

# The University of Mississippi

## School of Law Honor Code

The purpose of the Honor Code is to encourage professional and academic integrity at The University of Mississippi School of Law. Integrity itself maintains the legal profession. Academic integrity fosters common respect and accountability and is best implemented through rehabilitative efforts and enforcement. The nature and purpose of The University of Mississippi School of Law Honor Code is to allow students the greatest possible freedom in the pursuit of their studies without the necessity of supervision or proctoring by the faculty. It further purports to develop the highest possible professional standards of honesty, dependability, and absolute integrity in the student body in all matters pertaining to the law and to legal studies. Enrollment in The University of Mississippi School of Law constitutes a student's pledge that he or she will in all matters conduct himself or herself in accordance with the provisions herein stated.

### I. Definitions

- 1.1 "Dean" refers to the Dean of The University of Mississippi School of Law, or that person's designee.
- 1.2 "Honor Code" refers to The University of Mississippi School of Law Honor Code.
- 1.3 "Law School" or "School of Law" means The University of Mississippi School of Law.
- 1.4 "Notice" means written notice and includes e-mail messages.
- 1.5 "Probable cause" exists when all available information demonstrates a substantial likelihood that the accused committed a violation of the Honor Code. All information used for purposes of determining probable cause must be relevant and credible.
- 1.6 "Proceedings" include all communications, correspondence, evidence, witness statements, testimonies, verdicts, and voting counts from the time the violation is presented to the Honor Council to the time it is closed.
- 1.7 "Writing" includes written correspondence mailed to a student or an e-mail message sent to or from a student's email account.
- 1.8 "Chancellor" refers to the Chancellor of The University of Mississippi, or that person's designee.

### II. Honor Code: Generally

2.1 Duties of the Honor Council. The Honor Council shall implement the Honor Code, serve as the Judicial Branch of the Student Bar Association (SBA) and shall perform such other duties as are or may be set forth in this and other Sections of this Code as amended from time to time.

2.1(a) "Such other duties . . ." includes rendering judicial opinions to act as binding authority. See Section 6.2 of the Honor Code.

2.2 Strictest Interpretation of the Honor Code When Ambiguous. When a student obtains an ambiguous explanation of the Honor Code from a professor or syllabus in any class, particularly regarding class assignments and/or examinations, the student shall assume the Honor Code will follow the strictest interpretation with respect to that class.

2.3 Conduct Subject to the Honor Code. The Honor Code oversees all student conduct related in any way to the academic program. Conduct, when related to the academic program, includes, but is not limited to: examinations, course assignments, course attendance and other course responsibilities, written assignments and other written work, research papers and other research work, work outside the Law

School for academic credit or otherwise connected with a course, special projects, communication with other members of the academic community, web postings, Law Journals and Reviews, Moot Court and Advocacy Boards, and student organizations. Also, the Honor Code applies to all student behavior involving academic use of the Law School premises, including the library, computer and electronic resources, and Internet resources. Furthermore, the Honor Code remains in full force and effect during the summer and intersession periods in addition to visits to other law schools for academic purposes.

2.4 When the Honor Code Applies. The Honor Code applies to all students admitted to the Law School. It governs all behavior during a student's tenure at the Law School, beginning with the application for admission and continuing through graduation. Also, the Honor Code applies to law students enrolled in courses, programs, and activities sponsored or co-sponsored by the Law School, including those for which a student receives academic credit.

2.5 First Year Orientation. The Honor Council Chair or a representative shall speak during orientation to each incoming First Year class regarding the Honor Code. This discussion will occur both at the First Year orientation for the summer semester and again at the First Year orientation for fall semester.

2.5(a) The Honor Council will assume that each individual student undertakes the responsibility to understand the Honor Code's rules and procedures after receiving the information set forth by the Honor Council Chair or representative during the Honor Code discussion at orientation.

(1) Any violations regarding First Year students who begin studies in the summer are to be reported directly to the Honor Council Chair.

2.6 Changing or Amending the Honor Code. Grammatical and procedural changes or amendments to the Honor Code shall be made by majority vote of the Honor Council. All substantive changes to the Honor Code shall be made by referendum vote of the student body per the process outlined by the University of Mississippi School of Law SBA Constitution. The faculty also has the authority to create binding addendums to the Honor Code in the form of a faculty resolution.

2.6(a) If any changes or amendments are made to the Honor Code, the Honor Council Chair must either e-mail an electronic copy or disperse printed copies of the amended Code or amended provision to the student body within 30 days of the vote by the Honor Council.

### **III. Honor Code Violations & Penalties**

#### *A. Violations*

3.1 Expectation of Honesty and Fairness. Honesty and fairness are essential elements of the academic environment of the Law School. Any action, which is contrary to these standards, is subject to academic discipline. Advertent and inadvertent violations of the Honor Code are subject to academic discipline. This Section outlines, but does not limit, conduct which is clearly in violation of standards of honesty and fairness or which purposefully damages the academic environment.

3.2 Categories of Conduct Subject to Academic Discipline. Academic dishonesty includes, but is not limited to the following categories of behavior:

3.2(a) Plagiarism. "Plagiarism" means a student's presentation of another's work or ideas, published or unpublished, as the student's own. A student who plagiarizes is subject to academic discipline. This provision is not limited to published material, material in the public domain, or material that is academic in content.

(1) A student commits plagiarism if the student does one or more of the following:

(i) Uses another's words verbatim and without using quotation marks,

(ii) Uses another's words without quotation marks and without significantly rephrasing the passage in the student's own words, or

(iii) Uses another's ideas in a dishonest or misleading manner.

(A) This includes but is not limited to: paraphrasing without explicitly citing the original source of the material, paraphrasing the work of another student, or copying answers to test questions.

(2) A student does not commit plagiarism if:

(i) The student uses words or ideas that constitute common knowledge, either generally in the legal community or for the specific audience to whom the student presents those words or ideas,

(ii) On a closed-book exam, the student uses words or ideas presented during the same course, or

(iii) In a clinical or externship setting, the student uses forms or standardized pleadings, with the supervising attorney's permission, in conformity with best legal practices, and in a manner that upholds applicable standards of professional ethics.

(3) Each professor may provide written guidance (either for that professor's given assignment, exam, or entire course) altering the application of the standards for plagiarism described in this statement. For an assignment other than a closed-book exam, the professor should give consideration to whether the rules, analysis and ideas presented in class constitute common knowledge.

(4) Principles of good research and writing, other than concern over plagiarism, may also compel a student to quote and/or provide a citation. Quoting and citing often indicate the quality and depth of research; further, they demonstrate authoritativeness. Accordingly, even if a student avoids plagiarism, the absence of quotation marks and citation may constitute a violation of the Honor Code.

(5) This provision provides a general definition for plagiarism. The facts and circumstances surrounding each class, assignment, or academic venture will necessarily be unique in nature. Whether an act constitutes plagiarism under this provision will be dependent on the policies established, guidelines provided, and expectations held by the relevant department, professor, or organization. The nature of an assignment, the instructions given, and the extent and manner of reliance on the ideas or work will all be taken into consideration. When in doubt, students are responsible for consulting applicable policy statements, professors, faculty, and organization leaders to clarify whether particular conduct constitutes plagiarism.

(i) The standards for plagiarism described in this statement apply to all law school activities, including: course work, both work submitted by the student for a grade and other work presented by the student during a course; open-book, take-home exams (absent written guidance from the professor otherwise); clinical activities and externships; research externships; research assistantships; co-curricular activities, including Law Journals and Reviews, Moot Court and Advocacy Boards; and other law school activities.

3.2(b) Misrepresentation. A student who improperly presents information or work of another as his or her own is subject to academic discipline. This includes but is not limited to: engaging another person to take a test or complete an assignment in his or her stead, inaccurately representing that functions or classes were attended, altering answers to test questions, altering grade report forms or class rolls, knowingly or recklessly compromising the integrity of the blind grading system, or altering, falsifying, or misusing any law school documents in any way. A student who improperly presents information, misrepresents him or herself, or fails to disclose

required information on his or her law school application for admission is also subject to academic discipline under this provision.

(1) A student commits misrepresentation under Section 3.2(b) when he or she signs a class attendance roll sheet for another student, regardless of whether the other student is actually, physically present. To clarify, it is misrepresentation under Section 3.2(b) for a student to sign a document for a class, clinic, etc., on behalf of another student.

3.2(c) Unauthorized Assistance or Collaboration. A student who gives or receives assistance on an examination, course work, or other academic exercise without the express prior authorization of the relevant instructor is subject to academic discipline. Students are responsible for knowing when collaboration is permissible. When in doubt, students are responsible for consulting applicable policy statements, professors, faculty, and organization leaders to clarify whether particular conduct constitutes plagiarism.

(1) Although the procedures for collaborative work may differ from course to course, there are frequent limitations to the extent that students may share information. Faculty members are encouraged to be as clear as possible about when collaboration is permitted and about what work must be completed independently. It is beneficial when these expectations are communicated in writing, especially in the course syllabus or when requested by students.

(2) A student commits unauthorized collaboration under Section 3.2(c) when, with prior knowledge, the student receives an academic benefit from another student and does not attempt to prevent the benefit, which is not permitted by the professor, clinic director, instructor, et cetera. A student receives unauthorized assistance under Section 3.2(c) when, with knowledge after the fact, the student receives an academic benefit from another student and does not attempt to correct or rectify the benefit, which is not permitted by the professor, clinic director, instructor, etc.

3.2(d) Cheating. A student that uses unauthorized sources or material is subject to academic discipline. This includes, but is not limited to, the use of unauthorized electronic sources or exam software in connection with an examination or other academic assignment, accessing prohibited materials during an examination, and the use of "Bluebooks" in which information has previously been entered during a "closed book" examination. Students who engage in misrepresentation, prohibited collaboration, or plagiarism during a Law School organization competition are also subject to academic discipline. This list is not exhaustive and a course professor or organization may impose broader prohibitions or define these limitations in greater detail.

(i) Conspiracy to cheat, engage in misrepresentation, plagiarize, or improperly collaborate also constitutes cheating under this provision.

(ii) Other violations include, but are not limited to, accessing computer files, breaking or entering a locked or unoccupied office; using reference materials which have not been allowed by the instructor; using handwritten or printed notes during a "closed book" or "closed notes" test, quiz, or assignment; stealing or hiding books or other materials from or in the library or other facilities; removing pages from library books or journals; and/or employing bribery, intimidation or harassment in an attempt to gain unfair advantage. Students are permitted to use study supplements such as hornbooks, "E & Es," treatises, etc. while studying in an effort to understand the course and/or prepare for a course's examination, unless the professor specifically prohibits using a certain study supplement.

**3.3 Disorderly Behavior.** Because it disrupts the academic environment, disruptive and disorderly behavior violates the standard of fair access to the academic experience. Disruptive behavior in violation of the Honor Code includes, but is not limited to, the following categories of behavior:

3.3(a) Purposeful acts. Purposeful acts include, but are not limited to, repeatedly shouting to, and inappropriately interrupting a seminar or visited speaker, purposely voting in a voting election ballot that the student knows does not correspond with his or her fall semester classification.

3.3(b) Harassment. Harassment includes, but is is not limited to, physically or verbally harassing an instructor, speaker, or fellow student, or engaging in any type of disruptive behavior in the classroom setting that interferes with the ability of the professor to teach or other students to learn.

3.3(c) Facilities. A student who purposefully harms the facilities that support the academic environment should be subject to academic discipline. Damage to books, equipment, computers and other facilities violates the standard of fair access to the academic experience. This also includes making copies of academic materials when restricted or seizing materials without necessary approval or compliance with standard procedure.

3.4 Violations Are Not Limited to the Areas and Categories Given. The academic discipline procedure may be invoked whenever the principles of honesty and fairness are violated and/or the facilities that support the academic environment harmed. The categories in Sections 3.2 and 3.3 are illustrative only (it is impossible to delineate or cite every possible violation), and any act, which violates the principles of honesty and fairness or harms the academic environment, may be subjected to academic discipline. For example, some acts, such as sabotage of another student's work or sabotage of an instructor's record, may not fall neatly into any one (1) of the areas listed above but are subject to academic discipline if they adversely affect the Law School's academic environment.

### 3.5 Parties in Violation of the Honor Code.

3.5(a) Students Who Knowingly Allow Someone Else to Represent His or Her Work as His or Her Own. The violations described in the preceding subsections apply to students who knowingly allow someone else to represent his or her work as his or her own, including:

- (1) A person who does the work and the person who improperly represents that work as his or her own.
- (2) A person who knowingly assists another person in improperly representing work is also subject to academic discipline.
- (3) A person who knowingly collaborates with or assists another where such collaborations or assistance is impermissible.

3.5(b) Students Who Gain or Attempt to Gain an Unfair Advantage. Students who violate the Law School's standards of honesty as listed in Sections 3.1, 3.2, and 3.6 with penalties include cheating in any form, including but not limited to, possession of or an attempt to gain possession of a test prior to it being given. This does not imply that one must be successful in obtaining a copy of the test or assignment to be in violation of this Subsection.

3.6 Duty to Report Violation. When a student has a good reason to believe another student has violated the Honor Code, he or she shall inform a member of the Investigation Committee or the Honor Council Chair. So important is the function of the student in implementing the Honor Code that his or her duty to report violations is considered as fully obligatory as is the duty to refrain from violating the Honor Code.

3.6(a) The failure to report any occurrence of academic dishonesty in a reasonably timely manner is a violation of the Honor Code. The phrase "reasonably timely manner" shall not be further defined by any specific time limitation or specific legal expectation or definition. Instead, the expectation and definition of the phrase "reasonably timely manner" shall be solely construed by the Honor Council in a case-by-case determination, fully considering and incorporating the specific facts of each and every individual reported violation.

## *B. Penalties*

3.7 Penalties. Upon finding a student guilty of violating the Honor Code, or upon entering into an Alternative Agreement with a student, the Hearing Panel shall impose an appropriate penalty, which may include expulsion, suspension, or penalties of a lesser nature. Determination of such penalties shall be based on a tiered system, which ranks the severity of violations and imposes sanctions approved by the Dean under each level. Penalties imposed by the Honor Council are completely separate from penalties imposed by a professor or organization of the Law School. Consistent with the Law School's responsibility to the legal profession and to the community, all sanctions resulting from Honor Code violations shall be noted on the official transcript of the student sanctioned and shall be made available to Bar officials. The tiered system is defined below by dividing penalties into categories of primary and secondary penalties. The tiered system's guidelines are advisory, and the Honor Council is authorized to depart from these guidelines when appropriate. The Honor Council shall take into consideration the quantity of offenses or type of offense when calculating appropriate penalty.

3.7(a) Primary or Maximum Penalties include and apply, but are not limited to, the mentioned offenses:

- (1) Expulsion is applicable to acts such as plagiarism, improper collaboration, misrepresentation, and various forms of cheating; or
- (2) Suspension for one (1) or more semesters.

3.7(b) Secondary or Minimum Penalties include and apply, but are not limited to, the mentioned offenses:

- (1) Letter placed in student's file;
- (2) Private reprimand;
- (3) Report by the law school to all Bars in which the offender will be sitting; or
- (4) Recommendation by the Law School to the appropriate Bar Association(s) to delay the offender's right to practice after he or she passes the Bar.

3.7(c) When deemed appropriate, a report or e-mail will be sent by the Honor Council Chair to the student body and faculty of the amount of reported violations and the type of violation. Due to the circumstances regarding certain violations, giving those who are guilty time to develop a strategy or destroy evidence may impair investigations. Therefore, the report will not be submitted until after a probable cause investigation has taken place, or potentially after a Hearing has been completed.

3.8 Rehabilitation. The Honor Council's goal in administering penalties is to rehabilitate the Law School's students to prepare them for admission to a Bar and to the legal profession.

3.9 Grades. The Honor Council shall have no authority to set grades. Grades shall be the exclusive domain of the faculty, and review of grades shall be via the grade appeal procedure in effect at the time. Students should be aware that assignment of an accused student's grade would generally be delayed until disposition of an Honor Council proceeding. The Dean of Students will submit the accused student's name and course in question to the Law School's Registrar.

## **IV. Honor Council**

### *A. Composition*

4.1 Honor Council Members. The Honor Council shall be composed of the Honor Council Chair and nine (9) student members, plus a Faculty Advisor approved by the Honor Council upon agreement or majority vote.

4.2 Honor Council Chair. The Honor Council Chair, who must be from the rising Third Year class, shall be elected by the entire student body at the end of the spring semester each year by following election procedures delineated by the SBA. The Honor Council Chair shall serve a term of one (1) year or until he or she ceases to be a regular student, if such event occurs before expiration of one (1) year. The Honor Council Chair shall be in good standing. In order to be in "good standing" for this purpose, a student must not be on academic probation and must not be the subject of any previous Honor Code sanction.

4.3 Class Representatives. Three (3) students in good standing shall be elected from the First Year class at the beginning of the fall semester each year; three (3) students in good standing from the rising Second Year classes and three (3) students in good standing from the rising Third Year class shall be elected during the spring semester each year. These Honor Council class representative elections shall follow the election procedures delineated by the SBA. All nine (9) Honor Council representatives shall serve for the fall and spring semesters or until he or she ceases to be a regular student, if such event occurs before expiration of the term of office. In order to be in "good standing" for this purpose, a student must not be on academic probation and must not be the subject of any previous Honor Code sanction.

4.4 Faculty Advisor. The Faculty Advisor of the Honor Council shall be appointed at the discretion of the Honor Council and shall serve for the entire school year until a new Honor Council and Honor Council Chair are elected. The Honor Council will nominate faculty members and select a Faculty Advisor by majority vote or by agreement amongst the Honor Council. After selecting a Faculty Advisor, the Honor Council Chair will present the Honor Council's decision to the individual faculty member. The faculty member may either accept or decline the Honor Council's request. If the member declines, the Honor Council will select another faculty member.

4.4(a) Except as noted to the contrary in the Honor Code, the Honor Council's Faculty Advisor, shall be present in the proceedings and deliberations of the Honor Council's Hearing Panel but shall not have voting power, pursuant to Section 5.14(a). In the event that the Faculty Advisor is disqualified from participation in a particular proceeding under Section 4.11, the Honor Council shall choose a substitute Faculty Advisor. The Honor Council shall confer with the Dean in regards to the substituted Faculty Advisor, to serve in place of the disqualified Faculty Advisor for purposes of such proceeding.

4.5 Transitioning Positions. The outgoing Honor Council Chair shall properly transition the incoming Honor Council Chair before the upcoming fall semester.

4.6 Member Vacancies. Should a vacancy in the Honor Council occur, the un-expired term shall be filled by a special election held within thirty (30) days of the vacancy. The special election shall follow the same guidelines and procedures as the regular election. Should the circumstances require an immediate replacement, the Honor Council may bypass the special election by following the process delineated in Section 4.12. This bypass shall occur at the discretion of the Honor Council Chair and Faculty Advisor, and the temporary replacement shall only remain as long as necessary to complete the investigation, Evidentiary Hearing, or other circumstance that necessitates such time sensitive action.

### *B. Investigation Committee*

4.7 Timing of Investigations. Investigations may commence at any time, beginning with a student's law school application and continuing until a student graduates or after the student finishes a course or program if the conduct at issue occurs before the student graduates. If an Honor Code investigation is

pending when a student is scheduled to graduate, the student's degree may be withheld until the matter is resolved.

4.8 Investigation Committee Members. The Honor Council Chair shall designate three (3) members of the Honor Council, prior to, or at the beginning of the fall and summer terms: one (1) from the Third Year class, and one (1) from the Second Year class, and one (1) member from the First Year class after the First Year members are elected when the fall semester commences to serve as the Honor Council Investigation Committee for the entire school year. The names of the members and year and contact information shall be posted on the Law School's Web site and in the Honor Council office. The Investigation Committee designated for the summer term shall continue to serve until a new Investigation Committee is designated for the fall and spring semesters.

4.8(a) The Honor Council Chair shall appoint a Second Year or Third Year class member as the Investigation Committee Chair. The Investigation Committee Chair shall also act as the representative from his or her class.

4.8(b) The Attorney General and each member of the Investigation Committee will be required to sign an oath, kept by the Honor Council Chair, which states that the members will act in a manner of complete impartiality and confidentiality in their Honor Council duties.

4.8(c) Three (3) Honor Council members are required to comprise the Investigation Committee. Since the First Year Honor Council members are not elected until the start of the fall semester, the process for selecting a short-term representative for the summer term should be determined by the Honor Council Chair, Investigation Committee Chair, and Faculty Advisor. In a situation where a violation is brought during the Summer Term, the mentioned parties will determine the proper method for selecting a student to tentatively fill the open position of the First Year Representative on the Investigation Committee.

### *C. Hearing Panel*

4.9 Purpose of the Hearing Panel. The Hearing Panel acts as the voting body in the procedures that follow a finding of probable cause. The Hearing Panel's role and responsibilities are not to be confused with the role and responsibilities of the Faculty Hearing Panel Review Committee.

4.10 Hearing Panel Members. The Hearing Panel shall consist of the Honor Council Chair and those Honor Council members not serving on the Investigation Committee. The Attorney General shall present the case to the Hearing Panel at the Evidentiary Hearing.

4.10(a) Each member of the Hearing Panel is required to sign an oath, kept by the Honor Council Chair, which states that the members will act in a manner of complete impartiality and confidentiality in their Honor Council duties.

4.10(b) If a Hearing Panel member is not eligible to vote, or is unavailable to vote, due to conflicts of interest or other pertinent reasons, a replacement will be selected by following the process delineated in Section 4.12.

### *D. Honor Council Member Recusal*

4.11 Recusal due to Partiality. A member of the Honor Council shall recuse himself or herself, or be recused by the Honor Council Chair, in a proceeding in which his or her impartiality might reasonably be questioned, including but not limited to, instances where:

4.11(a) He or she has a personal bias or prejudice concerning the accused, or personal knowledge of disputed evidentiary facts concerning the proceeding; or

4.11(b) He or she or his or her spouse, or a person within the third degree of relationship (calculated according to the civil law system) or either of them:

- (1) is the accused;
- (2) is acting as a lawyer or representative in the proceeding;
- (3) is known by the member to have an interest:
  - (i) that could be substantially affected by the outcome of the proceeding; or
  - (ii) is to the member's knowledge likely to be a material witness in the proceeding.

4.12 Proceedings After Recusal. A member who recuses himself or herself shall not participate in proceedings after such recusal and shall not vote on findings of probable cause or guilt.

4.12(a) Investigation Committee Member Recusal. In the event of recusal of a member of the Investigation Committee, a member of the Hearing Panel shall replace the Investigation Committee member, and the Hearing Panel member shall be replaced by the process delineated in Section 4.12(b).

4.12(b) Hearing Panel Member Recusal. In the event of recusal of a member of the Hearing Panel, the Honor Council Chair shall appoint a law student in “good standing” as defined in Section 4.3 to vote in place of said absent Hearing Panel member. This replacement Hearing Panel member shall be approved by the Faculty Advisor and by majority vote of the non-recused Honor Council members.

(1) The replacement Hearing Panel member shall sign an oath of impartiality and confidentiality as specified by Section 4.10(a).

(2) In the event of a recusal of multiple members of the Hearing Panel, replacement Hearing Panel voting members shall be appointed in the process delineated in Section 4.12(b).

4.12(c) Faculty Advisor Recusal. In the event of recusal of the Faculty Advisor, a new Faculty Advisor shall be chosen by the Honor Council based on the procedure in Section 4.4.

## **V. The Process**

### *A. Reporting a Violation*

5.1 Report. Alleged violations of the Honor Code shall be reported to a member of the Honor Council or to the Honor Council Chair. The individual who reports a violation shall remain anonymous to the accused throughout the entirety of the Investigation Committee process. The individual who reported the violation shall testify at proceedings that follow the Investigation Committee’s investigation. Detailed instructions on how to file a Violation Report may be accessed through the Law School’s website.

5.2 Notice of Investigation. The Investigation Committee shall initiate an investigation into the alleged violation or offense. The Investigation Committee shall, in writing, notify the student accused of a violation that an investigation is being conducted. This Notice of Investigation shall inform the accused student that the investigation will be conducted with the utmost discretion and confidentiality, and will include a general statement of the accusation, but the Notice of Investigation shall not state any specific details of the alleged violation, the Violation Report, or reference to whom reported the violation.

5.2(a) The Investigation Committee may inform the Attorney General that an investigation is being conducted, but shall not disclose any details of the alleged violation or the identities of the involved parties.

5.3 Determining Probable Cause. Upon completion of the investigation, the members of the Investigation Committee shall meet in private to evaluate the information they have gathered and determine whether there is probable cause to believe that a violation of the Honor Code occurred. The finding of probable

cause shall be based upon a majority vote of the Investigation Committee members that such probable cause exists. The Investigation Committee Chair shall submit the Investigation Committee's decision to the Honor Council Chair. Absent unusual circumstances, the Investigation Committee shall determine whether probable cause exists within two (2) weeks of the Notice of Investigation.

5.3(a) "Unusual circumstances" includes but is not limited to:

- (1) in the situation where a violation is brought within seven (7) days before fall, winter, spring or summer Break,
- (2) in the situation where a large number of witnesses are necessary to interview, or
- (3) in the situation an investigating member or the accused experience:
  - (i) a death in the family, or
  - (ii) a medical emergency, or
- (4) in the situation where a member of the Investigation Committee is unavailable.

5.3(b) The accused shall not be informed of the details of the allegations until the case is closed due to lack of probable cause, or until receiving a Notice of Charges if probable cause is found. A copy of this Notice of Charges shall be given to the Honor Council Chair, the Faculty Advisor, and the Dean. The Honor Council Chair shall place a copy of the Notice of Charges in the accused's Honor Council file. No one except for the Honor Council Chair and the Dean shall have access to the individual's stored files once the case is closed. This Section shall be read in accordance to Sections 5.18 and 5.19.

5.4 Procedure Upon Finding Probable Cause. Upon a finding of probable cause the Investigation Committee should turn over the case to the Attorney General. The Attorney General and the Honor Council Chair shall schedule an Evidentiary Hearing in accordance with Section 5.7 (*But see* Sections 5.9 and 5.10).

5.4(a) "Turning the case over" means the Investigation Committee's duties are dispelled upon finding probable cause. The Investigation Committee may meet with the Attorney General to discuss their finding of probable cause, as well as the contents of the Investigation Report.

5.4(b) Following the Investigative Committee's finding of probable cause, the Investigation Committee Chair is required to draft and submit an Investigation Report to the Dean, the Faculty Advisor, the Attorney General, and the Honor Council Chair explaining why probable cause was found. The Investigation Committee Chair, pursuant to his or her discretion, may provide additional explanation or request a certain cause of action in regards to the Investigation Committee's decision. The violated Honor Code provision(s) shall be included in the Investigation Report. The Investigation Committee Chair is required to send the accused a separate letter that states probable cause was found and may also notify the accused by phone. However, the Investigation Committee Chair does not have the authority to discuss the details of the Investigation Committee's session(s) or the contents of the Investigation Report with the accused. This provision also acts in accordance with Sections 5.7 and 5.8.

5.5 Procedure Upon Finding Lack of Probable Cause. If the members of the Investigation Committee find that there is not probable cause of an Honor Code violation, the Investigation Committee shall notify the Honor Council Chair. The Honor Council Chair shall promptly notify, in writing, the accused student, the Dean, and the Faculty Advisor that no probable cause was found to suspect that a violation of the Honor Code occurred. The Investigation Committee's duties are dispelled upon finding lack of probable cause.

5.6 Confidentiality. Neither the Honor Council nor the Attorney General shall disclose any of the matters which transpired before them, and they shall conduct their affairs with the utmost discretion and confidentiality.

### *B. Notice to the Accused*

5.7 Notice of Charges. Upon receipt of the Investigation Report from the Investigation Committee Chair, the Honor Council Chair shall notify the accused of his or her rights and of the date, time, and place for the Evidentiary Hearing. The Hearing shall take place no less than ten (10) business days from the date the accused receives Notice of Charges. The Honor Council Chair, upon reasonable request from the accused, shall grant a continuance and shall reschedule the Hearing for a mutually convenient time to occur no more than twenty (20) business days from the date the accused receives notice.

5.8 Notice Content. Notice of Charges to the accused shall contain a statement of the specific charge(s) and the grounds, which, if proven, would justify penalty under the Honor Code system. The Honor Council Chair shall present to the accused any statements of the interested parties and witnesses submitted by the Attorney General.

5.8(a) If probable cause is found and the case proceeds to an Evidentiary Hearing, the accused and his or her optional representation pursuant to Section 5.13 may have access to evidence that the Investigation Committee reviewed and considered.

### *C. Alternative Agreement*

5.9 Alternative Agreement. The Alternative Agreement process is a substitute to the Evidentiary Hearing for accused students who acknowledge responsibility for the alleged violations against them.

5.10 Process. If the Investigation Committee finds probable cause of an Honor Code violation, the accused may enter an Alternative Agreement and thereby eliminate the need for a full Evidentiary Hearing.

5.10(a) The accused may only enter an Alternative Agreement if he or she admits guilt of the alleged Honor Code violation(s) by submitting a formal written statement to the Honor Council Chair and to the Attorney General. This statement shall be put in the accused's Honor Council file, as well as their student file maintained by the Law School.

5.10(b) Whether the accused is eligible to enter an Alternative Agreement shall be at the discretion of the Honor Council Chair, Attorney General, Investigation Committee Chair, and Faculty Advisor.

(1) The Honor Council Chair, Attorney General, Investigation Committee Chair, and Faculty Advisor, in determining whether to grant the Alternative Agreement, shall consult faculty member(s) with any role in the Honor Code violation process, including but not limited to the professor of the subject class and the faculty member who is the accuser.

(2) The Honor Council Chair, Attorney General, Investigation Committee Chair, and Faculty Advisor may consider the egregiousness of the violation when determining whether the accused is eligible to enter an Alternative Agreement.

5.10(c) If the accused is allowed to proceed with the Alternative Agreement process, he or she shall agree to and sign a written Alternative Agreement outlining the penalties and rehabilitative procedures determined according to Section 5.15. If the accused is not allowed to proceed with the Alternative Agreement process, he or she shall proceed to the Evidentiary Hearing process.

### *D. Evidentiary Hearing*

5.11 Closed Hearing. On the day designated by the Honor Council Chair, the Hearing Panel shall conduct an Evidentiary Hearing presided over by the Honor Council Chair. The Evidentiary Hearing shall be closed unless the accused requests in writing for it to be open.

5.12 Testimonies and Oral Arguments. During the Evidentiary Hearing, the accused and witnesses shall be called to testify and shall be questioned by the Hearing Panel and the Attorney General. Similarly, the

accused may call witnesses and examine them, as well as cross-examine witnesses called by the Attorney General. The accused and the Attorney General have the right to make opening and closing statements and to present oral arguments.

**5.13 Optional Representation.** The accused may, at his or her own expense, be represented by an attorney or another representative during the Evidentiary Hearing before the Hearing Panel and throughout the academic disciplinary process, including appeals. The role of the attorney or representative is advisory only; he or she will not be permitted to make opening and closing statements, present arguments, question witnesses, or otherwise speak on behalf of, or advocate for, the accused. Neither the accused nor his or her attorney or representative shall have any right to be present during deliberations by the Investigation Committee, Hearing Panel, or other body. This provision shall comply with the specific filing and record destruction standards provided in Section 5.15 and 5.16.

**5.14 Closed Vote by the Hearing Panel.** Upon completion of the Evidentiary Hearing before the Hearing Panel, the Hearing Panel shall retire in closed sessions to consider the innocence or guilt of the accused. The Attorney General shall not be present, participate, or vote in these deliberations. The Honor Council shall then vote in an en banc proceeding with all initial voting student members or those appointed to serve as voting members according to Section 4.10.

5.14(a) The Honor Council's Faculty Advisor is required to be present in all Hearing Panel deliberations that result from an Evidentiary Hearing, but he or she shall not vote. A guilty verdict shall be found by the six (6) voting members (six student voting members) of the Hearing Panel upon a vote of at least four (4) to two (2). In the event of a tie amongst Hearing Panel members, the Honor Council Chair shall participate in the vote as a tiebreaker. The burden of proof shall be clear and convincing evidence. This burden shall rest with the Attorney General and shall not shift to the accused at any time.

#### *D. Determining Penalties*

**5.15 Alternative Agreement Penalties.** Should the accused admit guilt through the Alternative Agreement process, the Hearing Panel shall then determine the appropriate penalty or penalties based upon a majority vote of the Hearing Panel members. The latitude of penalty or penalties will be determined on a factual basis according to Honor Council precedent and administrative procedures. Section 3.7 provides the tiered system of penalties. In determining penalty or penalties, the Honor Council may take into consideration the accused's cooperation with the Honor Council and Attorney General.

**5.16 Evidentiary Hearing Penalties.** Should a guilty verdict be rendered after a full Evidentiary Hearing, the Hearing Panel shall then determine the appropriate penalty or penalties based upon a majority vote of the Hearing Panel members. The latitude of penalty or penalties will be determined on a factual basis according to Honor Council precedent and administrative procedures. Section 3.7 provides the tiered system of penalties.

**5.17 Hearing Panel Findings.** The accused shall be notified of the Hearing Panel's findings after the Hearing Panel reaches the decision(s) of innocence or guilt and the penalty or penalties under Sections 5.15 and 5.16. A written decision shall be given to the accused student within four (4) academic days of the completion of the Evidentiary Hearing. The written decision shall contain findings of fact, conclusions, and an explanation of the Hearing Panel's basis for action(s), including the Hearing Panel's penalty or sanction. A copy of the written decision shall be given to the Dean and to the instructor for the course in which the violation occurred, as well as to the accused student. The written decision may be further published into the judicial opinions of the Hearing Panel in accordance with Section 6.2. The Hearing Panel may, of its own accord and in the interest of justice, grant a new Hearing.

5.17(a) The Honor Council reserves the right to render a judicial opinion on the particular issue, excluding the specific party's name, in order to establish precedent or guidance for similar situations. Every case may be an opportunity to establish governing law, especially in accordance with policy concerns of the student body.

#### *E. Records*

5.18 Destruction of Records if Found Innocent. Should the accused be found innocent, the tape(s) and any transcript(s) of the Evidentiary Hearing shall be destroyed at the completion of the Hearing.

5.18(a) The Honor Council Chair is responsible for destroying records of those who are innocent within forty-eight (48) hours of the party's graduation from Law School. A follow-up letter written by the Honor Council Chair should be sent to the innocent for his or her records to ensure discretion. The Law School's Dean of Students will ensure and enforce record destruction.

5.19 Storage of Records if Found Guilty. Should the accused be found guilty, the Honor Council Chair shall seal and deliver the tape(s) and any transcript(s) of the Evidentiary Hearing to the Dean's office. The tape(s) and any transcript(s) shall not be opened, except in the event of a rehearing or for necessary examination by the Dean in the event of an appeal to the Dean by the accused. The tape(s) and any transcript(s) may, be opened for reproduction by the accused in the event that he or she appeals the Hearing Panel's decision to the Dean and the Faculty Hearing Panel Review Committee. Similarly, the accused may, at his or her expense, have a transcript of the Evidentiary Hearing prepared from the tape(s) or other record(s) of the Hearing.

#### *F. Appeals*

5.20 Faculty Hearing Panel Review Committee. The accused may appeal the decision of the Hearing Panel to the Dean for review by the Faculty Hearing Panel Review Committee. The Faculty Hearing Panel Review Committee should be comprised of three (3) faculty members appointed by the Dean and one recommended by the student members of the Honor Council, and approved by the Dean. The Dean shall publish the list of Faculty Hearing Panel Review Committee members to the Honor Council at the beginning of every fall semester.

5.20(a) The entire Honor Council by majority vote shall submit a recommendation for one individual faculty member to serve on the Faculty Hearing Panel Review Committee.

5.20(b) Any appeal must be filed with the Dean within ten (10) working days of the accused's receipt of the Hearing Panel's written decision. This appeal is on the record. It is not a de novo proceeding and the accused, but not his or her counsel or representative, may present oral arguments to the Dean and the Faculty Hearing Panel Review Committee, or may present in writing, the specific reasons for appeal if he or she does not wish to make oral arguments.

5.21 Appeals Process. In the event of an appeal by the accused, the Dean shall promptly have the Faculty Hearing Panel Review Committee assess the record of the Hearing Panel's Evidentiary Hearing and render a written decision affirming, modifying, or reversing the Hearing Panel's action, including the Hearing Panel's recommendation of the penalty or sanction. The Faculty Hearing Panel Review Committee also has the authority to remand the matter to the Hearing Panel for a rehearing or for additional proceedings. The Dean shall adopt the Faculty Hearing Panel Review Committee's decision. (See Section 5.20).

5.22 Appealing the Faculty Hearing Panel Review Committee Decision. The decision of the Faculty Hearing Panel Review Committee and the Dean is final except in cases in which the penalty is expulsion or suspension. In those cases, the accused may, in writing, seek review from the Chancellor within five (5)

working days of his or her receipt of the Faculty Hearing Panel Review Committee's written decision. If the accused desires to appeal the Chancellor's decision in cases involving dismissal or suspension, he or she may request a review of his or her case by the Mississippi Board of Trustees of State Institutions of Higher Learning by submitting a written application for review to the Board within thirty (30) days of his or her receipt of the Chancellor's written decision. Such appeal will be in accordance with the rules and regulations of the Board.

#### *G. Timing*

5.23 Reasonably Expedient and Timely Manner. The Honor Council shall resolve charges brought in a reasonably expedient and timely manner. A reasonably expedient and timely manner shall not require the Hearing Panel to assemble, meet or deliberate during the break following fall semester or any vacation period during the regular school year. The Honor Council elected for the upcoming academic year will handle charges that arise during the last part of the spring semester. This Section may act in accordance with Section 4.8(c).

### **VI. Constitutional Question**

6.1 Jurisdiction. The Honor Council shall have jurisdiction over any dispute arising under this Honor Code.

6.2 Judicial Opinions. The Honor Council may offer judicial opinions regarding interpretation of the Honor Code. These opinions shall act as a common law body of precedent and serve as an interpretive guide for future decisions of the Honor Council.

6.2(a) The Honor Council shall document its judicial opinions and make the opinions available to the student body. The judicial opinions shall protect the confidentiality of all parties involved.

6.2(b) Opinions may be issued upon the completion of a probable cause determination or as a result of an investigation. The Honor Council reserves the right to further issue judicial opinions that will act as common law upon the student body concerning issues that the Honor Council feels are significant yet not fully detailed in this Honor Code. It is within the discretion of the Honor Council as to when such opinions will be rendered. All judicial opinions will be available online as well as distributed to the student body via email.