

**UNIVERSITY OF HOUSTON  
LAW CENTER  
HONOR CODE  
2008-2009**

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## **Honor Board Members**

### **Justices**

Robert Jackson  
Dominique Donaho  
Carl Lazarus  
Christianne Sanchez  
Michael West  
Michael F. Swartz

### **Student Presenters**

Chris Halgren  
Paul Brown  
Abbie Gilmore  
Mike Lipkin  
Sameer Saxena  
Mike Schiff  
Tiffany Thomas

### **Student Representatives**

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Professor Bush  
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Professor Duncan  
Professor Flatt  
Professor Thompson  
Professor Zamora

## **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]**