 1.08. Pretrial Proceedings.

(a) No dispositive motions are permitted prior to an Honor Board Hearing. Without limiting the generality of the foregoing prohibition, no motions such as to dismiss or modify the charges, or for summary decision may be submitted.

(b) No formal discovery is available prior to an Honor Board Hearing. Without limiting the generality of the foregoing prohibition, such devices as interrogatories, depositions, requests for production of documents, and the like are not available, nor are examining trials or similar proceedings. However, prospective witnesses are required to cooperate with investigating Presenters as set out in section 3.10 of the Code, and are free to talk informally to the Respondent or to his or her representatives, but are not required to do so.

(c) However, not later than five (5) days prior to the scheduled commencement of a formal Hearing before the Panel, each side shall exchange lists of all witnesses they intend to call at the Hearing, together with a general summary of each witness's testimony, and provide one another with all exhibits that they intend to offer into evidence. Witnesses or materials not disclosed in accordance with this section are excludable upon timely objection, except for good cause shown.

#### 1.09. Admitted Violations and Related Proceedings.

A Respondent or the Respondent's representative may offer to have the Respondent admit responsibility for one or more outstanding charges, and discuss with the Presenters what sanctions they would consider appropriate were the Respondent to do so. The Presenters may offer their

views on those topics, come to a decision as to an appropriate sanction, and agree to recommend that sanction to the Hearing Panel. Although Presenters may not agree to dismissal of charges they believe are sustainable as part of such a bargain, they may agree to recommend a dismissal to the Hearing Panel. Presenters' recommendations are not binding on the Hearing Panel, and Presenters shall not mislead the Respondent or his or her representative concerning this limitation. If the parties come to an agreement complying with these conditions, the Presenters shall inform the Faculty Advisor, who in turn shall inform the Hearing Panel assigned to the matter. Further proceedings before that Panel are to be conducted as provided in section 4.03 of the Code.

## **Part II. Contested Hearings Before Panel**

### **2.01. Contested Hearing Before Panel.**

(a) Order of Presentation. Presenters are to offer their case through previously disclosed witnesses or documents, at the conclusion of which the Respondent is to be offered the opportunity to do the same. If the Respondent does present a case, the Presenters are to be given a reasonable opportunity for rebuttal.

(b) Conduct Of Hearing. A member selected by the Panel shall preside, and may adopt any reasonable procedures for conducting the Hearing that are not inconsistent with specific provisions of the Code or these Procedures. In that regard, an Honor Board Hearing is an administrative proceeding, not a trial. While the parties have primary responsibility for presenting the evidence for and against the Respondent, members of the Hearing Panel are free to ask questions of any witness. Moreover, while the Hearing Panel will entertain objections from the parties to particular testimony or other evidence as irrelevant, incompetent, immaterial, cumulative, unduly prejudicial, or unreliable, the Panel also may make such determinations on its own initiative, and it is not required to adhere to formal rules of evidence in taking such actions. Finally, abusive or unduly contentious conduct is not tolerated. After appropriate warnings, any persons involved in an Honor Board proceeding, including a Presenter, a Respondent, or a Respondent's representative can have his or her participation in the proceedings restricted to the extent deemed necessary by the presiding official, including being precluded from taking any further active role in the proceedings and, if he or she refuses to abide by that limitation, being excluded from the proceedings altogether.

(c) Opportunity to be heard. A Respondent is entitled to be present at the Hearing and to confront and cross-examine the witnesses against him or her. A Respondent can choose to offer evidence, including testimony, on his or her own behalf, and can also be required to testify concerning the facts giving rise to the charges at issue, at the instance of either the Presenters or the Hearing Panel, unless such testimony is immune from compulsion due to a constitutional privilege against self-incrimination. The Respondent is entitled to be accompanied by either a lay person or an attorney, and may choose to be represented by a Respondent Representative, subject to the Panel's right to control the proceedings as set forth in paragraph (b) of this section.

(d) Any of the Respondent, a Presenter, or the presiding official may invoke the Rule that requires putting all witnesses under oath, admonishing them not to discuss the case with anyone other than a party to the proceeding or that party's representative until after giving their testimony, and excluding them from the Hearing until their testimony is sought.

(e) A Respondent may waive any right given him or her in the Code or by these Procedures.

### **2.02. Deliberations of the Hearing Panel.**

(a) If the Hearing Panel concludes that a Respondent has not violated the Code, it shall announce



its finding to the Respondent, Respondent's representative, if any, Presenters, and Faculty Advisor, if present, and conclude the proceeding. No appeal is permitted by any party from such a finding. In accordance with section 3.01(b) of these Procedures, the Faculty Advisor shall notify the Office of Student Services of the decision. The Respondent is responsible for contacting the Office of Student Services and requesting his or her file be cleared of references to the Honor Board matter of which the respondent was absolved.

(b) If the Hearing Panel finds a Respondent violated the Code, the Panel shall announce its findings to the Respondent, Respondent's representative, if any, Presenters, and Faculty Advisor, if present. After that announcement is made and before the Panel decides on what penalty to impose, the Respondent or the Respondent's representative, along with a Presenter, are permitted to present evidence as to the appropriate sanction to impose.

(c) The Hearing Panel shall announce its decision as to the appropriate sanction(s) to the Respondent, Respondent's representative, if any, Presenters, and Faculty Advisor, if present. Thereafter, the presiding official shall advise the Respondent of the availability of Dean-review, as set out in section 6.01 of the Code and Part III of these Procedures.

### 2.03. Discussing Code Matters.

(a) During the pendency of a Code matter, persons connected with it, whether officially or personally, shall not communicate respecting the case except:

(1) Insofar as is necessary to implement the Code,

(2) If a potential witness voluntarily chooses to discuss the matter with the Respondent or his or her designated representative,

(3) Once the decision has become final in accordance with paragraph (d) of this section to advise any faculty whose course or competition was involved in the alleged violation of the outcome of the proceeding, or

(4) Once the decision has become final in accordance with paragraph (d) of this section to advise one law review or law journal faculty advisor of the outcome of any proceeding involving a member of or candidate for that review or journal.

(b) Except to the extent authorized by section 2.03(a), Part III or Part IV of these Procedures, or by law, the deliberations and decisions of the Hearing Panel, as well as any appeals taken from those decisions, must be held in confidence by all persons having knowledge of them unless the Respondent authorizes disclosure.

(c) As used in this section, a Code matter is pending until a final decision is rendered as provided in sections 3.01(a), (c)(1), (e), or (h) of these Procedures.

(d) When a final decision is rendered as provided in sections 3.01(a), (c)(1), (e), or (h) of these Procedures, the Faculty Advisor shall communicate the outcome of the proceeding to any faculty whose course was involved in the alleged violation, or any law review or law journal faculty advisor if the proceeding involved a member of or candidate for that review or journal.

## **Part III. Review and Reconsideration of an Honor Panel Decision**

### 3.01. Dean Review and Hearing Panel Reconsideration.

(a) Whether the Hearing Panel finds a violation was committed or was not committed, it shall deliver its decision, together with its findings of fact, forthwith to the Faculty Advisor, who shall

forthwith deliver the same, together with the tape recording of the Hearing and any tangible evidence admitted therein, to the Dean of the Law Center. If the Dean is unavailable to review the decision, the Associate Dean for Academic Affairs shall act in the Dean's stead, provided he or she is not prevented from doing so by section 4.04(a) (2) of the Code.

(b) If the Respondent has been found not to have violated the Code in any respect, the decision of the Hearing Panel is final; and the Dean shall take no further action in the matter except to notify the Faculty Advisor. In turn, the Faculty Advisor shall notify the Office of Student Services so that reference to a pending proceeding can be removed from the Respondent's Law Center student file if the Respondent so requests in accordance with paragraph (a) of this section.

(c) If the Respondent has been found to have violated the Code, he or she has ten (10) days from the date of the Panel's decision to file with the Dean a written appeal concerning the merits of the decision, the penalties imposed, or both. If the Respondent has been found to have violated the Code, the Presenters have ten (10) days from the date of the Panel's decision to file with the Dean a written appeal concerning the penalties imposed.

(1) If no such appeal is made the decision of the Panel becomes final, and the Dean shall take no further action in the matter except to notify the Faculty Advisor. In turn, the Faculty Advisor shall notify and transfer the Respondent's file to the Office of Student Services so the final decision is made part of the Respondent's permanent record.

(2) If a written appeal is filed by the Respondent, the Dean shall forward it to the Presenters for any response they care to make, which response must be received by the Dean within five (5) days of the Presenters receiving notification. The Dean also shall invite the Presenters to attend and participate in any oral presentations concerning the matters appealed from that the Dean agrees to allow.

(3) If a written appeal is filed by the Presenters, the Dean shall forward it to the Respondent and the Respondent's representative(s), if any, for any response they care to make, which response must be received by the Dean within five days of the notification to Respondent or Respondent's representative(s), whichever date is earlier. The Dean also shall invite the Respondent and the Respondent's representative(s), if any, to attend and participate in any oral presentations concerning the matters appealed from that the Dean agrees to allow.

(d) Based on the findings, the tangible evidence, the recording of the Hearing, the written appeal, and any argument(s) submitted for or against the Panel's decision, the Dean shall review that decision. In doing so, the Dean shall give great weight to the Panel's findings of fact, conclusions as to the existence of any violations, and recommended sanctions.

(e) If the Dean affirms, he or she shall so advise the Hearing Panel, the Faculty Advisor, and the Respondent. Except as provided in sections 7.01 and 7.02 of the Code, the Hearing Panel's decision becomes final. The Faculty Advisor shall notify the Office of Student Services and shall transfer the Respondent's file to the Office of Student Services to be made part of the Respondent's permanent record.

(f) If the Dean disagrees with either the Panel's finding of the existence of a violation or with one or more of the penalties it imposed, he or she shall return the entire matter to the Panel, with a written statement of the reasons for that disagreement.

(g) The Panel shall study the Dean's reasons for disagreeing with its decision and shall reconsider the matter as it deems proper. The Panel has full discretion to reconsider on the existing record

alone, but it may hear argument or even take further evidence.

(1) If the Panel after this reconsideration agrees with the Dean's proposed disposition, it shall so advise the Dean, and the Panel's new decision becomes final, except as provided in sections 7.01 and 7.02 of the Code. The final decision is communicated to those persons designated and is maintained as provided in paragraph (e) of this section.

(2) If the Panel disagrees with the Dean's proposed disposition, it shall once again advise the Dean in writing of its decision and the reasons for the decision, together with a record of any additional proceedings held or evidence considered in the matter. The Dean shall again consider the Panel's decision in accordance with paragraphs (c) and (d) above and render a final decision. The Dean shall communicate that decision to the Hearing Panel, Faculty Advisor, and Respondent as set out in paragraph (e) of this section. The Faculty Advisor shall notify and transfer Respondent's file to the Office of Student Services as provided in paragraph (e) of this section. The Panel may disclose its differences with the Dean to the Faculty in executive session, to the extent necessary to discuss any issues relevant to the administration of the Honor Code or these Procedures, but shall not divulge the name of the Respondent.

(h) Once a decision absolving a Respondent of Code violations has become final as provided in these Procedures and in the Code, he or she shall have the option of having the Honor Board post the decision absolving the Respondent, either with or without including the Respondent's name, on the Board's bulletin board, and to have any reference to him or her having been charged with an Honor Code violation removed from his or her Law Center student file. No decision absolving a Respondent is included in his or her Law Center student file unless Respondent requests such decision be placed in his or her file.

### 3.02. Newly Discovered Evidence.

(a) At any time after a Hearing Panel has found a violation of the Code, whether or not the finding has become final, the Respondent may file with a current Faculty Advisor to the Board a written motion for a new Hearing on the basis of newly discovered evidence.

(b) A motion for a new Hearing must be granted only if:

(1) The Respondent has discovered new evidence since the original Hearing,

(2) The failure to discover the new evidence prior to or during the original Hearing was not due to want of proper diligence on the part of the Respondent,

(3) The evidence is not merely cumulative,

(4) The evidence is not merely of a witness-impeaching nature,

(5) The evidence is probably true, and

(6) The evidence, had it been presented at the original Hearing, probably would have affected the result.

(c) The Faculty Advisor shall present the motion to the Honor Board, which in its sole discretion may deny the motion or may request a written response from any persons involved in the original Hearing, or hear argument before ruling. The Board shall deny the motion unless the Board is persuaded that all of the conditions of section 3.02 (b) exist. The Board's decision is not subject to review.

### 3.03. Lack of Substantial Justice.

At any time after a Hearing Panel has found a violation of the Code and the decision has become final, the Respondent may move for a new Hearing on the ground that some fundamental unfairness so undermined the prior proceeding that substantial justice was not done. The motion must be presented to a current Faculty Advisor to the Honor Board, who shall present it to the Board. In its sole discretion the Board may deny the motion or may request a written response from the any persons involved in the original Hearing, or hear argument before ruling. The Board shall deny the motion unless persuaded by the greater weight of the information that such fundamental unfairness existed. The Board's decision is not subject to review.

## **Part IV. Recordkeeping**

### 4.01. Storage of Records and Access.

(a) After final determination of a matter, the Faculty Advisor shall collect all transcripts, tapes, memoranda, opinions, findings, and any other tangible records connected with that matter and give them to the Office of Student Services to be stored there under lock and key. Only the Respondent, a Presenter investigating the same or additional charges against that Respondent, authorized personnel in the Office of Student Services, the Dean, and the counsel for the University of Houston are entitled to access such records after they are secured in the Office of Student Services. The Associate Dean for Student Affairs or the Associate Dean's designee shall transfer the records to microfiche after five (5) years, and shall destroy them after (10) years.

(b) Once a decision finding a violation has become final as provided in these Procedures, the Faculty Advisor shall provide a copy to the Associate Dean for Student Affairs. A copy of that decision must be placed in the Respondent's Law Center permanent record even if the only penalty assessed is a private reprimand, although a finding that a Respondent has been absolved of all

charges is not placed in his or her permanent file unless requested by Respondent. A copy of any decision placed in a Respondent's permanent file will be furnished to any bar association, board of law examiners or similar organization to which the Law Center has certified the Respondent or to which it is asked to certify the Respondent in the future. In addition, the presiding official of the Hearing Panel shall post an abstract of the charges brought and the Panel's decision concerning those charges on the Honor Board's bulletin board and submit an abstract to Legalese for publication. The abstract shall not include the name of the Respondent involved.

(c) The Faculty Advisor shall forward records of all Honor Panel decisions finding that a Respondent did not violate any provision of the Code, all "no action" and dismissals to the Office of Student Services, where those decisions shall be treated as provided for in sections 4.01(a) or 4.01(b) of these procedures.

(d) The Office of Student Services shall monitor Respondents found to have violated the Code to insure compliance with penalties imposed under Article 5 of the Code.

#### 4.02. Maintenance of Archives.

(a) The Faculty Advisor shall compile all written decisions of the Honor Board rendered during the Faculty Advisor's term of office and file those decisions in a labeled binder where they are to be maintained from year to year as precedent to which future Honor Board Hearing Panels can refer. The binders must be maintained in the Honor Board office or another secure location easily accessible to Honor Board members. The Faculty Advisor shall insure that Respondent names are redacted from all decisions before they are placed in the binder.

(b) To the extent that written decisions of the Law Center's prior Honor Panel or of the Honor Board from years prior to the Faculty Advisor's term of office have been retained but have not been filed in a binder to maintain them in accessible condition, the Faculty Advisor shall place the decisions in a labeled binder for use as precedent.