

University of Alabama School of Law Honor Code

LAW STUDENT HONOR CODE

CHAPTER ONE – GENERAL PROVISIONS

Section One: General Violations

The goal of the Honor Code is to ensure that no Student gains an unfair advantage in Law School over another Student and to promote those ideals of honor and integrity that are germane to the practice of law. **PURSUANT TO THIS GOAL, ALL STUDENTS WHILE ENROLLED AT THE UNIVERSITY OF ALABAMA SCHOOL OF LAW SHALL REFRAIN FROM INTENTIONALLY LYING, CHEATING, STEALING, OR TOLERATING SUCH ACTION BY ANOTHER AND SHALL REFRAIN FROM OTHER REPREHENSIBLE ACTS.**

Section Two: Purpose

The purpose of these rules is as follows:

- (a) To promote among Law Students the highest standards of honor, integrity, and ethical conduct;
- (b) To serve as notice to all Students of those acts that will not be tolerated at the University of Alabama School of Law;
- (c) To foster an atmosphere of fair dealing, ensure a level playing field, and prevent any student from gaining an unfair academic advantage; and
- (d) To provide a fair, speedy, and just hearing to any Student accused of violating this Honor Code.

Section Three: Oath

- (a) All students are bound by the Honor Code.
- (b) Upon entering law school, all students shall sign a card containing the Honor Code Oath, indicating a commitment to abide by the Honor Code while enrolled in the University of Alabama School of Law.
- (c) The Honor Code Oath is as follows:
“While enrolled at the University of Alabama School of Law, I will refrain from intentionally lying, cheating, stealing, or tolerating such action by another student and will abide by the Honor Code at all times.”

Section Four: Jurisdiction

Violations of the Honor Code, SBA Constitution, and SBA Bylaws are subject to the jurisdiction of the Honor Court. The Code shall apply to all students, as defined in Chapter Eighteen hereof. While students also are subject to administrative rules and regulations of the Law School – such as rules pertaining to food and drink in the Law School building, health and safety regulations, etc. – violations of these rules and regulations are not within the jurisdiction of the Honor Court but fall within the sole jurisdiction of the law school administration. Of course, the Honor Code does not replace, and Students are still subject to, civil and criminal laws of the city and state.

Section Five: Scope

The provisions of this Honor Code shall be binding upon all Students in connection with any Law School Related Activity. It shall be the responsibility of each Student to be familiar with the contents of this Code and to obtain an advisory opinion from the Court on any unclear or uncertain situation. Ignorance of the contents of this Code shall not be a defense to an accusation of a violation.

CHAPTER TWO – SUBSTANTIVE VIOLATIONS

Section One: Violations

Each student shall conduct himself or herself according to the highest standards of honor, integrity, and ethical conduct referred to in Chapter One hereof. A violation of the Honor Code will subject the Student to sanction pursuant to Chapter Twelve of the Code. The following are situations in which a violation of Chapter One, Section One may be found to have occurred; however, these should not be construed as exhaustive but rather illustrative.

- (1) No Student shall take into an examination any material that his or her Instructor has not authorized. It is the responsibility of each Student to be fully aware of the Instructor's limitations with regard to the taking of any examination.
- (2) No Student shall begin an exam prior to being given permission to do so. This includes making any notes or outlines in his or her blue books, examination paper, or any other paper or typing in ExamSoft or other word processing program prior to being authorized to do so.
- (3) No Student shall continue typing or writing an exam after the allotted exam time has expired.
- (4) Any Student who through intentional action gains unauthorized knowledge about the Instructor's examination will be in violation of this Code. Any Student who either intentionally or unintentionally gains such unauthorized knowledge is under an affirmative duty to report such knowledge to the Instructor involved or another appropriate official.
- (5) No Student shall give or receive assistance from another while taking an examination.
- (6) No Student shall take an exam in an unauthorized location.
- (7) Each Student shall be responsible for knowing the definition of plagiarism and shall make every good faith effort to give the appropriate credit when not using original thought. As the definition of "plagiarism" in Chapter Eighteen, Section g, states, "In light of course requirements, plagiarism may include any work submitted to a professor in a course for credit (regardless of whether the paper itself is graded) and may include work submitted as a draft as well as work submitted as a final product. Plagiarism may also occur in work submitted to other students as part of the requirements in a course for credit."
- (8) No Student shall use any materials that have been specifically excluded from the Student's research use. Each Student shall be responsible for ascertaining what materials have been authorized by the Instructor.
- (9) No Student shall engage in an activity or action prohibited by the Instructor or the Honor Code. Furthermore, failure to comply with an Instructor's requirements or directions may constitute a violation of the Honor Code.

- (10) No student shall knowingly misrepresent or withhold any material information concerning himself, herself, or another, with the intent to influence any Student election, honorary or competitive process.
- (11) During or in connection with any such process as described in subsection (10), no Student shall engage in any coercive or fraudulent activity on behalf of himself, herself, or another.

Section Two: Illustrations of Honor Code Violations

The following have been deemed by the Honor Court to constitute a violation of Chapter One, Section One:

- (1) Lying about one's grades or other qualifications to a prospective interviewer in an effort to obtain an interview constitutes an Honor Code violation.
- (2) Stealing another Student's summary constitutes an Honor Code violation.
- (3) Collaborating with another student on a legal research assignment when instructed not to do so constitutes an Honor Code violation.
- (4) Knowing failure to report having missed more than a certain number of classes to an Instructor who specifically requires all Students to do so constitutes an Honor Code violation.

Section Three: Student Responsibility to Report

Taking into consideration the basic presumption of honor and integrity that each Student must accord to each other Student, Students shall report, in the manner provided in Chapter Four, any conduct which they have reason to believe constitutes a violation of any provision of the Code. Failure to do so constitutes a violation of this Code. Violations should be reported within three weeks of discovering a violation has occurred. The Prosecutor is given discretion as to charging late reporters.

Section Four: Failure to Attend Class

Nothing in this section or any other section of the Code shall be construed to mean that failure to attend class is a violation of the Code. Any decision about failure to attend class is a faculty decision. However, misrepresentation of class attendance to an Instructor constitutes an Honor Code violation.

Section Five: Pledge

- (a) On any Law School assignment or examination, the word "Pledge" followed by either a Student's signature or anonymous number must be included. However, even if a pledge is not given, all work is covered by all aspects of the Honor Code.
- (b) The pledge is as follows: "On my honor I represent that I have neither given nor received unauthorized aid on this (paper), (memorandum), (brief), or (anything else covered by this Honor Code)."
- (c) It shall be the responsibility of the Instructor to specifically designate what is authorized aid.
- (d) If a Student does not pledge the examination paper or assignment, it will not be graded, unless the Instructor decides otherwise.

Section Six: Violations during Honor Court Proceedings

During or in connection with the proceedings authorized by these rules, it is an Honor Code violation to:

- (a) Intentionally accuse another Student falsely of a violation of these rules.
- (b) Testify falsely
- (c) Avoid being called as a witness, refuse or fail to appear as a witness after being notified to appear, or fail or refuse to respond to questions properly propounded, unless the refusal to respond is based upon a claim that the answer may tend to expose the witness to prosecution under these rules. This subsection shall not apply to the accused.
- (d) Induce, coerce, or intimidate another to testify falsely or to fail or refuse to testify.
- (e) Attempt to influence the prosecutor or any member of the Honor Court to act in any manner in dereliction of his or her duties of office, whether the act is one of commission or of omission.
- (f) Act in dereliction of one's duties of office as the Prosecutor, Assistant Prosecutor, Defense Counsel, or member of the Honor Court.
- (g) Fraudulently falsify, destroy, alter or conceal any document or record made or preserved in connection with any proceeding.
- (h) Disclose confidential information pertaining to an Honor Court proceeding. This prohibition does not apply to the Accused in an Honor Court proceeding.

CHAPTER THREE – COMPOSITION AND RESPONSIBILITIES OF THE HONOR COURT

Section One: The Court

The Honor Court is the official representative of Law Students in deciding matters arising under this Honor Code. Members of the Court are elected as provided in Article VI, Section Two of the SBA Constitution.

Section Two: The Prosecutor

The Prosecutor is an officer of the Court and is the official representative of Law Students in investigating, presenting, and prosecuting alleged violations of this Code. The Prosecutor is elected as provided in Article VI, Section 5 of the SBA Constitution.

Section Three: The Assistant Prosecutor

The Assistant Prosecutor is an officer of the Court and will assist the Prosecutor in investigating, presenting, and prosecuting alleged violations of this Code. The Assistant Prosecutor is elected as provided in Article VI, Section 6 of the SBA Constitution.

Section Four: The Defense Counsel

The Defense Counsel is an officer of the Court and will defend or assist in the defense of any Student accused of an Honor Code violation. The Defense Counsel shall be present at all Probable Cause Hearings and Final Hearings unless the accused objects. The Defense Counsel is elected as provided in Article VI, Section 7 of the SBA Constitution.

Section Five: The Assistant Defense Counsel

The Assistant Defense Counsel is an officer of the Court and will assist the Defense Counsel in defending any Student accused of a violation of the Code. The Assistant Defense Counsel is elected as provided in Article VI, Section 8 of the SBA Constitution.

CHAPTER FOUR – REPORTING A VIOLATION

A student who reasonably believes that a violation of this Honor Code has occurred shall report such suspicion to the Prosecutor, if available. The name of the Prosecutor, together with his or her home telephone number, will be posted on the official SBA bulletin board. In cases of emergency, if the Prosecutor is not immediately available, the violation may be reported to the Assistant Prosecutor, Office of the Registrar of the Law School or the Office of the Chief Justice of the Honor Court. As soon as the Prosecutor becomes aware of a potential Honor Code violation, whether filed by another party or self-filed, the Prosecutor has a duty to mount a thorough investigation in good faith.

CHAPTER FIVE – INVESTIGATION

Section One: Initial Investigation

- (a) The Prosecutor shall make a thorough investigation of the reported incident, taking care not to reveal any details to any person not directly involved in the investigation. If the Prosecutor, in good faith, believes that the evidence is insufficient to establish that a violation has occurred, he or she may decide to take no further action.
- (b) If the action was reported to the Prosecutor, all reporting parties shall be informed of this decision without undue delay. The Prosecutor shall submit to the Chief Justice a typewritten document stating the Prosecutor's decision not to proceed with the investigation and his or her reasons for the decision.
- (c) Such a decision shall be a final judgment; provided that, the investigation can be reopened if the Prosecutor, after consultation with and approval of the Vice Dean, determines that material evidence has been subsequently brought to the Prosecutor's attention and the evidence is such that the Prosecutor could not reasonably have discovered it prior to his or her initial decision.

Section Two: Appointment of a Prosecutor Pro Tempore

If both the Prosecutor and Assistant Prosecutor are disqualified from acting or are unable to act for any reason, the Chief Justice shall appoint a Prosecutor Pro Tempore to investigate and prosecute a particular case.

Section Three: Reconsideration

If after having been notified of the Prosecutor's decision a person is dissatisfied with the decision of the Prosecutor not to prosecute, on request of such person the SBA President may in his or her discretion appoint a Prosecutor Pro Tempore to further investigate the accusation. If the SBA President is unable to appoint a Prosecutor Pro Tempore for any reason, the Chief Justice may appoint the Prosecutor Pro Tempore. If the Chief Justice is unable to appoint, the SBA Vice-President will appoint.

CHAPTER SIX – ACCUSATION

Section One: Notification

If the prosecutor believes the evidence is sufficient to establish that a violation has occurred he or she shall with reasonable dispatch prepare and present a written accusation to the accused and

the Defense Counsel, and shall notify the Chief Justice that a Probable Cause hearing is necessary.

Section Two: Form of Accusation

The accusation shall state the specific section or sections of the Code alleged to have been violated and shall state the facts giving rise to the alleged violation. The prosecutor shall provide the Chief Justice with a copy of the accusation prior to the Probable Cause or Final hearing. The Chief Justice shall distribute copies of the accusation to members of the Court hearing the matter at the Probable Cause or Final hearing. The Honor Court will consider only the allegations presented to it by the prosecutor, subject to amendment by the prosecutor up to and until the Probable Cause hearing.

CHAPTER SEVEN – PROBABLE CAUSE PROCEEDINGS

Section One: Selection of the Probable Cause Committee

Probable Cause determinations will be made by the Probable Cause Committee. The Committee will be comprised of three Honor Court justices. The Honor Court justices serving on the Committee will be selected at the beginning of each semester on a volunteer basis initially or, if necessary, randomly from the remaining justices.

Section Two: Procedure

The prosecutor shall prepare a written information detailing the allegations and facts surrounding the incident. The prosecutor shall then present copies of the written information and the accusation that was served on the accused to the members of the Probable Cause Committee. All names and identifying information shall be redacted from the documents presented to the Probable Cause Committee. The Committee shall meet and render a decision as soon as possible but with the goal of issuing a decision within a calendar week of notification from the prosecutor. During the Committee's deliberations, the prosecutor and defense counsel shall be available on site to answer any questions the Committee may have.

Section Three: Finding of Probable Cause

If at least two out of the three Committee members find Probable Cause to believe that a violation has occurred, the accusation shall be deemed sufficient for final hearing. The prosecutor shall, without undue delay, notify the accused that Probable Cause has been found. In making this preliminary determination, Committee members are to bear in mind that there has been no full hearing and no full argument by either party.

Section Four: Finding of No Probable Cause

A determination of no Probable Cause shall be a bar to further prosecution of the case unless the Prosecutor, after consultation with and approval of the Vice Dean of the Law School, determines that at least one of the following exists:

- (a) subsequently discovered material evidence,
- (b) evidence of a false statement as to a material fact,
- (c) evidence of intrinsic fraud or tampering with the process, or
- (d) evidence that the panel misapprehended its function or failed for any reason to apply the appropriate standard of proof on Probable Cause.

In such event, the Prosecutor, with advice and consent of the Vice Dean, can request a second Probable Cause determination by delivering a written request to the Chief Justice. A copy of such request shall also be promptly delivered to the accused and the Defense Counsel or mailed to their respective addresses of record.

Section Five: Waiver

The accused may waive the Probable Cause Proceedings.

CHAPTER EIGHT – PRE-FINAL HEARING RIGHTS OF THE PARTIES

Section One: Rights of the Accused

Following a finding of Probable Cause and prior to the final hearing, the accused has the right to:

- (a) Receive a list of all members of the Court with a designation of those chosen to sit at the final hearing;
- (b) Challenge any member for cause;
- (c) Receive a list of all reporting witnesses and all witnesses expected to testify on behalf of the prosecution;
- (d) Choose an open or closed final hearing;
- (e) Receive a summary description of all relevant evidence available to the prosecutor, including any exculpatory evidence, and on request to examine any such evidence.

Section Two: Rights of the Prosecutor

Following a finding of Probable Cause and prior to the final hearing, the prosecutor has the right to:

- (a) Receive a list of all members of the Court with a designation of those chosen to sit at the final hearing;
- (b) Challenge any member for cause;
- (c) Receive a list of witnesses expected to testify on behalf of the accused;
- (d) Be advised of the name of any person who will be representing or advising the defendant and whether such person is an attorney;
- (e) Be given notice of the nature of the defense, or defenses, if any, to be presented by the accused.

CHAPTER NINE – FINAL HEARING FOR HONOR CODE VIOLATIONS

Section One: Burden

THE ACCUSED IS PRESUMED INNOCENT. The burden is on the prosecutor to prove the accusation **beyond a reasonable doubt.**

Section Two: Selection of the Court

On receiving notice from the prosecutor that a final hearing is necessary, the Chief Justice and six members of the Court, selected at random by the Chief Justice in the presence of the prosecutor and the defense counsel, shall be designated to sit at the final hearing. The prosecutor and/or defense counsel, with permission of the accused, may waive their right to be present at the time of Justice selection. Members of the Probable Cause Committee are not eligible. The Chief

Justice shall set a date, a time, and place, away from the law school campus, for the final hearing and shall notify the prosecutor, the defense counsel, the accused, and the selected members of the Court. The final hearing shall be held as soon as practicable after a finding of Probable Cause.

Section Three: Challenges, Recusals, and Vacancies

- (a) Challenges for cause must be submitted to the Chief Justice no later than three days prior to the final hearing. Challenges for cause shall be decided by majority vote of the remaining members of the panel.
- (b) Members may recuse themselves if they reasonably feel they are unable to render a fair and just decision, and will be automatically recused in the event that they are a reporting witness in the case at issue.
- (c) Vacancies caused by challenge, recusal, or absence shall first be filled by the remaining justices, excluding the members who sat on the Probable Cause Committee and, in the case of a new final hearing, those who sat at the original trial. Remaining vacancies shall be filled by a vote of the Honor Court justices. The Chief Justice shall convene the Honor Court justices, with the presence of seven justices constituting a quorum. The justices present shall nominate students from the first, second, and third year classes to fill the vacancies. The justices present shall then fill the remaining vacancies by majority vote with the Chief Justice voting in the case of a tie.
- (d) In the case of a new final hearing, the composition of the panel is subject to the provisions of Chapter Thirteen, Section Three.
- (e) If the Chief Justice is removed or is absent, after he or she has been replaced and all other vacancies have been filled, a Chief Justice Pro Tempore shall be selected from among their numbers by majority vote of the panel sitting. If either party moves to recuse the Chief Justice, the Chief Justice should, absent good cause to the contrary, grant the motion and recuse himself or herself. If the Chief Justice recuses himself or herself, a Chief Justice Pro Tempore shall be selected from the Court by the recused Chief Justice.

Section Four: Failure of the Accused to Appear

If an accused, having been duly notified of the time, date, and place of the hearing, willfully fails or refuses to attend, the hearing may be conducted in his or her absence, or may be continued at a later date and time, at the discretion of the presiding Chief Justice.

Section Five: Order of Proceedings and Continuations

The proceeding shall begin with the Prosecutor reading the accusation. At any time prior to imposition of a sanction, the Chief Justice may, if justice so requires, declare the proceedings continued. A continuance of action shall not be deemed a final judgment. The justices on the panel, the prosecutor, the defense counsel, and the accused shall be informed without undue delay of the reasons for continuance and a date for a new hearing shall be set with reasonable dispatch.

Section Six: Rights of the Parties

- (a) At the final hearing the accused shall have the right to:
 - (1) Represent himself or herself or be represented by the person of his or her choice;
 - (2) Make an opening statement and/or closing argument;
 - (3) Call and examine witnesses;

- (4) Cross-examine prosecution witnesses;
 - (5) Decline to testify or choose to testify;
 - (6) Present any physical or demonstrative evidence, independent of witnesses, which is relevant to the matter in question;
 - (7) Make electronic sound recordings;
 - (8) Present character evidence and character witnesses.
- (b) At the final hearing the prosecutor shall have the right to:
- (1) Have the services of an attorney or other advisor, upon his or her request and with consent of the Dean, to advise and assist in prosecution of the case, if the accused has the services of any person, other than another Law Student, to represent or advise him or her at the final hearing;
 - (2) Make an opening statement and/or closing argument, including the right to make the final closing argument;
 - (3) Call and examine witnesses;
 - (4) Cross-examine witnesses called by or on behalf of the accused;
 - (5) Present any physical or demonstrative evidence, independent of witnesses, that is relevant to the matter in question;
 - (6) Make electronic sound recordings;
 - (7) Present character evidence and character witnesses if the accused has put his or her character into issue;
 - (8) Present evidence in rebuttal of evidence presented by or on behalf of the accused.

Section 7: Undisputed Facts

- (a) In order to help the parties narrow the issues for the final hearing, the prosecutor and the defense, at any time prior to the final hearing, may stipulate to the existence of any fact or set of facts, which are to be specifically set out and presented to the Court in writing at the final hearing. For the purposes of the final hearing, the Court will deem all stipulated facts as having been conclusively established.
- (b) In the event that there are no issues of fact to be resolved by the Court at the final hearing, the undisputed facts must be presented to the Court for a determination as to whether those facts constitute a violation of this Code. The Chief Justice, in his/her discretion, may grant as much time for oral arguments regarding whether the facts presented constitute a violation as is necessary.
- (c) No part of this section should be construed to relieve the prosecutor's burden of proof. All disputed facts must be proven at the final hearing through documentary or testimonial evidence.

CHAPTER TEN – NATURE OF THE PROCEEDINGS

Section One: Evidence

The Final Hearing is administrative in nature. The general rules of evidence applicable to administrative hearings are to apply, subject only to such exceptions as are specifically provided herein. It is contemplated that evidence will be admitted liberally at hearings conducted pursuant to this Code. Evidence likely to influence the decision of fair-minded individuals is to be readily admitted, bounded only by the most severe concerns of relevancy, materiality, and repetition.

Section Two: Presiding over the Proceedings

At a final hearing the Chief Justice shall rule on all objections and questions of procedure in connection with the conduct of the final hearing. The presiding Chief Justice is authorized to use all reasonable means necessary to preserve order and judicial decorum during the hearing, including the right to exclude persons, including the accused, from the room for sufficient cause. The sitting panel of justices by majority vote may ask a lawyer, faculty member, or judge to preside, but such lawyer, faculty member, or judge while presiding at the hearing shall have no vote on the final question of guilt or innocence of the accused or the sanction to be imposed. In any case in which a lawyer, faculty member, or judge is asked to preside the Chief Justice or Chief Justice Pro Tempore shall continue as a member of the panel and shall continue to have all powers herein granted except those of presiding, ruling on objections, and maintaining order and judicial decorum.

Section Three: Order of Proceedings

- (a) The Final Hearing of any matter brought before the Honor Court will begin with a reading of the Formal Accusation by the prosecutor.
- (b) The prosecutor may give his or her opening statement. This statement can include an outline of the case and evidence to be presented but cannot include arguments of any form. Upon the completion of the prosecution's opening statement, the accused or defense counsel may give his or her opening statement. This statement is subject to the same limitations as the prosecution's opening statement, namely that they contain no arguments. All facts, evidence and inferences thereof contained in each opening must in good faith attempted to be proved in the respective case in chief. The opening statement may be waived by agreement between the accused and the prosecution.
- (c) The prosecutor will then present his or her case-in-chief. The prosecution may present its case in chief through examination of witnesses or presentation of evidence. For each of the prosecution's witness the prosecution has the right of direct examination and the accused has the right of a cross examination. If the prosecution feels it is necessary for his or her case in chief he or she shall have an absolute right to one re-direct examination of the witness after the accused finishes his or her cross examination. If the right to re-direct is exercised, the accused shall have the absolute right to one re-cross of the witness. More opportunity for multiple re-directs may be allowed subject to the discretion of the presiding Chief Justice so long as the accused has the right to another cross of the same witness. The accused has the right to waive any opportunity for cross-examination, but may re-call any prosecution witness during the accused's case in chief. The prosecution may call any number of witnesses in its case in chief as needed subject to discretion of the court for any redundancy.
- (d) Upon the completion of the prosecution's case in chief the accused may present its case in chief. Any documents or exhibits to be presented by the accused are subject to the same rules and limitations placed upon the prosecution. The cross-examinations and re-directs are subject to the restrictions outlined in the above section.
- (e) Upon the completion of the accused's case in chief the prosecution may call any rebuttal witnesses.
- (f) Upon completion of the accused's case in chief or the prosecution's rebuttal, whichever is last, both sides shall have the right to a closing argument. The closing arguments may contain any evidence presented at the hearing as well as arguments by either party. The closing arguments may not contain facts or evidence not presented during the hearing.

The prosecution shall give a closing argument first, followed by the accused. Upon completion of the accused closing the prosecution may, at its discretion, follow up with a limited closing lasting no more than 3 minutes. The closing arguments can be waived by agreement between both parties.

CHAPTER ELEVEN – CONVICTION, ACQUITTAL, AND RETRIAL; PERSONAL STATEMENT

Section One: Final Judgment

A final judgment of guilty requires a unanimous vote that the evidence establishes a violation **beyond a reasonable doubt**. A judgment of guilty may be based in whole or in part upon circumstantial evidence.

Section Two: Acquittal

Any vote that is less than unanimous for conviction constitutes an acquittal; provided that if there are at least 5 votes for conviction the accused may be retried one time in the discretion of the Prosecutor. An acquittal is a final judgment.

Section Three: Statement

Upon a final judgment of guilty, and prior to the imposition of a sanction, either party has the right to make a statement relative to the degree of punishment and to present relevant evidence going to mitigation, exoneration, or severity of the sanction. If an Instructor is involved, he or she also has the right to make a statement relative to the degree of punishment. The Court will give the Instructor's suggestion substantial consideration when arriving at a recommended sanction.

CHAPTER TWELVE – SANCTIONS; DISCRETION OF THE COURT; DUTY OF THE COURT

Section One: Sanctions & Duties of the Court

Upon a final judgment of guilty, and following the personal statement or waiver of personal statement by the accused, statements by the prosecutor and Instructor, and the presentation of any evidence relevant to a proper sanction, the members of the Court conducting the Final Hearing shall deliberate and arrive at an appropriate sanction pursuant to Section Two of this Chapter.

Section Two: Arriving at a Sanction

It is the duty of the Court to arrive at a sanction, agreed upon by at least four of the seven empanelled members, which reflects the severity of the offense as well as all mitigating circumstances. The Court may recommend to the Dean one or more of the following sanctions:

- (1) Permanent dismissal;
- (2) Suspension for one or more semesters or terms;
- (3) Probation for up to three calendar years;
- (4) An "F" in the course in which a violation occurred; to be designated on the student's records as "PF" (Penalty Failure subject to removal in 5 years) or as an "F";
- (5) A written reprimand; (subject to removal from the Student's Record within 5 years);

- (6) Any other appropriate sanction (e.g. dismissal from the Moot Court Board, Law Review Staff, Law School office, or report to Character and Fitness Committee of the Bar).

Section Three: Issuing a Decision

The Court shall reconvene and inform the Accused of the arrived upon sanction. The Chief Justice, or a justice designated by the Chief Justice, shall issue a written opinion on behalf of the Court. Any member dissenting from the majority decision may attach his or her dissenting opinion to the Court's opinion.

Section Four: Submission of the Court's Recommendation to the Dean

Within 10 days, the Chief Justice will submit the Court's determination and recommendation to the Dean, along with a copy of the full written opinion, including any concurrences and dissents, and any pertinent evidence or information. The Dean then has authority to issue the final sanction(s).

Section Five: Assignment of Grades

Nothing in this section or any other section of this Code precludes an Instructor from assigning the grade he or she believes is appropriate, as long as it comports with the Dean's authority.

CHAPTER THIRTEEN – APPEAL AND NEW FINAL HEARING

Section One: Petition for New Final Hearing

Any Student convicted under these rules may petition the Dean or the Dean's designee for a new final hearing. Such petition must be in writing, submitted within 10 days of final judgment, and must set forth the grounds on which a new final hearing is sought, together with substantiating facts.

Section Two: Grounds for a New Final Hearing

The following may be grounds for a new final hearing:

- (a) material and prejudicial denial of any right provided the accused;
- (b) a verdict contrary to the great weight of the evidence;
- (c) newly discovered evidence, taking into consideration whether the evidence could have been discovered prior to the hearing, the diligence with which the evidence was sought, the promptness of its disclosure, and the likelihood that the newly discovered evidence if presented would have affected the outcome of the hearing;
- (d) perjury on the part of a witness where it appears that the perjured testimony could have affected the outcome of the hearing;
- (e) that the demands of justice so require.

Section Three: Conditions for a New Hearing

If the Dean orders a new final hearing, he or she may specify conditions, such as the composition of the Court, the prosecutor, and the place and time of the new final hearing, as he or she deems to be necessary and proper in the interests of justice.

CHAPTER FOURTEEN – RECORDS

Section One: Official Records

The following records constitute the official record of the proceedings and shall be maintained by the Court in a special locked file cabinet located in the office of the Dean or in a place designated by the Dean:

- (a) a copy of the accusation signed by the prosecutor with evidence of date and manner of service on the accused;
- (b) the decision of the panel at the Probable Cause Hearing, dated and signed by all members of the panel;
- (c) the decision of the Court at the Final Hearing, signed and dated by all justices sitting at the hearing;
- (d) the decision recommending sanction, signed and dated by all justices sitting at the hearing;
- (e) a summary of the Court's findings, holdings, recommended sanctions, and the Dean's final disposition, written and signed by the Chief Justice and stated in such a manner as not to disclose the identity of persons involved;
- (f) a record of the final disposition of the matter by the Dean.

Section Two: Presentation to the Dean

A copy of all records, including any video or audio recording, shall be presented to the Dean with reasonable dispatch after the conclusion of the process. A failure of one or more justices to sign the record shall not of itself be deemed a material or fatal defect.

Section Three: Summary of Proceedings and Public Posting

A redacted copy of the summary made by the Chief Justice shall be placed in a file in the Honor Court or SBA Office. In the event of a finding of guilty, a second copy of the summary prepared by the Chief Justice shall be placed on the official SBA bulletin board and Honor Court website for a reasonable time. However, at no time shall a copy of the summary be placed on the bulletin board during pendency of any appeal or new hearing granted under Chapter Thirteen.

Section Four: Access to Records

Access to the official records, as enumerated in Chapter Fourteen, Section One, shall be made available to the Dean, the Honor Court Chief Justice, and the Honor Court Prosecutor. Any person accused of an Honor Code violation to which records relate may request copies of such records from the Chief Justice, which request shall be honored.

CHAPTER FIFTEEN – EXTRAORDINARY CIRCUMSTANCES

In the event of extraordinary circumstances and emergency conditions which make the processes for selection of members to conduct hearings pursuant to the provisions of Chapter Nine impossible or grossly impractical, the Chief Justice may adopt such alternative means of selection as may be necessary and which will accord to the accused substantial justice and procedural due process.

CHAPTER SIXTEEN – ADVISORY OPINIONS

Section One: Requesting an Advisory Opinion

The Honor Court may issue an advisory opinion *sua sponte* at any time. Additionally, the Honor Court shall render advisory opinions at the request of:

- (a) any SBA elected executive officer, senator, or group of senators;
- (b) members of the SBA Elections Committee;
- (c) any law school faculty member; or
- (d) petition from ten students of the Law School

Section Two: Procedure

Requests for Advisory Opinions should be written, signed by the all parties requesting the opinion, and delivered to the Chief Justice. Upon receipt of the request, the Chief Justice shall convene the Honor Court justices as soon as practicable to issue an advisory opinion. For the purpose of issuing an opinion under this Chapter, seven justices constitute a quorum and a simple majority is necessary to issue an advisory opinion. Any vacancies due to absence or recusal will be filled in the same manner as provided in Chapter Nine, Section Three.

Section Three: Issuing an Advisory Opinion

Following deliberations by the assembled court, the Chief Justice, or a justice designated by the Chief Justice, shall prepare a written advisory opinion to be signed by all the justices in the majority. Justices may issue concurring and dissenting opinions, which must also be signed. The advisory opinion, along with any concurring and dissenting opinions, shall be posted on the Honor Court bulletin board and website. Copies of the advisory opinion and accompanying opinions shall be delivered to the parties who requested the opinion and kept on reserve in the Law School library. The Chief Justice should also notify the Law School community.

Section Four: Applicability of Advisory Opinions

The advisory opinion shall be binding unless revoked by the Honor Court. Opinions can be revoked by a vote of two-thirds of the justices and should follow the same procedure as outlined in Sections One through Three of this Chapter.

CHAPTER SEVENTEEN – SUMMER PROCEEDINGS

Section One: Proceedings Involving a Non-Graduating Student

In the event a complaint is brought during the summer or late in the spring semester, the Prosecutor and Court will comply with the ordinary procedures as set forth in this Code, unless it is so impractical or inconvenient to either party as to preclude the possibility of a fair and impartial proceeding. In such instance, proceedings may be held at the beginning of the fall semester. The newly elected Honor Court will preside over all summer proceedings. In the event that there are an insufficient number of new Honor Court Justices available for the proceedings, the Chief Justice shall fill the vacancies by selecting rising second- and third-year students enrolled in summer classes.

Section Two: Proceedings Involving a Graduating Senior

If a graduating senior has been charged with an Honor Code violation, there shall be an investigation, Probable Cause Hearing, and Final Hearing within two weeks after graduation. The two-week time limitation for this procedure shall not apply to the extent that any delay is

caused solely by the accused. The outgoing Honor Court shall be the court to hear the case but in the event that the Chief Justice, Prosecutor, Defense Counsel or a sufficient number of justices are unavailable, then the vacancies shall be filled first by the newly elected Court and then by second and third year students enrolled in summer courses as chosen by the presiding Chief Justice. The Court will recommend to the Dean of the Law School that the senior's degree be withheld pending completion of these proceedings.

CHAPTER EIGHTEEN – DEFINITIONS

Wherever used in this Honor Code, the following terms shall have the following respective meanings:

- (a) "Honor Code" or "Code" means all provisions of this Document.
- (b) "Instructor" means any full, associate, assistant, adjunct or part-time professor, student proctor and instructor, practicing attorney conducting instructional programs, and any other person acting in a teaching capacity or in connection with any Law School Related Activity.
- (c) "Intent": An act, either of commission or omission, may be inferred to have occurred "knowingly", "intentionally" or "with intent" if done with such recklessness as to evidence as a conscious or wanton disregard for the consequences thereof.
- (d) "Law School" means the University of Alabama School of Law.
- (e) "Law School Related Activity" includes but is not limited to job interviews, functions organized by the Law School or any student organization established thereunder; and any activity in the Law School building or the immediately surrounding grounds.
- (f) "Lying, Cheating or Stealing" means all acts of the general nature described by the respective terms, as contained in Webster's Dictionary (3d ed.).
- (g) "Plagiarism" as defined by the Legal Writing Institute and as adopted by this Honor Code, is the "taking of the literary property of another, passing it off as one's own without appropriate attribution, and reaping from its use any benefit from an academic institution." Malicious or deceitful intent is not required to commit plagiarism. In light of course requirements, plagiarism may include any work submitted to a professor in a course for credit (regardless of whether the paper itself is graded) and may include work submitted as a draft as well as work submitted as a final product. Plagiarism may also occur in work submitted to other students as part of the requirements in a course for credit.
- (h) "Probable Cause" means a reasonable ground to suspect that a person has committed or is committing a violation.
- (i) "Student," "Students," and "Law Students" refer to all students admitted to and enrolled in the School of Law, including transferring, transient, auditing, visiting, or part-time students from any other school.
- (j) "Student Honor Court," also referred to as the "Honor Court" or "Court", means the court established pursuant to the provisions of Article VI of the Constitution of the Student Bar Association of the University of Alabama School of Law ("SBA Constitution").
- (k) "Student Honor Court Assistant Defense Counsel," also referred to as the "Assistant Defense Counsel," means the Student Bar Association Court Assistant Defense Counsel established pursuant to the provisions of Article VI, Section 8 of the SBA Constitution.

- (l) “Student Honor Court Assistant Prosecutor,” also referred to as the “Assistant Prosecutor,” means the Student Bar Association Court Assistant Prosecutor established pursuant to the provisions of Article VI, Section 6 of the SBA Constitution.
- (m) “Student Honor Court Defense Counsel,” also referred to as “Defense Counsel,” means the Student Bar Association Court Defense Counsel established pursuant to the provisions of Article VI, Section 7 of the SBA Constitution.
- (n) “Student Honor Court Prosecutor,” also referred to as the “Prosecutor,” means the Student Bar Association Court Prosecutor established pursuant to the provisions of Article VI, Section 5 of the SBA Constitution.
- (o) “Vice Dean” means the person holding the office of Vice Dean of the Law School. If at any time there is no position at the Law School of Vice Dean, the duties of the Vice Dean referred to in the Code shall be undertaken by the designate of the Dean of the Law School.

Approved by the Student Bar Association Senate and by the Law School Faculty, April 14, 1986. Amended by the Student Bar Association Senate, April 24, 2002. Amended by the Student Bar Association Senate, March 12, 2008. Amended by the Student Bar Association Senate, December 3, 2008. Amended by the Student Bar Association Senate, August 18, 2010.

Molly Murphy
SBA Secretary