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# ***STUDENT HANDBOOK***

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**2024-2025**

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UNIVERSITY OF MONTANA

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This Student Handbook compiles basic information important to law students. The Alexander Blewett III School of Law holds law students responsible for the material in this handbook. Please refer to the handbook when you have questions about any law school matters. Note that you will be notified of any changes made to the handbook during the academic year. The handbook will be published on the Law Student Information on Canvas and accessible via the law school's website.

The Blewett School of Law reserves the right to change at any time its regulations respecting admission, continuance, and graduation. It also reserves the right to change other policies set forth in the Student Handbook.

#### I. [Mission Statement of the Alexander Blewett III School of Law](#)

The Alexander Blewett III School of Law prepares students for the people-oriented practice of law by integrating theory and practice in a competency-based curriculum; serves as the academic legal center in Montana; and contributes to the development of national, state, and tribal law and legal institutions through teaching, scholarship, and service.

In pursuit of this mission, the Blewett School of Law strives to:

- develop in its students the demonstrated ability to serve society as lawyers, to represent clients generally and in particular transactions, and to seek resolution of conflicts in appropriate forums;
- foster intellectual inquiry, knowledge of the law, fundamental professional skills, perspective on the role of law and lawyers in society, and the character and values necessary to serve society;
- support scholarship and provide professional service to Montana, tribal governments and communities, the nation, and the international community;
- emphasize those areas of law significant to the Rocky Mountain West, including natural resources, environmental, and Indian law; and
- promote among students, faculty, and the profession a sense of community enriched by a diverse group of people devoted to freedom of inquiry and freedom of expression.

#### II. [Alexander Blewett III School of Law Statement of Commitment to Inclusive Access](#)

The Alexander Blewett III School of Law shall promote and support a learning environment that encourages inclusive excellence as set forth in the University's [Inclusive Access and Success Plan](#). The Law School is committed to recruiting and retaining students, faculty, staff and administrators capable of creating a safe, vibrant, diverse, engaging and intellectually stimulating learning environment. The University of Montana is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination.

*In light of the recent Executive Orders and directives from the Federal Government, the University is conducting an examination of its efforts, particularly those that use language that has come under recent scrutiny.*

*It is the University of Montana's and the law school's position that it has not engaged in any illegal discrimination or actions in violation of federal guidance. Nevertheless and in alignment with our regular and ongoing compliance efforts, the University and the law school will conduct an assessment of our Inclusive Access and Success Plan to ensure the University continues to follow state and federal law and to ensure our language accurately describes our efforts to fulfill the University's mission and vision.*

#### A. Equal Access

The University of Montana assures equal access to instruction through collaboration between students with disabilities, instructors, and the [Office for Disability Equity \(ODE\)](#). If you think you may have a disability adversely affecting your academic performance and you have not already registered with ODE, please contact the Office for Disability Equity. Information regarding accessible services is located on the University of Montana's Office for Disability Equity website. The law school will work with students and ODE to provide appropriate accommodations. Students approved to receive classroom and/or testing accommodations must contact the Dean of Students after registering with ODE.

#### B. Honor System and Plagiarism

The Honor System has been in effect in the law school for more than fifty years. Its objective is simple: complete integrity in both word and deed. Under no circumstances shall a student take unfair advantage of another or appropriate the work of another as his or her own.

The preamble of the Honor Code for the Alexander Blewett III School of Law states:

The American Bar Association and the Montana Supreme Court establish standards of skill and conduct to which a Montana attorney must conform. The Alexander Blewett III School of Law requires law students to conform to similar standards. Honor and integrity among law students are essential to develop competent and ethical attorneys, and this Honor Code seeks to develop a pattern of conduct for students to follow in the practice of law. This Code is intended to foster these professional qualities and, when appropriate, to educate students, including those accused of violating this Code, those involved in the enforcement of this Code, and the student body as a whole.

The full text of the Honor Code is included as Appendix A to this Handbook and available on Law Student Information on Canvas.

Students always must conduct themselves in a manner reflecting membership in the legal profession. What a law student does reflects on fellow law students and the profession.

Patterns of conduct formed while attending law school are the basis of habits that will characterize professional life.

#### C. Character and Fitness Certification Form Requirement

Students are required at various times during their law school career to complete a form called the Alexander Blewett III School of Law Character and Fitness Certification Form. The form must be completed at the beginning of each autumn semester, as part of the application to practice under the Student Practice Rule and prior to graduation. The purpose is to update information originally provided in the Application for Admission.

The student must sign the form, which is made a part of the student's permanent record at the School of Law.

This form is an important part of the law school's admissions and retention processes. Students are required to provide information that is completely accurate in the Application for Admission and any Succeeding Certificates. Discovery of inaccurate information will be reported to the bar and may be the basis for disciplinary action including expulsion, denial of a degree, or other appropriate sanctions. A report of discrepancies in Character and Fitness Certification forms is made to the faculty, and if something is found that might disqualify a student from graduation, the student is given notice.

### III. General Information

#### A. Library and Building Hours

The William J. Jameson Law Library hours when classes are in session:

- Monday-Friday: 8:00am– 5:00 pm
- Saturday-Sunday: Closed
- Special holiday and summer hours are posted.

Library hours are subject to change. The Jameson Library hours are always posted on the library website. The library administration makes every effort to give students the greatest possible access to the library. Students may access the library 24 hours using a valid university identification card.

Pets and bicycles are not allowed in the law building.

#### B. Identification Card

The University identification card called the Griz Card is used for a variety of purposes. New students are automatically assessed the \$25 Griz Card Admin Fee on their CyberBear account if they are enrolled at the University of Montana or Missoula College for the first time as an undergraduate, graduate or law student. New students should submit a photo for the Griz Card online prior to arriving on campus and/or visiting the Griz Card Center. Once you have submitted your photo and received a confirmation email that your photo was approved, you may pick up your Griz Card from the Griz Card office located on the first floor of the University Center.

Among other things, the Griz Card allows access to the law school building after hours via the north door. It also allows students to use recreational facilities and the Mansfield Library. The Griz Card can also be used as UMoney, a debit system for use at food and other retail sources both on and off campus. For more information on the Griz Card and its cost and uses go to the [Griz Card Center website](#).

#### C. Smoking; Building Rules

University policy 406.1 provides:

The University of Montana provides a safe and healthy environment for its employees, students, and visitors. In light of the U.S. Surgeon General's findings that exposure to secondhand tobacco smoke and use of tobacco causes significant health hazards, The University of Montana [is] a tobacco-free environment.

In line with this policy, the law school is a tobacco-free environment.

#### D. Alcohol Use

The University of Montana's Alcohol and Drug Policies apply to the law school and its students.

Law school student organizations may host an event in the law school where alcohol is served only when the organization has:

- Satisfied university guidelines for such an event contained in the University Alcohol Policy, Policy No. 1000;
- Obtained permission from the dean of the law school or designee to hold the event;
- Obtained approval from the student organization's faculty advisor, the Assistant Dean of Students – Student Affairs, to hold the event;
- Opened the event to alumni, other lawyers, and outside constituents, and;
- Attached the event to another substantive event such as a publicly advertised lecture, symposium, film series, lecture series, etc.

Events not held in the law school building must satisfy the University Alcohol Policy, Policy No. 1000.

#### E. Mail & Messages

Student mailboxes are located near the elevator in the lower atrium. It is important that you check your mailbox regularly.

#### F. Study Spaces

The law school administration makes lockers available to all first-year students and study carrels or cubes to as many second- and third-year students as possible. The reading rooms of the law library and the Mansfield Library are available for study. First- and second-year students must clean out their lockers immediately after spring semester exams or by arrangement with Student Services. Third-year students must clear their lockers and carrels immediately after the bar exam. The law school reserves the right to check lockers, carrels, and cubes for library materials and to remove them if found.

#### G. Personal Property

Students should take responsibility for their private property stored in their lockers, carrels, and cubes. The law school assumes no responsibility for the safety of such property.

#### H. Notices

Official notices are sent via University of Montana email addresses assigned to students upon matriculation.

Important student information and links regarding law school policies, registration, course advising, calendars, course schedules, and event planning is published on the [Law Student Information course shell on Canvas](#).

For specific course information and assignments, access the Canvas shell designated for the course. Law faculty typically use the course-assigned Canvas shell to distribute course assignments and materials. Law faculty use University of Montana email addresses assigned to students upon matriculation to correspond with students.

Students should routinely check the Canvas shell for each of their courses.

#### I. Student Email Account

Law administrators, faculty, and staff expect all students to stay current with official correspondence. Official correspondence is sent via University of Montana email addresses assigned to students upon matriculation. It is important to regularly check your University of Montana email address routinely for important information.

#### J. Law School Internal Calendar

Classes, meetings, and events are posted to the law school internal calendar, CalendarWiz. The calendar may be accessed on Law Student Information on Canvas. Students should also refer to course schedule details available in Cyberbear.

## K. Scheduling Events and Posting Notices

Students and student organizations are welcome to post school-related events on the internal law school calendar by contacting the Dean of Students – Student Affairs and Events and Marketing Coordinator. More information about scheduling events can be found on the [Law Student Information on Canvas](#). Students and student organizations are also welcome to place notices on the Student Bar Association calendar on Canvas.

## L. Release of Student Information

Under the Family Educational Rights and Privacy Act of 1974 (Buckley Amendment), students have the right to refuse to permit the designation of any or all categories of personally identifiable information as “directory information” which is not subject to certain restrictions as outlined in the Act and in The University of Montana-Missoula catalog. The University has defined the following as directory information: student’s name, addresses including email, telephone number, date of birth, dates of attendance, date of graduation and degree received, school or college, majors, class, student identification photo, and academic awards or honors.

If you do not wish to authorize the release of directory information and do not want your directory information to appear in the University Student Directory, you must inform the Office of the Registrar of this by completing a Request to Restrict Directory Information Form which can be obtained from the [Registrar’s Office website](#). You should allow at least three business days for processing.

Law students must also notify the law school Registrar should they wish to restrict the release of their directory information.

## M. Printing

The law school provides printers for student use. PaperCut allows students to print using funds on their Griz Card accounts. Information about adding money to your account and printing via Papercut can be found on the [UM Solutions Center website](#).

## N. P. Vendor Use Policy

### 1. Email

Students are bound by Board of Regents Policy 1304.3, which provides that:

MUS-provided electronic mail (email) systems are to be used by students in a manner consistent with the policies defined on the student’s campus. “For-profit” activities are never appropriate. Large-scale distribution of unsolicited emails is appropriate only when prior approval has been obtained from the appropriate campus official.

Accordingly, students should never use campus email for commercial solicitations.

Commercial vendors may use student UM email addresses to send up to three emails per semester to all law students or a class of students.

### 2. Fliers

Whether directly or through student representatives, commercial entities may distribute fliers to student mailboxes once per semester.

### 3. Posters

Whether directly or through student representatives, commercial entities may hang posters only in the designated cabinets in the 1L commons with permission from Student Services.

#### 4. Tabling

Whether directly or through student representatives, commercial entities may table a maximum of three times per semester. Any entity wishing to table must seek pre-approval from the Dean. No more than three entities may table on any day. Tabling privileges will be given on a first-come, first-served basis, except for entities designated as preferred providers.

#### 5. Presentations

Vendors may present to students and faculty with permission from the Associate Dean of Academic Affairs or the Associate Dean's designee. Generally, applicable room rental policies will apply. Room reservations are subject to availability.

#### 6. Compliance

This policy will be enforced by the Associate Dean of Academic Affairs. Vendors determined to have violated this policy will be barred from exercising these privileges for one month from the violation.

### IV. Law Library Use Policies

The Jameson Law Library's facilities, collection, and services are available to students, faculty, and staff of the University of Montana, including the Blewett School of Law, members of the bar, and the general public who require access to legal materials. The library's primary mission is to serve the students, faculty, and staff of the Alexander Blewett III School of Law.

Jameson Law Library strives to provide:

- a library environment that is safe and free of disruptive activity;
- access to print and electronic library materials; and
- newspapers, journals, documents, and books that are complete and unmarked.

#### A. Legal Advice

The library staff will assist with the use of the library and its collections, but they cannot conduct legal research on behalf of a user. Library staff can help locate information, identify relevant resources, and develop search strategies. Library staff cannot provide advice on a legal problem, help fill out legal forms or draft legal documents, interpret legal materials, or explain how the law applies to a particular situation.

#### B. Hours

Jameson Law Library hours are posted in the library and on the library's website. After hours only Alexander Blewett III School of Law students, faculty, and staff may use the library.

After-hours library users may not prop open library doors or allow admittance to anyone who cannot swipe in with a valid Griz Card that allows after-hours law library access.

#### C. Behavior

Behavior that interferes with the appropriate use of the library is not permitted. This includes excessive noise, altercations, theft, vandalism, inappropriate sexual behavior, harassment, and violence.

Specifically, unpermitted behavior includes, but is not restricted to:

- Removal or attempted removal of library materials, furniture or property without checking them out or without authorization.

- Mutilation of library materials, furniture or equipment by marking, underlining, scratching, removing pages or portions of pages, removing binding, removing electronic-theft detection devices, or in any other way injuring or defacing the library building, library materials, furniture, or equipment.
- Concealing library materials in the library for the exclusive use of an individual or group or for the express purpose of preventing use by others.
- Harassing library staff or users.
- Failing to cooperate with library staff.
- Being in an unauthorized area of the library.
- Remaining in the library when requested to leave at closing, or when requested to leave during emergency situations or drills.
- Having bodily hygiene so offensive as to constitute a nuisance to others.

#### D. Cell Phone Use

In order to preserve a quiet study environment, library users must either turn off cell phones or set them to vibrate or silent. All cell phone conversations must be held outside of the library where you will not disturb others.

#### E. Computer Use

There are four public-use computers in the Jameson Law Library. These computers may only be used for legal research and use is restricted to 30 minutes if other users are waiting. The library computer lab is reserved for law students at all times.

#### F. Food and Drink

Food and drink are permitted in the Jameson Law Library but users must clean up all areas they use and throw away all garbage. Drinks must be in covered, spill-proof containers. Users may be asked to reimburse the library for damage caused by spills.

#### G. Alcohol and Tobacco

The use of alcohol and tobacco is prohibited in the Jameson Law Library as provided under the University of Montana Tobacco Free UM policy and Alcohol Policies.

#### H. Personal Belongings

Neither the Jameson Law Library nor the Alexander Blewett III School of Law is responsible for loss, theft, or damage to personal belongings. Library staff cannot watch personal belongings. Do not leave personal belongings unattended in the library. Please bring any found items to the Circulation Desk.

#### I. Photographs and Filming

To protect the privacy of library users, no photography or filming is allowed in the library. Limited exceptions may be granted by the Dean of the Alexander Blewett III School of Law or the Dean's Designee. Filming or photographing of official law school events is permissible so long as no library users are captured on film without their permission.

#### J. Library Use by Minors

All children under the age of 15 must be accompanied by an adult while in the Jameson Law Library, except for users under the age of 15 who have a valid student Griz Card. All users of the Jameson Law Library are subject to this Library Use Policy. Access to, or use of, the internet by minor children who are not students of the University of Montana is solely the responsibility of the child's parent or legal guardian. Library staff will facilitate access to government documents and legal information to all patrons regardless of age.

## K. Use Privilege Revocation

The Jameson Law Library reserves the right to enforce this Library Use Policy and will call campus police as necessary. Violators may face criminal prosecution and/or disciplinary action under the University of Montana Student Conduct Code or Law School Honor Code.

Failure to comply with this Library Use Policy may result in permanent revocation of Law Library use privileges.

## L. Overdue Materials Policy<sup>1</sup>

### 1. 1 day – 29 Days Overdue

- Fines for overdue items = 33 cents per day.
- When items are returned, fines will be waived until they have reached a total of \$10.00 (approximately 30 days).
- Fines will not be waived for overdue items that have to be recalled for another user.

### 2. 30 - 59 Days Overdue

- When fines reach, \$10.00, items are considered lost.
- The patron's account is blocked and the patron will not be able to check out library materials until overdue items are returned.
- Patron receives a 30-day notice that replacement costs for lost items will be added to their account.
- Fines are waived and account blocks are lifted if items are returned except fines will not be waived for overdue items that have to be recalled for another user. Only library staff will have the authority to reactivate suspended accounts.

### 3. 60 Days Overdue

- Replacement cost(s) of \$50.00 per item or actual replacement cost, whichever is greater, for lost items are added to the patron's account.
- Accounts may be turned over to Student Account Services. Student Account Services will block student Banner accounts, which could result in the inability to graduate, receive financial aid, register, and obtain transcripts. Students must see a librarian during regular business hours (M-F, 8:00 am-5:00 pm) to remove Banner blocks.
- Student Account Services may initiate action to recover payment for items, including garnishing student refund checks or turning the account over to a collection agency. Once Student Account Services initiates action to recover repayment on an account, all fines and fees must be paid to Student Account Services.
- Items may be replaced. Once an item is replaced it may no longer be returned for forgiveness of fines and fees.
- A second or future instance of a patron having items 60 days or more overdue may result in revocation of check-out privileges.

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<sup>1</sup> Updated June 18, 2012.

#### M. Lost or Damaged Materials

- All patrons must pay replacement costs of \$50.00 per item or actual replacement cost, whichever is greater, for materials that are lost or damaged to the extent they are no longer useable.
- Graduating law students must return or pay for all overdue items before graduation day.

#### V. Registration, Class Assignments, and Academic Counseling

Students register for School of Law autumn, spring, and summer semester courses in Cyberbear. Detailed registration and fee payment procedures are provided to students. A law school schedule is published when registration opens each semester.

Information about tuition and fees can be found on the [Student Account Services website](#). The law school's tuition and fees consist of three elements:

- Law School Program Fee (per credit)
- Law Facilities Fee (per semester)
- Law School Student Bar Association fee (per year)
- Underlying University tuition/fees which are variable per credit between 1-12 credits but do not change between 12-25 credits. For specific fee information see the Law School Admissions and Student Account Services websites

Registration, change of courses, or withdrawal from the law school are subject to the following limitations.

##### A. Credit Limits

A law student may not enroll in or receive credit for over 18 hours of law courses during autumn and spring semesters.

Students may enroll in only one winter session course for law credit at a time. Winter session credits do not count toward the 18-credit cap in the spring semester. Trial Team counts as a winter session course.

A law student may not enroll in more than 10 credits during any summer session. Students may only take one non-clinical summer course for law credit at a time. If a law student elects to enroll in over four credits of clinical coursework during the summer, the number of other law credits must be reduced accordingly. If a student takes seven or eight clinical credits, no other elective credits may be taken. If a student takes five or six clinical credits, no more than four other elective credits may be taken.

##### B. Completion of First-Year Courses

Successful completion of first-year courses is a prerequisite to registration in upper-division courses unless an exception is granted. A student seeking an exception may petition the Dean or Dean's Designee, who shall act on the petition after consultation with the affected upper-class faculty member and other faculty members whose counsel may be appropriate.

##### C. Registration and Fee Payment

All law students are expected to complete and finalize registration in a timely manner. No one who owes the University any outstanding fees, fines or other charges may:

- receive academic credit or grades;
- register;
- secure any official transcript or record; or

- access any University facilities or services.

Regardless of the relationship thereof to the amount owed, until the amount due has been paid or satisfactorily adjusted with Student Account Services. Interest may be charged on the balance due from the day after the due date until the amount has been paid and any attorney's fees or other costs or charges necessary for the collection of the amount owed may be added to the balance due. The University may apply any portion of any amount it may owe such to payment of the balance owed to the University.

#### D. Minimum Enrollment to Offer Courses

Electives not meeting minimum enrollment requirements may be canceled after registration has been completed.

#### E. Dropping/Adding Courses

Law students may drop courses without academic penalty until 4:30 p.m. on the last day of classes each semester or prior to the assignment of the final grade, whichever is earlier. Information about tuition refunds, if any are due, can be found on the Office of the Registrar's and Student Account Services websites. A first- or second-year student considering dropping a required course should consult with the Dean of Students for permission and to discuss implications for future course scheduling and progress toward graduation. Dropping below 12 credits of registration in any autumn or spring term may impact a student's scholarship and/or tuition waiver funding.

Law students may add courses without a late fee until 4:30 p.m. on the 10th day of classes each semester, provided they have been attending class and have the permission of the instructor. See the law school Registrar for any changes after the 10th day of class.

Law students may alter the number of credits in variable credit courses until the last day of classes. Variable credit law courses include Independent Study, Clinical Training, and Law Reviews. For additional details about clinical credits, see Clinical Guidelines.

#### F. Withdrawal from Law School

A student may withdraw from law school without academic penalty until 4:30 p.m. on the last day of classes each semester; provided, however, that if a class ends before the last day of classes for the semester, the student must withdraw from that class by 4:30 p.m. on the last day of that class. Withdrawal is not permitted during review period and final exams.

A student who withdraws during the first semester of the first year and who applies subsequently for readmission is not considered as a former student but must complete the admission process required of all applicants.

Except as provided below, a student withdrawing from law school after completing one semester or more of law study who is in good standing and eligible to continue at the time of withdrawal is eligible to resume the study of law within two years without having to repeat any courses the student successfully completed for credit.

The status of any student in good standing who withdraws from law school for more than one academic year will be changed to inactive. This status update will prevent registration for future semesters. Students seeking to re-enroll after one academic year of non-enrollment must contact the Dean of Students to initiate the process of re-enrollment. Re-enrollment of an inactive student is within the faculty's sole discretion.

If a student in good standing withdraws from law school for more than two years, but less than six years, and seeks to re-enroll in law courses to complete their Juris Doctor degree, the student must:

- Contact the Dean of Students to declare their intent to re-enroll and complete their Juris

Doctor degree.

- Submit a petition to the law faculty requesting to re-enroll in law courses and complete their Juris Doctor degree.

The student's petition is subject to law faculty approval and enrollment in law credits is prohibited without faculty approval. If a student's petition to the law faculty is denied, the student may appeal the determination to the law school dean. Any appeal of the faculty's determination must be submitted within 30 days from the date of the faculty's determination. If the petitioner is permitted to re-enroll, the Dean of Students may, among other steps, require the returning student to:

- Repeat any courses on an audit basis, without credit, to prepare for the resumption of law studies; or,
- Retake any courses on a graded basis; or
- Reapply for admission as a new student to the School of Law and, if admitted, begin with first-year coursework.

If a student in good standing withdraws from law school for six years or more, he or she shall not be considered a former student but must complete the admission process required of all applicants and, if admitted, begin with first-year coursework.

A student who withdraws from law school by transferring to or otherwise enrolling at another school and who seeks readmission is not considered a former student and must complete the admission process required of all other transfer or visiting applicants.

A student shall complete the course of study for the Juris Doctor degree no earlier than 24 months and, except in extraordinary circumstances, within 84 months after a student has commenced law study at the Alexander Blewett III School of Law or a law school from which the Blewett School of Law has accepted transfer credit. If a student is permitted to continue their course of study beyond 84 months, a memorandum must be placed in the student's file that includes:

- A statement from the Dean of Students approving the student's request to enroll and complete their Juris Doctor degree and
- A progress toward degree plan developed in coordination with the Dean of Students, Director of Academic Success, and returning student.

Official withdrawal is accomplished by consulting with the Dean of Students. There is no refund of tuition for withdrawal after the 15th instructional day. The transcript will show "W" for each course the student is enrolled in at the time of withdrawal.

#### G. [Withdrawal Refund Policy](#)

Information about dates and deadlines associated with withdrawal from one or more classes in any semester can be found on the University's Student Account Services and Office of the Registrar's websites.

#### H. [Taking Non-law School Classes](#)

A law student may petition the Clinic and Curriculum Committee of the law school to take up to six graduate-level credits in other departments of the University for law credit unless the student is a dual degree-seeking student. All dual degree students are eligible to apply up to nine non-law approved credits toward their JD degree. To gain approval, the proposed non-law class must have a substantial relationship to law or legal problems, and must match the student's professional interests or needs in a way that existing law school courses cannot. Except for those students enrolling in non-law courses to fulfill a dual degree requirement, students must seek approval from the Curriculum Committee by one week after 1L students' registration opens in Cyberbear for spring semester and

one week after rising 2L students' registration opens in Cyberbear for autumn semester. Semester-specific deadlines are published in the Course Advising Memorandum. Students should complete the Non-Law Course Application found on Law Student Information in Canvas. The Committee will notify each student and the law school Registrar of approval or disapproval of the course request(s). See the law school Registrar for non-law course registration assistance.

Non-law course grades are not included in law school GPA. For more information, see the Grading System Section.

#### I. Transfer Students and Credits

Students may transfer law credits from other ABA-accredited law schools. Grades and quality points earned at another law school are transferred to the student's academic history and are included manually in their law school GPA. For more details, see the law school Registrar.

Transfer students must complete at least three semesters or 45 credit hours of law study in residence to earn a University of Montana law degree.

#### J. Visiting Students and Credits

Visiting students may earn up to 45 credit hours of legal study at the School of Law but must transfer credits back to the parent law school to fulfill the requirements for the Juris Doctor degree. Visiting students are not eligible to earn a University of Montana law degree.

#### K. First Assignments

Most law professors provide an assignment for the first day of class. Please access the Canvas shell for each of your courses to learn the first assignment. Books and other course materials may be purchased at the University Bookstore in the University Center. Course books and materials are listed on the UM Bookstore's website.

#### L. Academic Counseling

The Dean of Students serves as the official academic counselor to all students. Entering students are also assigned a faculty advisor during the Introductory Program. Students are encouraged to make appointments with faculty members to discuss academic matters arising in a particular course. Although first-year faculty advisors are assigned to individual students, all faculty members are available for consultation as the need arises. One benefit of a small law school is the opportunity for frequent contacts and discussions with professors. Office hours are maintained and members of the faculty are usually readily available to meet with students.

Before spring semester registration, first-year students meet with their respective 1L faculty advisors to discuss registration for the 1L elective and other course advising matters. All law students are encouraged to attend the course advising sessions scheduled before registration each semester. The Dean of Students can answer questions regarding academic and course registration issues.

### VI. Dual Degree Programs

The Law School offers five dual degree programs. Students who wish to enroll in one of these programs must meet with the Dean of Students and the director of or advisor for the dual program in the participating school. Dual degree programs include:

- A. JD/Masters of Public Administration Degree Program
- B. JD/Masters of Business Administration Degree Program
- C. JD/Masters of Science in Environmental Studies Degree Program
- D. JD/Masters of Social Work Degree Program
- E. JD/Masters of Resource Conservation Degree Program

More information about dual degree programs and advising can be found on Law School Information in Canvas. Students should direct initial inquiries to the law school Registrar. Additional information will be provided in advising sessions prior to registration for autumn and spring semesters.

## VII. Certificate Programs

The Alexander Blewett III School of Law currently offers two Certificate Programs:

- American Indian Law Certificate
- Natural Resources and Environmental Law Certificate

### A. Purpose

The certificate programs are designed for law students who wish to acquire an in-depth knowledge of law and lawyering in the specific subject matter of the certificate program. To obtain a certificate, a law student must be willing to commit the time and effort necessary to achieve a level of specialization in his or her legal education. The certificate program provides students the opportunity to graduate with a credential recognizing a student's concentration and accomplishment in the specific area of law.

Because the law faculty believes specialization should not come at the expense of a well-rounded legal education, students in a certificate program must complete 5 additional credit hours for a total of 95 credit hours, as compared to 90 credit hours for students not in a certificate program. Usually, this additional credit load can be completed within three academic years of law school. Upon successful completion of the certificate program, the certificate is noted on the student's official transcript.

### B. General Requirements

To complete one of the two certificate programs offered by the Alexander Blewett III School of Law, students must meet these requirements:

1. Notify the law school Registrar no later than the first semester of the student's second year of law school of the student's intent to complete the certificate program. Meet with the faculty advisor for the certificate program and complete the required declaration of intent form.
2. Earn a total of 95 credits for a certificate (five credits more than required for the JD degree).
3. Take the courses specified as "certificate required courses" for the chosen certificate program as listed below.
4. Take a specified number of credits from the list of "certificate elective courses" for the chosen certificate program as listed below.
5. Take four or more credits in one of the "qualifying clinics or skills courses" approved for the chosen certificate program as listed below.
6. Successfully complete the advanced writing requirement addressing the area of law in which the certificate is earned, as specifically approved in writing by the Associate Dean of Academic Affairs' designate who teaches in the certificate area. The Associate Dean's designate is to review the writing topic and the final writing of every certificate program student.

### C. Certificate Required Courses, Certificate Elective Courses, and Qualifying Clinics

The following list of qualifying courses and clinics is subject to change by the law faculty. A student who has completed a course listed as meeting one of the requirements of the certificate program at the time the student registered for the course may count such course as fulfilling that requirement despite a later change approved by the faculty.

#### 1. Natural Resources and Environmental Law Certificate

##### Certificate Required Courses

- Administrative Law
- Introduction to Environmental Law
- Public Lands and Resources Law

##### Five (5) Credits from the Following Certificate Elective Courses

- Advanced Problems in Natural Resources Law
- American Indian Natural Resources Law
- Environmental Crimes
- Environmental Law Research
- Environmental Moot Court
- Indigenous Cultural Preservation
- Land Use and the Environment
- Law of Climate Change
- Natural Resources and Energy Law
- Oil and Gas
- Public Lands and Resources Law
- Renewable Energy Law
- Summer environmental law courses (vary by summer)
- Water Law
- Wildlife Law

##### Four (4) or More Credits from the Following Certificate Clinical and Skills Courses

- Department of Natural Resource Conservation
- Land Use & Natural Resources Clinic
- Rocky Mountain Elk Foundation Clinic
- U.S. Department of Agriculture (USFS) Clinic

#### 2. American Indian Law Certificate Requirements:

- Earn a total of 95 credits (five credits more than required for the JD)
- Take Federal Indian Law, which is offered every academic year in the autumn semester and is a pre-requisite for participation in the Margery Hunter Brown Indian Law Clinic (MHBILC), although the course can be taken concurrently with participation in the MHBILC upon approval of the MHBILC Director.

- Take nine credits from the following elective courses, which may be offered every other academic year depending on student interest or which have been offered as summer courses and are generally divided according to the following areas of interest:
  - a) *Foundations:*
    - Advanced Problems in Indian Law
    - Tribal Courts/Tribal Law
    - Mastering American Indian Law
  - b) *Natural Resources:*
    - Advanced Indian Natural Resources Law
    - American Indian Natural Resources Law
    - Water Law
    - Indian Water Law
    - Protection of Wildlife and the Environment in Indian Country
    - Indian Land Issues
    - Indian Property Law
  - c) *Economic Development:*
    - Indian Gaming
    - Economic Development in Indian Country
    - Energy in Indian Country
    - Taxation & Finance in Indian Country
  - d) *Social Issues:*
    - Indian Child Welfare Act
    - American Indian Cultural and Religious Freedoms
    - Tribal Criminal Law and Procedure
    - Indian Health Law
    - Indigenous Cultural Preservation
    - Voting Rights in Indian Country
    - Art & Cultural Property
  - e) *Indian Law and Policy:*
    - Tribal-State Relations
    - Current Issues in Indian Law and Policy
    - Tribal-State Conflict of Law
    - Supreme Court Jurisprudence and Indian Country
    - Constitutional Issues Relating to Indian Legal Concepts
    - Public International Law
  - f) *Skills/Independent Study:*
    - Indian Law Research
    - National Native American Law Student Association (NNALSA) Moot Court Competition (only two credits of NNALSA Moot Court may count toward completion of the American Indian Law Certificate)

- Independent study courses related to Indian law issues may be approved for consideration under the certificate program. (Students may only take up to two credits of Independent Study)
- Take at least four credits in the Margery Hunter Brown Indian Law Clinic (MHBILC) or another clinic approved for consideration under the certificate program by the Director of the Indian Law Clinic and the Clinic Director. If a student takes more than four clinic credits in the Indian Law Clinic or an approved clinic, not more than four of the excess credits may be counted toward the nine credits of electives required for the certificate. (Note: Federal Indian Law is a pre-requisite for participation in the MHBILC, although the course can be taken concurrently with participation in the MHBILC upon approval of the MHBILC Director).
- Successfully complete the advanced writing requirement in an area addressing an Indian law topic. The Associate Dean's designate must review the topic and the final written product of every certificate program student to ensure that the work is appropriately related to an Indian law topic.

### VIII. Academic Success Program

#### Mission Statement:

The Academic Success Program recognizes that law students come to the Alexander Blewett III School of Law with diverse cultural, educational, and professional backgrounds, and seeks to assist all of our law students in becoming self-directed, lifelong learners. We strive to make resources accessible to all students while still encouraging students to take initiative and commit to individual improvement. We recognize that some students will struggle with the traditional law school curriculum and instructional approach, so one of our goals is to offer students individualized and confidential resources when indicated or requested. Recognizing that the traditional law school schedule and workload already threaten to throw law students' everyday lives out of balance, this program seeks to minimize additional scheduling burdens by integrating skills instruction with existing class time and making extra-class instruction available online so students can access the material when they are learning ready.

Please contact the Director of Academic Success for information about the program or individual assistance.

Director of Academic Success: Professor Rebecca Stursberg, [rebecca.stursberg@mso.umt.edu](mailto:rebecca.stursberg@mso.umt.edu)

### IX. Disability Assistance

The University of Montana assures equal access to instruction through collaboration between students with disabilities, instructors, and the Office for Disability Equity (ODE). If you think you may have a disability adversely affecting your academic performance and you have not already registered with ODE, please contact Assistant Director Mika Watanabe. You will find information regarding accessible services on the University of Montana's accessibility website.

The law school works closely with the University's Office for Disability Equity. Law students desiring accommodations should contact that office so accommodation planning can be coordinated between the Dean of Students and ODE. ODE provides excellent support and assistance and is an important resource. Please request accommodations as far in advance as possible.

Upon receipt of a letter from the Office of Disability Equity certifying reasonable accommodations, it is the student's responsibility to schedule a meeting with the law school's Dean of Students to coordinate the provision of those accommodations. Students who receive exam accommodations must arrange for the accommodations

with the law school Registrar and must do so at least two weeks prior to each scheduled examination. For accommodations regarding course materials or course assignments, the student should coordinate with the individual professor to the extent the accommodation requires action by the professor.

More information about accommodations in the law school can be found on Law Student Information in Canvas.

#### X. Law School Technical Standards

The Alexander Blewett III School of Law prides itself in providing a legal education that integrates theory and practice. Our admissions materials underscore the importance of practice-ready skills, indicating that we offer “students a progressive, experience-rich education that combines legal theory with hands-on, first-person practical education...” and that “[s]tudents graduate ready to practice law thanks to a curriculum that requires participation in clinical programs.” Our curriculum and teaching methods aim at ensuring our graduates are capable of functioning as competent and ethical practitioners who will work professionally with clients, judges, attorneys, and others in the legal community.

This requires that candidates for the Juris Doctor degree possess and maintain the cognitive abilities and mental and emotional stability required to competently and ethically represent clients in the resolution of legal problems in a timely manner. For purposes of this document, the term “candidate” means candidates for admission to the law school as well as enrolled law students who are candidates for graduation. The technical standards set forth below identify the essential abilities and characteristics required of all candidates and are not intended to deter or exclude candidates for whom reasonable accommodations for a disability will allow successful participation in and completion of the Juris Doctor program.

A. **Time Management Skills**

1. A candidate must demonstrate the ability to meet deadlines, keep scheduled appointments, and timely complete all classroom and clinical assignments and administrative tasks within the assigned time frame.
2. A candidate must adhere to the School of Law's attendance policy as it applies to each course and must punctually attend class.
3. The candidate must be able to timely complete assigned tasks in a satisfactory manner and attend classes, client meetings, and court proceedings prepared and ready to participate.

B. **Communication Skills**

1. A candidate must be able to communicate in a respectful, professional and candid manner.
2. A candidate must be able to understand and respond to oral and written directions and constructive feedback in a mature manner.
3. A candidate must be able to communicate effectively and efficiently in oral and written forms in a prompt and comprehensive manner regardless of the forum, including classroom discussion, assignments, court hearings, client meetings, and negotiated matters.
4. A candidate must be able to review written and oral material in a timely and efficient manner required to participate, be called upon and answer questions without advance notice in a classroom or other instructional setting, including a clinical placement.

C. **Organizational Skills**

1. A candidate must be able to follow directions, make reasonable inferences, and organize and synthesize information.
2. A candidate must be able to organize ideas to communicate in writing and orally.
3. A candidate must be able to coherently organize large amounts of information, as well as manage legal work in a clinical placement.

D. **Behavioral Skills**

1. A candidate must possess the good judgment, honesty, integrity, and interpersonal skills required to work successfully under stressful conditions and to work well with others.
2. A candidate must be able to tolerate and manage competing demands and workloads as mentally and emotionally taxing as are routinely found in the legal profession.
3. A candidate must be able to adapt to changing circumstances.
4. A candidate must be able to monitor his or her own behavior, act civilly, and adhere to all other norms of professional conduct.
5. A candidate must be able to provide competent representation in a clinical placement.

E. **Intellectual, Conceptual and Integrative Skills**

1. A candidate must have the ability to set goals, formulate a plan to accomplish those goals, and implement the plan over time.
2. A candidate must be able to understand, synthesize and apply complex information, and must have the ability to integrate and process information promptly and accurately.

3. A candidate must be able to demonstrate mental and emotional skills and abilities to learn and to conduct effective problem solving; legal analysis, reasoning and research; factual investigation; oral advocacy, organization and management of legal work and client counseling in a classroom and a clinical placement.

## XI. Attendance, Classes and Examinations

### A. Attendance Policy

The law faculty assumes that students will attend all classes in each course for which the student is enrolled. The law school adheres to the ABA policy on attendance which requires “regular class attendance.” Each professor will articulate his or her specific attendance policy and it is the responsibility of each student to learn that policy.

### B. Make-Up Classes

Make-up classes are generally scheduled by professors during the times noted on each semester’s class schedule or during a time when another faculty member has canceled a regularly scheduled class session.

### C. Class Scheduling

The law school typically schedules classes for 60, 90, or 120 minutes. Students are expected to be in their seats before the beginning of each class. If a faculty member must postpone class because of an official absence or illness, a notice will be sent via email and posted in the classroom area. The class schedule allows for rescheduling classes. Notices of make-up classes are given in advance.

Guidance and resources related to the law school attendance policy and campus and community resources can be found on Law Student Information in Canvas. Questions should be directed to the Dean of Students.

## XII. Academic Semester & Credit Hour Requirement

The academic calendar shall include an autumn and spring semester, each with sixty-five class days, with an equal number (13) of Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays. In addition, each semester shall also include a reading period and a final examination period.

Credit hours shall be determined in a manner compliant with ABA Standard 310 and its interpretations. The Blewett School of Law determines credit hours for coursework as follows:

- Regularly scheduled courses. For regularly scheduled courses, each credit granted shall require (a) classroom or direct faculty instruction of 1 hour (60 minutes) per week for 13 weeks, or the equivalent amount of minutes over a different period of time, and (b) 30 hours of out-of-class student work.
- Clinic and Field Placements. Determination of credit hours for clinic and field placements is set forth in the Clinical Guidelines, Clinic/Field Placement Requirements.
- All other courses. For all other courses for which credit is granted, including independent study, law review, and competition teams, each credit shall require the performance of at least 43 hours of coursework.

## XIII. Grades and Assessments

Faculty members assign final grades in each course at the end of each semester. The final grade in many required courses and some electives is based upon the results of one examination at the end of the course. In other instances, faculty may assign research, writing, midterm exams, and other forms of assessment which they will consider in the final grade.

To assist first-year students, midterm exams, or sometimes practice examinations, are given in some courses. Midterm examinations are graded, but practice examinations are not. Faculty may discuss practice and midterm exams in class or individually prior to the final examination in the course to provide some insight into law examinations and the methodology that should be followed.

Examination schedules and detailed exam procedures are posted at least one month before the beginning of the examination period. If a student's exam schedule includes exams scheduled for three consecutive days or more than one exam on a day, the student may reschedule an exam by submitting a request to Student Services. The exam must be rescheduled after the regularly scheduled day and time.

Please submit a request for any exception to these guidelines to the Dean of Students. Rescheduling of exams for any other reason is generally limited to emergency or serious health concerns. Exams may not be rescheduled for reasons of travel or for the need to reschedule travel or plane tickets. The Dean of Students has full discretion regarding unique exam schedule problems.

The School of Law will, to the best of its ability, accord to students certified by the Office for Disability Equity (ODE) whatever special exam accommodations are prescribed by that office.

Faculty members elect in advance of examinations whether to grade anonymously; if they elect not to do so, notice is given to the classes concerned. Examinations graded anonymously are administered by Student Services using a system of individual numbers or code words instead of names. Student Services is charged with safeguarding anonymity.

Final grades are recorded on CyberBear, and students may access their grades on Cyberbear. After grades are recorded, a chart of the distribution of grades in each course is available at Student Services and on Law Student Information in Canvas.

#### XIV. Required Curriculum Academic Year 2024-2025

##### A. First-Year Required Curriculum

<b>COURSE TITLE</b>	<b>CREDITS</b>
Torts (autumn)	4
Civil Procedure (autumn)	4
Legal Research (autumn)	2
Legal Analysis (autumn)	1
Professional Foundations (autumn - spring)	1
Criminal Law (autumn)	3
Contracts (spring)	4
Constitutional Law (spring)	4
Legal Research and Writing (spring)	3
Property (spring)	4

##### B. Second-Year Required Curriculum

<b>COURSE TITLE</b>	<b>CREDITS</b>
Business Transactions (autumn)	3
Evidence (autumn)	3

Professional Responsibility (spring)	3
Pretrial Litigation (spring)	3

### C. Third-Year Required Curriculum

COURSE TITLE	CREDITS
Clinic	4-15

## XV. Alexander Blewett III School of Law Clinic Program

### A. Clinical Guidelines

The Clinical Guidelines are based upon the Alexander Blewett III School of Law Clinical Program's Mission Statement.

Believing that clinical education is an integral component of a competency-based curriculum and should be required of all students, the Alexander Blewett III School of Law adopts the following mission statement:

The mission of the Alexander Blewett III School of Law's clinical program is to provide students the opportunity to develop lawyering skills and promote professionalism while serving the public interest. To accomplish this mission:

1. Students will work on actual legal issues in projects that include their significant involvement in project management, strategy planning, lawyering, problem solving and research.
2. Lawyers and faculty will supervise and mentor students, and facilitate the development of perspective through guided reflection.

### B. Clinical Offerings

The Clinical Program offers the following clinical experiences:

- In-House Clinics: Faculty members directly supervise students in a stand-alone clinic.
- Field Placements: Faculty members oversee field placements in selected legal offices where students are directly supervised by Supervising Attorneys. The external clinics shall enter into agreements with the School of Law that provide for faculty access to the clinical program, cooperation between supervising faculty and the School of Law, and for direct supervision and mentoring by the attorneys within the clinic.
- Independent External Field Placements: A field placement where a student proposes and secures approval of a type of experience that is not offered as an in-house clinic or field placement. The field placement and the Supervising Attorney must meet all current criteria and guidelines. The student is responsible for finding a faculty member who is willing to oversee the field placement and adhere to the program guidelines.

In addition to the criteria set out in the Mission Statement and those required for accreditation, all clinics shall:

- Meet the stated Student and Institutional Outcomes.
- Provide service in the public interest to:
  - Government Agencies or Tribal Communities,
  - 26 U.S.C. §501©(3) organizations,
  - establishments that promote access to justice,

- persons of limited means through an in-house law school clinic, or
- Montana small business people through an in-house law school clinic approved by the faculty
- Be in close proximity to the School of Law to facilitate student participation in the clinic and to ensure appropriate faculty supervision and oversight.
- Be of sufficient interest to students in the area of practice.
- Make no inappropriate demands on law school resources.

### C. Credit Requirements

All third-year students are required to complete four (4) semester credits of clinical training. This requirement is fulfilled by working in the approved clinics/field placements associated with the law school or an approved independent external field placement, typically for two credits each semester. Some clinics/field placements permit and encourage students to enroll for 4 credits in the autumn or 4 credits in the spring. A limited number of full-semester clinic options are available. Contact the Director of Clinic for additional information. The Clinic/Field Placement descriptions on the law school's website provide information on the specific options/requirements for each clinic/field placement.

A student may increase the number of credits after a semester begins, subject to law school requirements and limits and, additionally, subject to approval by the Supervising Attorney and Faculty Supervisor. The program credit limit is currently 15 total credits.

### D. Clinic/Field Placement

Clinic/field placement choices are grouped by category of practice. Why do we group by category rather than simply providing a list of specific clinics/field placements? We have observed over time that because many of our field placements have space for only one or two students, it is difficult to ensure that each student will receive their first or second choice of a specific clinic/field placement. When students rank clinic/field placement categories according to their educational needs, interests, and career plans, they have a high likelihood of placement in their first or second category of interest. The clinic program cannot guarantee placement in either a specific category or a specific clinic/field placement.

Students' prior work experience, including those at an Alexander Blewett III School of Law clinic/field placement, may be taken into consideration in assigning clinic/field placements but does not guarantee placement with a particular clinic/field placement. Students will not be assigned to clinic/field placements where they have current employment.

### E. Clinic/Field Placement Requirements:

1. Students are required to have successfully completed the Professional Responsibility course. Individual Clinic/Field Placements may have additional course pre- or co-requisites. Please refer to the individual Clinic/Field Placement descriptions for a list of any additional pre- or co-requisites that apply.
2. The Montana Student Practice Rule requires students to have completed a minimum of 55 credit hours. However, students with fewer than 60 credit hours may be restricted from some Field Placement choices. (See the Clinic Director if this applies to you.) Students with fewer than 55 credit hours may not enroll in any Clinic/Field Placement. A copy of the rule and appropriate Student Practice Rule forms will be distributed in the autumn.
3. The Montana Student Practice Rule requires that students have a Dean's Certification of Student's Moral Character and Legal Competence form signed by the Dean of Students or Dean's designee. Students must have a signed Dean's Certification form before beginning work in a Clinic/Field Placement. Failure to

obtain the required signature will prevent a student from satisfying the mandatory clinical education requirement necessary to graduate.

4. Students are required to meet all obligations to clients. Students are expected to perform the legal work assigned by the supervisors and to perform it competently and timely.
5. Students are expected to attend and participate in all training programs applicable to the Clinic/Field Placement in which they are enrolled.
6. Students are expected to meet with their Faculty Supervisors and Supervising Attorneys (when applicable) on a regular basis and as may be required.
7. Students are expected to work throughout the entire semester until the last day of classes or the last of scheduled finals if the student is placed in a one-semester clinic or field placement (12-15 credit hours).
8. In order to meet these obligations to clients and to Clinic/Field Placements, students can expect to spend on average 3-4 hours per week to satisfy the hours per credit requirement. (This is an average expectation. Depending on the demands of your legal work, it may be more in some weeks and less in others.) Recognizing the efficiency associated with immersion learning methods, a student placed in a one-semester clinic or field placement (12-15 credit hours) must complete 43 hours per credit hour. All other students must satisfy 52 hours per credit hour in their clinical or field placement
9. Time spent in training sessions, preparing for training sessions, and meeting with supervisors is part of the hours per week per credit average time spent in Clinic/Field Placement activities.
10. Students are expected to work for at least 13 weeks (15 weeks if enrolled in 12-15 credit hours). They are expected to complete their Clinic/Field Placement obligations by the last day of classes during each semester or by the last day scheduled for finals if the student has been placed in a one-semester full-time (12-15 credits) Clinic/Field Placement. In exceptional circumstances, a student may be unable to complete the required work by that time. With prior approval of the Supervising Attorney (if applicable) and the Faculty Supervisor, the student may complete this work either during the semester break (if the Clinic/Field Placement is open) or during a subsequent semester.
11. If during the course of the semester a student chooses to increase his/her Clinic/Field Placement credits, he/she may do so, subject to Law School requirements and limits and, additionally, subject to approval by the Supervising Attorney and Faculty Supervisor, as long as the student does not exceed 15 total Clinic/Field Placement credits.
12. Some Clinic/Field Placements allow work during vacation/break periods, notably the semester break and Christmas vacation. Students must obtain permission from the Faculty Supervisor and the Supervising Attorney (if applicable) to work during these periods and must continue to work throughout the semester. (Students are not permitted to complete hours during break and not continue to work throughout the semester.)

#### F. Fee Payment Ramification for Clinical Students

Refer to the registration information in the Student Handbook. UM's refund policy applies to clinical credits. Students who add credits will incur the per-credit Law School Program Fee.

#### G. Grading Policy

All students enrolled in the clinic program will select the High Competent (HC), Competent (CM), and Fail (F) grading option. Please review the Grading Criteria document posted on Canvas for the criteria for each grade.

Your evaluation is based upon both your legal work and your other clinic/field placement coursework. In assessing your performance, the Supervising Attorney and Faculty Supervisor consider your effort and attitude, abilities, work product, practical skills, professionalism, and the degree of improvement throughout the semester and year.

Grades will be given by Faculty Supervisors. In the field placements, legal work will be assessed through an evaluation completed by the Supervising Attorney with input, as appropriate, from the Faculty Supervisor. The Faculty Supervisor will be responsible for making adjustments depending upon observed variations in grading standards among Supervising Attorneys, and for incorporating the other coursework criteria. The Clinical Faculty will meet at the conclusion of each semester to review proposed grades across clinics/field placements.

#### H. Policy on Absences Related to Clinic/Field Placements

Goals of the Policy:

When an essential and unavoidable clinic-related event conflicts with a course having attendance requirements:

1. Students should not be forced to choose between required events in two courses; and
2. Students should be encouraged to recognize and honor ethical obligations to the clients they represent through the clinical program.

When Applies:

This Clinical Absence Policy applies when a court or administrative agency causes an event to be scheduled, the timing of which is beyond the control of the student or Supervising Attorney. This policy also applies to other essential and unavoidable clinic obligations that a student may have when the timing of the obligation is beyond the control of the student and Supervising Attorney. If the parties (and attorneys) are given discretion as to scheduling, students must avoid class times.

The Policy:

1. Clinic events do count for the maximum allowable absence calculation under the Law School Attendance Policy but do not count as an absence for a more stringent attendance policy imposed by a professor's individual syllabus.
2. Students who will miss class due to a clinical absence must complete the "Notification of Clinical Absence Form," and have it signed by their Supervising Attorney and the Faculty Supervisor. The form must be submitted to the professor of the class that will be missed, with a copy to Clinic Director Diana Garrett, prior to the missed class, absent a showing of insufficient notification of the event.
3. Students must take whatever steps are necessary to make up the material that was covered in the class that they missed.

#### XVI. Advanced Writing and Oral Communication Requirements

The advanced writing requirement (AWR) reflects the faculty's recognition that lawyers are professional writers and that law schools must help students cultivate their writing skills. This obligation is now incorporated in the American Bar Association's Standards for Approval of Law Schools, which require "substantial instruction" in legal writing, "including at least one writing experience in the first year and at least one additional writing experience after the first year, both of which are faculty supervised." ABA Standard 303. Students can satisfy the advanced writing requirement in specially- designated upper-division seminar electives, Appellate Advocacy, either law review (through the preparation of publishable articles or comments), or an appropriate independent study. The

designated courses are indicated on the course schedule each semester. The law school Registrar maintains a list of courses approved to fulfill the Advanced Writing and Oral Communication requirement.

Students may collaborate on projects with other students; however, each student must individually complete the AWR requirements and must submit his or her paper for grading on its own merits.

AWR projects will most commonly take the form of a scholarly paper or appellate brief, but other forms are not prohibited. Regardless of form, AWR projects must state and develop an overall thesis or argument. The projects should be double-spaced and at least 5,000 words in length, including citations and footnotes (as counted by the student's word-processing software).

Notice: Receiving a passing grade in one of the designated upper-division electives does not by itself satisfy the AWR; the faculty advisor must separately certify to the law school Registrar that the written product satisfies the AWR assessment criteria. Each student must notify the law school Registrar regarding which designated course he or she will take to satisfy this requirement.

One purpose of the AWR is to encourage professional interaction between a student and his or her faculty advisor during the writing process. Therefore, unless the faculty member determines it would not be necessary or helpful to a student's individual project, the faculty member and student are encouraged to meet at different times during the writing process to discuss:

- a. the topic of the paper;
- b. the bibliographic essay;
- c. The first complete draft; and
- d. any additional drafts the advisor requires before the final, graded draft.

The faculty advisor should provide ample feedback at each step of the process to guide the student in drafting and revising the paper. While the advisor need not meet with the student after the semester to discuss the final draft, the advisor should provide sufficient feedback on the final draft to support the grade awarded.

These guidelines provide a model of how the AWR can be effectively administered by faculty advisors in two of the most common settings: an elective seminar or an independent study. These guidelines may not be appropriate in other AWR settings, such as Appellate Advocacy, where students write briefs based on the same record, or law review. Even in the seminar setting, faculty advisors retain the academic freedom to use other procedures to supervise students' AWR projects as they think appropriate, as long as the procedures adopted satisfy ABA Interpretation 303-2's requirement that the AWR experience be "rigorous."

However, to ensure that each AWR is rigorous, students must submit at least one complete draft to the faculty advisor, who must then extensively critique the draft. The advisor and student must then meet individually to discuss the critique and suggested revisions, after which the student must revise the draft to satisfy the AWR assessment criteria. At the advisor's sole discretion, the student may submit and revise more than one draft before the advisor accepts the final draft for AWR assessment.

The assessment criteria are also mandatory and must be met before a faculty advisor can certify that a student's project has satisfied the AWR. The student must also satisfy the Oral Communication component of the AWR.

#### A. [Model Guidelines for AWR Projects in Seminars and Independent Studies](#)

Students should complete their projects in the following stages and work with their advisor during those stages.

1. By a date set by the faculty advisor, students should submit a brief written statement that describes the project's topic, working thesis, and the student's reasons for choosing the project. The advisor should then schedule conferences to discuss the student's proposed topic and thesis and must approve them before the student proceeds. Students are encouraged to discuss their proposals with their advisor before that date so the advisor can offer suggestions. Advisors are encouraged early in the semester to provide students with a list of possible topics to spark their imagination.
2. By a date set by the faculty advisor, the student should submit a bibliographic essay. This essay should include:
  - a. a report on the status of the student's research by summarizing articles read;
  - b. a formulation of the project's theses or major themes;
  - c. an indication of open or difficult questions that remain;
  - d. an indication of further research that needs to be done; and
  - e. a one or two-page outline of the paper.

The faculty advisor should provide written feedback on the bibliographic essays and may schedule conferences to discuss them.

3. By a date set by the faculty advisor, students must submit a draft of the complete paper. The advisor will review and extensively critique this draft. The draft must have a strong introduction that includes at least three parts:
  - a. a statement of your purpose, main point, or focus;
  - b. a statement of the different sections of the paper and the organizing principle or procedures by which it will address the subject; and
  - c. a statement of the paper's major conclusions, findings, or theses.

All parts of the draft should be sufficiently complete to allow the faculty advisor to evaluate the analysis and provide detailed feedback. If the draft is inadequate, the advisor may, in his or her discretion, allow a student to submit additional drafts before turning in the final paper.

4. By a date set by the faculty advisor, students should exchange a revised draft of their papers with a classmate. Students should attach a list of three questions about the organization, analysis, or thesis of the draft to which they want their peer editor to respond. Student editors should also provide any additional comments that would be helpful.
5. By a date set by the faculty advisor, students must submit a final draft of the complete paper they intend to satisfy the AWR. Students should submit a self-assessment of the final draft when they submit it. The self-assessment should respond to these questions:
  - a. How well did the author locate and incorporate the relevant authorities?
  - b. How well did the paper identify and develop its thesis?
  - c. How well did the paper support its thesis, with the relevant authorities?
  - d. How well would a reader be able to follow the argument?
  - e. What grade would the student award this paper and why?

#### B. Assessment Criteria

The following assessment criteria apply to every AWR project. A faculty advisor cannot approve a student's AWR project if it does not meet these minimum criteria:

1. The project must demonstrate a full grasp of the relevant primary and secondary authorities or other research. It must also be more than a narrative assemblage of the authorities and research. Instead, the project must present a thesis or argument and must demonstrate competence in using authority to construct and support the thesis or arguments presented.
2. The project must have clear, effective large-scale organization that incorporates the author's research and analysis into a logical, coherent structure. All discrete sections must also demonstrate effective small-scale organization and must be developed sufficiently to demonstrate the validity of the author's thesis or arguments.
3. The quality of the writing must meet minimum standards of clear, effective prose. This means, in part, that AWR projects must meet standards of professional competence by containing few grammatical, typographical, or other editing errors. Citation to authorities must comply with the ALWD Citation Manual. Any final draft containing an unacceptable or distracting number of editing or citation errors will not satisfy the AWR regardless of the draft's other strengths.

Recommended Text: Elizabeth Fajans and Betsy Falk, *Scholarly Writing for Law Students* (most recent edition).

Information about declaring intent to complete the AWR can be found on Law Student Information in Canvas.

### C. Oral Communication Component

To complete the Oral Communication Component, students must develop an oral presentation of the position or thesis taken in their written paper or brief. The presentation must be appropriate for the particular audience, whether it consists of classmates, the public, or mock appellate judges. It must be a formal demonstration of preparation, organization, use of authority, analysis, and communication skills. As part of the oral presentation, the student should be questioned about his or her positions and ideas by faculty, classmates, or judges. Assessment of Student Oral Performance

Faculty or adjunct assessors should evaluate student performance of the oral presentation. Student performance should be assessed against the criteria set forth below or comparable criteria. Students should receive a copy of the assessment criteria before their presentation and should receive feedback on their performance as soon as possible after the presentation. Assessment of the oral performance should constitute at least five percent of the grade for the credits earned by the student fulfilling the.

These criteria are recommended to assess students making academic or public presentations:

1. **APPROPRIATE DRESS:** The presenter is dressed to project a professional and credible image to the particular audience.
2. **SELF-INTRODUCTION:** The presenter introduces herself or himself to the audience in a comfortable and confident manner, providing the audience with as much of the presenter's affiliations and background as necessary to understand the presenter's relationship to the subject.
3. **SUBJECT BACKGROUND:** The presenter educates the audience by providing basic background and subject information necessary to the audience's understanding and appreciation of the presentation.
4. **THEME:** The presentation is structured around an appropriate theme.
5. **OUTLINE OF CONTENT OF ARGUMENT:** The presenter starts with a brief synopsis or summary of the main points that will be presented or the main subjects that will be covered.
6. **PREPARATION:** The presentation reflects that the presenter is well-prepared and that the argument is thorough and reasoned.

7. ORGANIZATION AND STRUCTURE: The presentation is organized in a logical progression to persuade. It contains an introduction, the body of the presentation, and a conclusion.
8. USE OF AUTHORITY: The presenter relies on relevant legal or interdisciplinary authority and uses the authority in a meaningful way to persuade the audience of his or her position.
9. LEGAL REASONING: The presenter's interpretations, conclusions, inferences and deductions drawn from cited authority and from the facts are fair, reasonable, and otherwise appropriate.
10. ANALYTICAL QUALITY: The presenter demonstrates that he or she has accurately and thoroughly analyzed facts pertinent to the subject and authorities and can present the analysis persuasively to the audience.
11. RESPONDS APPROPRIATELY TO QUESTIONS: The presenter invites the audience's questions, is flexible enough to deal with questions during the presentation, and responds appropriately.
12. EYE CONTACT: The presenter maintains appropriate eye contact with the audience.
13. POSTURE: The presenter's posture does not distract and projects an appropriate image to the audience.
14. RESPECTFULNESS: The presenter's demeanor and conduct reflect respect for the audience.
15. DICTION AND DELIVERY: The presenter's diction and delivery are clear and demonstrate a deliberate and appropriate choice of words and phrases.
16. PACE, TIMING, AND PAUSES: The presenter employs a proper pace to the presentation, varying speed to make certain points, and pauses where appropriate.
17. VOICE TONE, PITCH, AND VOLUME: The presenter speaks in a clear, modulated voice with varying pitch and volume.
18. AVOIDING VERBAL TICS: The presenter avoids distracting verbal glitches such as "Aah" and "you know."
19. SPEAKING STYLE: The presenter uses a style of speech appropriately formal for addressing the audience and avoids being inappropriately informal or colloquial.
20. GESTURES: The presenter's gestures are not distracting or artificial.
21. CONFIDENT AND COMFORTABLE: The presenter's demeanor displays that he or she is not overly nervous or uncomfortable and is confident of his or her position.
22. CONCLUSION: The presenter makes a short synopsis or summary of what he or she has established and closes with an appropriate conclusion.

## XVII. Oral Advocacy Requirement

### A. Oral Advocacy Requirement

Each student must demonstrate oral advocacy competence by passing a specially designated upper-division simulation course or co-curricular in which oral argument before a tribunal is a substantial share of the total assessment (the "Oral Advocacy Requirement").

### B. Approved Courses and Co-Curriculars

The law school Registrar maintains a list of courses and co-curriculars approved to fulfill the Oral Advocacy Requirement.

### C. Additional Approvals.

The faculty may, at its discretion, approve additional courses or co-curriculars as meeting the Oral Advocacy Requirement.

## XVIII. Independent Study

The conditions under which a student may undertake independent study are:

1. Law students may undertake one independent study project during either the second or third year if the student obtains timely written approval from the Curriculum Committee.
2. The independent study applicant must submit an outline of the proposal, including a request for one or two credits with justification, and a bibliography of works to be read in whole or part:
  - a. first, to a faculty member (which may include an adjunct faculty member) who agrees to supervise the study and recommends in writing that the Curriculum Committee approve the study; and then
  - b. before or by one week after 1L students' registration opens in Cyberbear for spring semester and one week after rising 2L students' registration opens in Cyberbear for autumn semester to the Curriculum Committee. Semester-specific deadlines are published in the Course Advising Memorandum.
3. The Curriculum Committee evaluates the proposal and may ask for additional information before making its decision. (The Committee reports to the law faculty its approval or disapproval of proposals for independent study, but action by the law faculty is not required unless there is disagreement between the Committee and the supervising law faculty member.)
4. If the project is approved, the student will produce a definable product of significant educational value, for example, by writing a paper of publishable quality, by drafting legislation with commentary, or by performing satisfactorily on an oral or written examination given by the supervisor. If an oral examination is given, the supervising faculty member will be joined by another law faculty member knowledgeable in the field of law concerned. Both faculty members will participate in posing questions to the student and in evaluating the student's performance in the Independent Study.
5. The project must be undertaken to benefit the student and may not be used as a substitute for a teaching or research assistantship or primarily for the benefit of a member of the faculty of the law school or any other school or college.
6. If the project is interdisciplinary, it must have a substantial relationship to law or legal problems.
7. The project may not substitute for course content available to the student in the law school curriculum or eligible cross-listed courses. A student may not undertake more than one project of independent study.
8. Independent study that requires work equivalent to the advanced writing requirement (resulting in a paper of at least 5,000 words in length) or similar project may earn one (1) semester credit. Independent study that requires work substantially exceeding the advanced writing requirement (resulting in a paper of at least 10,000 words in length), or that requires a project or other course of study equivalent to a two-credit course (supported by a syllabus of weekly assignments), may earn a maximum of two (2) semester credits. The project must be completed in the semester in which credit has been earned.

## XIX. Individual Study Abroad

The Alexander Blewett III School of Law adopts these educational objectives which it seeks to achieve in allowing its students to study abroad for academic credit:

- To give Montana-trained law students the opportunity to apply their knowledge, training, and skills in international legal and cultural settings;

- To give Montana law students the opportunity to acquire international legal knowledge, for future application in a Montana or United States setting, that is not otherwise currently available at the UM School of Law; and
- To provide Montana law students the opportunity to develop personal and professional relationships in a foreign legal and academic community which will have the potential for reciprocal study.

The faculty further adopts the recommendation that such individual law study (as opposed to study in an ABA-approved foreign study program) be limited to third-year students. Individual foreign law study may account for no more than 10 credits toward graduation for the Alexander Blewett III School of Law.

## XX. Visiting at Another Law School

For a University of Montana law student to be a visitor at another ABA-accredited law school the student must:

1. Apply separately to an ABA-accredited law school.
2. Have completed or intend to complete at least 45 law credits at the Alexander Blewett III School of Law.
3. Have completed or intend to complete all required courses at the Alexander Blewett III School of Law. To meet those requirements students may take courses at the visitor school that are approved by the Associate Dean of Academic Affairs, Dean of Students, or Dean's Designee to meet UM requirements.
4. Obtain a letter of "good standing" from the law school Registrar as required by the visitor school.

## XXI. Competition Teams

The Alexander Blewett III School of Law supports student competition teams in the areas of trial practice, moot court, and negotiations, subject to funding and coaching.

The members of each competition team are selected through a competitive process, determined by each team's faculty advisor(s). Students may not participate on any team during their 1L year and may not participate on more than one competition team during an academic year. Participating students may only receive excused absences for time spent traveling to and from a regional or national competition and for the time spent at the competition.

Subject to satisfying the criteria for academic credit for student competitions, team members may receive up to two academic credits in their first year of participation on a competition team and one additional credit for a subsequent year of participation on that team. With the approval of the faculty advisor and Registrar, team members in their first year of participation may choose to take one credit each semester or two credits in one semester, depending on workload.

After teams have been selected, team faculty advisors submit the names of the team members and the credits sought to Student Services. Students should not register themselves for Skills Competition or Advanced Skills Competition in any term. Student Services will enroll students for the appropriate sections and credits after receiving notification from faculty advisors. Students in their first year of participation will be enrolled in the appropriate section of Law 666: Skills Competition. Students in their second year of participation will be enrolled in the appropriate section of Law 610: Advanced Skills Competition.

### A. Policy on Student Competitions

The Faculty approves academic credit for students' participation on a competitive team according to the criteria adopted by the faculty and elaborated below. The team's faculty advisor presents the request for initial approval to the faculty, and in subsequent semesters submits to the Registrar a list of students for the award of credit.

1. Criteria for Academic Credit for Student Competitions will include certification by faculty advisors that:
  - a) *The activities of the competitive team have included at least 15 hours of scheduled supervised instruction for each hour of academic credit claimed and 30 hours of related student participation for each credit claimed,*
  - b) *The faculty advisors have directly participated in the sessions of scheduled instruction by supervising and teaching,*
  - c) *The training has involved the use of written materials whose legal content is appropriate to a professional skills course receiving law school academic credit,*
  - d) *Student performances of professional skills have been regularly observed and assessed for any academic grade assigned to the student, and*
  - e) *Faculty Advisors have required regular attendance at scheduled training sessions of the competitive team in accordance with ABA attendance standards.*
2. The faculty advisor for a student competitive team determines eligibility requirements for participation on the team based on any prerequisite courses or qualifications, including academic progress or year in law school where appropriate for the particular competition. Eligibility requirements for each competitive team are published in this handbook.
3. The policy on limiting the number of competitions in which a particular student may participate is as follows:
  - a) *Participation in a student competition is usually an extremely positive educational experience for the students involved. As many students as possible should have the opportunity to compete. At the same time, competition usually involves a significant time commitment. Therefore, absent some extraordinary circumstances, students should be limited to participating in only one student competition per academic year.*
4. Competitive teams seeking school recognition, funding, or academic credit must secure faculty approval and meet the following requirements:
  - a) *Law School Recognition*
    - (1) Those teams seeking law school recognition, but no funding or academic credit, must have an identified faculty or faculty/adjunct advisor.
  - b) *Law School Recognition and Funding*
    - (1) Those teams seeking law school recognition and funding must comply with the above criteria and
    - (2) have a faculty advisor who is willing to perform the duties specified below in item 6;
    - (3) abide by the funding guidelines specified below in item 6;
    - (4) establish, in conjunction with the Dean and faculty advisor, outside funding sources to the greatest extent possible within five (5) years from the date of approval. Existing teams will have five years from the date of approval of this recommendation to establish the outside funding sources; and
    - (5) establish, through the faculty advisor, prerequisites for student participation if appropriate.
5. Law School Recognition, Funding, and Academic Credit

- a) *Those teams seeking Law School recognition, funding, and academic credit must comply with all of the above criteria and obtain faculty approval for academic credit in accordance with the criteria set forth above in item 1.*
6. Faculty advisors to student competitive teams should be prepared to perform the following duties:
- a) *Oversee allocation of approved funds,*
  - b) *Attend competitions unless rules prohibit attendance,*
  - c) *Oversee selection of team members,*
  - d) *Determine prerequisites for student participation,*
  - e) *Assist in team preparation for competition as needed and permitted by the rules of the competition.*
7. The following are the guidelines for the allocation of law school funds for the expenses of student competitive teams:
- a) *Teams travel by ground transportation to any competition within 1,000 miles, unless weather or other extraordinary circumstances dictate otherwise.*
  - b) *Students share rooms whenever possible.*
  - c) *Teams use state per diem allocation for meals.*
  - d) *Teams are allowed hotel expenses at high-cost city rates when appropriate.*
  - e) *Faculty advisors should oversee supply purchases to assure economy whenever possible.*

## B. Student Competition Team Eligibility Requirements

### *National Moot Court*

Prerequisite: Must have completed second year of Law School and be in good academic standing.

### *UM Trial Team*

Prerequisite: Must be in good academic standing.

### *ABA Negotiation*

Prerequisite: Must be in good academic standing.

### *NALSA Moot Court*

Prerequisite: Must be in good academic standing and have taken or be enrolled in Indian Law.

### *Pace Environmental Law Moot Court Team*

Prerequisite: Must be in good academic standing and have taken Appellate Advocacy.

## XXII. Grading System and Academic Ranking

The University uses three grading modes: traditional letters, credit/no credit, and student's option of traditional or CR/NC. In the law school, Trial Practice, Montana Law Review, and Public Land and Resources Law Review are offered CR/NC only. Clinic Training is offered as High Competent/Competent/Fail. All other courses are offered only in an expanded traditional mode which includes + and -. (See list below and note that + and - are affixed to A, B, or C but not to D or F.)

When a student submits a written assignment later than the established due date and time, faculty members are to reduce the earned grade for the assignment.

Final grades are recorded on CyberBear. A chart of the distribution of grades in each course is available at Student Services. Grade point averages (GPAs) are calculated by assigning quality points (QPTs) to each grade received as follows:

- Multiply the quality points by the number of credits in the course, e.g., a grade of B in a three-credit course is nine grade points.
- The grade point average for a particular period is calculated by dividing the total grade points by the total credits attempted.
- This calculation includes the initial, but not subsequent, “F” grades in a repeated course.

#### A. Transfer and Non-law Credits

Transfer grades and credit hours, but not quality points, are listed on University of Montana transcripts. When the law school receives an official transcript from another law school, the law school Registrar assigns quality points to the accepted credits, according to the scale above.

Each semester, the law school Registrar adds the transfer quality points to the quality points earned at the law school and manually recalculates the GPA. The recalculated GPA is the basis for class ranking.

Non-law courses taken for JD credits are not calculated in the law GPA.

### XXIII. Student Rank and Honors

Our ranking system is designed to provide numerical ranking to students who may be competing for positions that require high numerical rank and to show the remaining students their relative class position without the negative effect of numerical ranking. Our system sorts each class in descending order of cumulative GPAs after each semester, then divides the sorted class into five equal groups (“quintiles”).

The students whose GPAs place them in the first quintile are provided a ranking letter. Any student’s individual rank is available upon request to Student Services.

Students are ranked after each semester, except that first-year students are not ranked until after their second semester.

Honors and High Honors are accorded to graduating students after spring semester grades are recorded and noted on their diplomas. High Honors go to the students in the top 5% of the graduating class; Honors go to those in the next 15%.

The cumulative GPA of students with transfer credits and non-law credits is calculated manually each semester by the law school Registrar. Students who stop out during their law studies are ranked with their graduation class, not with their entering class.

### XXIV. Mandatory Grade Normalization

To ensure consistency and fairness in grading, instructors will ensure that the grade point average for all courses using letter-graded assessment falls between a B- (2.70) and B+ (3.30), inclusive. Normalization will apply to all sections of a sectionalized course, whether or not taught by the same instructor. Faculty members whose grades deviate from the normalization policy will provide an explanation of the deviation to the Associate Dean of Academic Affairs.

## XXV. Review of Grades and Procedural Issues

### A. Review of Grade Issues.

1. A student who believes his or her final grade for a class should be at least one full grade above the assigned grade (e.g., a “B” instead of a “C”) can file a petition with the Dean seeking the higher grade. To appeal a grade assigned in the autumn semester or winter session, the petition must be filed within 30 days after the first day of the following spring semester. To appeal a grade assigned in the spring semester or summer session, the petition must be filed within 30 days after the first day of the following autumn semester. The petition must describe the basis for the appeal and state what efforts the student has made to discuss the grade with the faculty member. Unless the Dean summarily concludes the petition lacks merit, it will be referred to a standing or ad hoc faculty Committee.
2. The Committee’s review will include an evaluation of relevant documents and other materials on which the grade was based and, if the Committee thinks appropriate, similar documents and materials from other students who received higher and lower grades. Both the student and the faculty member assigning the grade will be asked to submit short written statements explaining their positions and identifying supporting documents and materials they would like the Committee to review.
3. The student has the right to request a hearing. If requested, a hearing lasting no longer than one hour will be held within 15 days of receipt of the student’s written statement. The faculty member is encouraged, but not required, to attend the hearing. An audio recording of the hearing will be made and preserved until the grade appeal has reached a final resolution.
4. The Committee will prepare written Findings and Recommendations for the Dean. The Committee will recommend a grade change only if it concludes the final grade assigned was arbitrary and capricious. The Dean will adopt the Findings and Recommendations if the Dean concludes they are objective and reasonable, and notify the student and Committee in writing. If the Dean rejects the Findings and Recommendations, the Dean will provide the student and Committee a written statement explaining why. In either event, the Dean shall provide the student with a copy of the Committee’s Findings and Recommendations when the student receives the Dean’s decision. If a grade change is ordered, the Dean will notify the Registrar. The student can appeal the Dean’s decision to the Provost within 15 days after receiving a copy of the Dean’s decision.
5. If the Committee concludes the professor has failed to make a good-faith effort to cooperate with the appeal process, the Committee can, at its discretion, find for the student by default and recommend a grade change.

### B. Review of Procedural Issues.

1. A student who believes he or she has been, or is being, adversely impacted by a procedural error or systemic flaw in a faculty member’s overall evaluation process (i.e., an error or flaw that goes beyond the assignment of an individual grade) may petition the Dean for review. If the Dean finds a significant procedural error or systemic flaw, the Dean will require the faculty member to correct the problem and address its adverse impacts or will take other action in the best interest of the Law School.
2. Appeal to Provost:
  - a. A student may file an appeal with the Provost who will review the case in detail and determine whether any of the following have occurred:
    - i. a prejudicial procedural error, defect, or omission has been committed;
    - ii. a recommendation is not supported by factual evidence or is lacking a rational basis;

- iii. a recommendation was the result of personal prejudice or bias which adversely affected the substantive academic judgment of the committee; or,
  - iv. a recommendation was made for reasons which were clearly impermissible.
- b. If the Provost determines there is cause for the case to be reviewed again, or if the student appeals the Provost's decision, an existing or newly constituted University Committee, external to the law school, will entertain a hearing on the case. The composition of the committee will be structured in a way to avoid any conflict of interest.
- c. The committee will provide the complainant an opportunity for an oral presentation in which evidence (oral or written) would be accepted. The committee would have the full record from the initial law faculty Grade Appeal Committee's review, including material submitted to or gathered by the committee, the standard of review the committee was directed to use, the existing law school policy on grade appeals, the faculty's written response to the student's grade appeal, and the committee's written decision and recommendation to the Law Dean. The committee to which the Provost/President refers the matter (newly constructed or standing) will not contain any faculty members from the earlier law school committee and is not bound by the findings and conclusions of the law school committee. However, it is not to merely substitute its judgment for that of the law school and may recommend reversal based only on a finding that the school committed a clear error. The committee will make a recommendation to the Provost.
- d. The Provost will review the recommendation of the committee and offer a final decision on the matter.

#### XXVI. Incomplete Grade Policy

The law faculty believes law students have the responsibility to complete the requirements of the courses in which they are enrolled by the end of the semester. The law faculty recognizes, however, that sometimes unanticipated and compelling circumstances prevent students from accomplishing this. Under these circumstances, a faculty member may assign the student an "incomplete" and extend the deadlines to meet course requirements. No student is automatically entitled to receive an incomplete and the accompanying extensions.

The faculty member may award a student an incomplete according to these guidelines:

An incomplete may be assigned to a student when:

- a. The student complies with the attendance policy and, if relevant to the course requirements, has been doing passing work up to the last day of class of the semester; and
- b. For reasons beyond the student's control, which the student could not reasonably anticipate or prevent, and which the faculty member finds acceptable, the student cannot complete the course on time. Negligence and indifference are not acceptable reasons.
- c. The professor sets the conditions for the removal of the incomplete and notes these conditions and the specific deadline for performing these conditions on the final grade sheet. The professor must also enter the grade the student will receive if the student does not meet the conditions removing the incomplete (the alternate grade).

On the transcript, an incomplete is recorded as "I." When an incomplete is removed, the "I" remains and the grade is printed to the right of it. An incomplete that is not made up within one calendar year automatically will revert to the alternate grade assigned by the instructor at the time the incomplete was submitted. See Policy on Incompletes in the current UM Catalog.

PLEASE NOTE: The law faculty expects students to satisfy conditions to update incompletes within eight weeks of the beginning of the semester following the assigning of the incomplete grade unless compelling circumstances prevent completion within those eight weeks.

When a student has satisfied the conditions of the incomplete, the professor will assign a grade based on an evaluation of the total work done by the student in the course. An unresolved incomplete will automatically revert to the alternate grade that the professor assigned within one calendar year.

## XXVII. Academic Review

The Dean of Students serves two functions: first, to identify students needing assistance and to prescribe a course of action; second, to assist the law faculty in its effort to ensure that only students competent to practice law graduate. The Dean of Students, in consultation with the Director of the Academic Success Program, reviews students who, at the end of any of the first four semesters, earn below-average grades. The Dean of Students determines what steps the student or the law school should take using these guidelines:

1. Only first- and second-year students may be reviewed.
2. The work of a student receiving two or more grades below "C" in any one semester must be reviewed.
3. The work of a student receiving an "F" must be reviewed.
4. The work of any student earning a 2.30 grade point average (a 2.0 grade point for a student who matriculates prior to 2016) or below in a semester and the work of a first-year student who receives one or more grades below "C" during the year is subject to a preliminary screening.
5. These review procedures do not affect those students who are excluded from the law school under rules for exclusion.

After reviewing a student's record and discussing it with the student and the Director of the Academic Success Program, the Dean of Students is empowered to:

1. Require a student to work with the Director of the Academic Success Program.
2. Require a student to take a reduced credit load to enable the student to focus greater attention on fewer subjects.
3. Require or recommend a student take an academic leave for a semester or a year.

## XXVIII. Regulation on Academic Exclusion

To be in good standing, students must obtain a 2.30 cumulative grade point average in all courses for which they have registered and received a grade, after they have completed one semester.

If a student fails to obtain and maintain a 2.30 cumulative grade point average as set out above, he or she shall be placed on academic probation. (In other words, a student may be placed on academic probation based on the student's cumulative grade point average at the end of the first year, autumn semester.) The student will remain on academic probation until achieving a 2.30 cumulative grade point average, graduating with a cumulative grade point average of at least 2.30 or being excluded from the School of Law.

A first-year law student shall be excluded from the Blewett School of Law if they fail to achieve a 1.50 semester GPA at the end of their autumn semester.

A student shall be excluded from the law school if they fail to achieve a 2.30 grade point in any autumn or spring semester while on academic probation. (For example, if a student is placed on academic probation at the end of the first year, autumn semester, and the student fails to achieve a 2.30 grade point average in the first year, spring semester, that student will be academically excluded.) However, a student may avoid exclusion from the

School of Law after first year, spring semester if the Dean of Students and Director of Academic Success, in consultation with 1L Faculty, determine that the student has complied with the student's academic action plan and that the student's continuation will not inculcate false hopes, constitute economic exploitation, or detrimentally affect the education of other students.

A student who voluntarily withdraws from law school while the student is on academic probation will be deemed excluded from law school. In the event of illness or other exigency, a student on academic probation, however, may request a leave of absence as opposed to withdrawal. A student seeking to take a leave of absence must submit this request to the Dean of Students before or by the 10th instructional day in the first semester following their last term of enrollment.

A student must repeat any required course in which the student received an "F" grade. A student has the option, contingent on class scheduling, to repeat a course in which the student received a "D" grade.

Students retaking courses must complete the University's "Course Request Form" but are exempted from paying the \$100 repeat course fee. Law students may not repeat any courses for which they received a grade of "C-" or higher.

No student may take a course more than three times.

A student who receives an "F" grade in the first semester of a continuing required first or second-year course may not enroll in the second semester of the course without permission of the instructor. Instead, the autumn semester course must first be repeated with a grade of "D" or higher as soon as scheduling of classes permits.

Courses and credits in which "F" grades are received, or in which a "D" grade has been received and the course has been repeated with a grade of "D" or higher, will not be counted toward graduation requirements.

At the beginning of each semester, any student on academic probation shall meet with the Dean of Students and the Director of Academic Success to receive academic counseling and develop an academic action plan. The Dean of Students shall review the law school record of a student placed on academic probation and may require that the student meet prescribed conditions, including limiting extracurricular activities, reducing courses, or enrolling in specific courses.

A student excluded on the basis of substandard performance may not be readmitted except in cases when a satisfactory showing is made to the faculty, by written petition, that the substandard performance was the result of circumstances that no longer exist or that the student has demonstrated the capability and desire to perform satisfactory work since his or her exclusion. Readmission of a student academically excluded is within the faculty's sole discretion.

#### XXIX. Academic Standards and Achievements

A law school shall maintain a rigorous program of legal education that prepares its students upon graduation, for admission to the bar, and for effective, ethical, and responsible participation as members of the legal profession.

A law school shall adopt, publish, and adhere to sound academic standards, including those for regular class attendance, good standing, academic integrity, graduation, and dismissal.

#### XXX. Student Performance Records

Students may discuss examination results with faculty members by inquiring about an exam soon after grades are released. Unless exceptional circumstances arise, students should discuss exam results no later than three weeks after the beginning of the next semester.

The School of Law maintains either the original or a copy (digital or hard) of every major assignment or exam for one semester after a grade is issued in the course. Each professor determines whether an assignment is "major"

for retention purposes. The law school then destroys all copies of graded student work no later than two semesters after a grade issued in the course. This rule applies to graded originals, digital copies, and hard copies. The time period is tolled by (1) a student's appeal of his or her grade in a course, or (2) allegations of an Honor Code violation in the course. In those instances, all graded work from the course is maintained until the process is complete.

## XXXI. Financial Aid

### A. Financial Aid Assistance

Several programs available in the Law School provide financial assistance to students who are enrolled in a full-time program (taking a minimum of 12 credits per semester-- audit credits do not count towards this minimum credit load for financial aid purposes). This financial aid takes the form of teaching and research assistantships, scholarships, loans, work study programs, and part-time employment.

- Teaching Assistantships: Several appointments to teaching assistantships are available to members of the second and third-year classes. Law school teaching assistants work with the first-year law firm program and the academic success program.
- Research Assistantships: Several students are employed each year as research assistants to work with faculty members engaged in specific research projects.
- Scholarships and Special Loans are managed by the Director of Finance and Personnel. Various communications about scholarships are sent to students throughout the year.
- For resident students who receive a conditional scholarship award on matriculation, the award is conditional on the recipient achieving a cumulative grade point average of 2.7 or above in law school courses after the first two semesters (including courses taken during the winter session, if any).
- For non-resident students who receive a conditional scholarship award on matriculation, the award is conditional on achieving a cumulative grade point average of 2.7 or above in law school courses after the first two semesters (including courses taken during the winter session, if any) and continuing to be a non-resident student.

Additional Information can be found on UM's Financial Aid Office's webpage.

Emergency Loans: Interest-free short-term loans not to exceed \$500 are available from law school financial aid funds for emergency situations. Generally, these loans are due 90-120 days following the date the loan is made or earlier. No collateral is required for these loans. Requests can be made by contacting the law school's Director of Finance and Personnel.

Loans will be considered only:

1. When the Law School is in session (i.e., during class or exam periods).
2. If the student is enrolled at the University of Montana for 6 or more credits, has a minimum cumulative GPA of 2.30, and has no negative credit history at the University.

Work Study Programs: These programs are funded by both state and federal funds and by the participating agencies. A few work study jobs are available in the Law School. After they have qualified for work study, students must find work in public agencies and offices. Instructions for summer work study are posted in the Law School during February each year.

Part-time Employment: A limited number of positions are available. Preference will be given to upper-class law students. Students interested in these positions should contact the Director of Finance and Personnel.

#### B. Financial Education

The Blewett School of Law through the University of Montana Financial Aid Office offers one-on-one financial education counseling. Basic sessions are 30 minutes and extended sessions 60 minutes. Also provided are regularly scheduled workshops. You can schedule an appointment by using the website scheduler on the University's Financial Education webpage or call 406-243-6016. We strongly recommend that each student schedule a financial education seminar, especially prior to graduation.

#### XXXII. Employment

The objective of each law student should be to secure the best legal education possible. Accordingly, everything the student does must be measured in terms of that objective.

Full-time students are expected to devote substantially all working hours to the study of law. The faculty strongly recommends that first-year students do not engage in any outside employment during the law school academic year and that upper-division students do not engage in outside employment in excess of twenty hours a week during the academic year.

#### XXXIII. Student Health Services at Curry Health Center

The Curry Health Center fee, included in semester tuition, provides service to all full-time students. Limited services are available on a fee-for-service basis for part-time students and university employees. All students enrolled for seven or more credits are required to have health insurance. The premium for Blue Cross/Blue Shield health insurance is not included and will be added to your tuition each semester. Students may waive this coverage until the 15th class day if they have other health insurance.

The Curry Health Center offers medical, dental, pharmacy, and counseling services during the academic year. Complete information, including Center hours, is available at the Curry Health Center website.

#### XXXIV. Admission to Practice

All graduates of the School of Law intending to practice law in Montana are required to satisfactorily complete the Uniform Bar Examination, the Montana Law Seminar, and the Multistate Professional Responsibility Examination prior to admission to practice.

Additionally, all applicants to the Montana State Bar must be certified by the Commission on Character & Fitness. Refer to Appendix E of this handbook, Rules of Procedure of the Committee on Character and Fitness of the State Bar of Montana, for information on the State Bar of Montana's character requirements for admission to practice in Montana.

The Uniform Bar Examination is given in July and February. The Multistate Professional Responsibility Examination is given in March, August, and November. (Note: The MPRE registration deadline changes from year to year.) General information and registration information and forms for both examinations are available at the Montana State Bar website ([www.montanabar.org](http://www.montanabar.org)). Each year the State Bar of Montana will also offer in-person instructions on application to the Montana State Bar at the School of Law.

Swearing-in ceremonies for applicants who meet all the criteria are held before the Montana Supreme Court in Helena, Montana.

Students who intend to apply for admission to practice in another state should contact the Board of Bar Examiners of that state as soon as law studies begin. Some states require students to register with the Board of Bar Examiners as soon as they commence the study of law. Each state requires a character investigation of prospective applicants for admission to practice.

### XXXV. Career Development

The law school maintains a Director of Career Development and office. The function of Career Development is to facilitate the job search process for our students. While we do not place students nor act as an employment agency, we are eager to provide you with support, guidance, information, and skills training. In your efforts to obtain a summer internship, part-time employment during the school year, or permanent employment after graduation, you will be provided with notification of positions available with Montana legal employers, guidance regarding the out-of-state job search, employment and salary statistics, as well as assistance with the development of resumes, cover letters, interview skills, and effective job search techniques.

Career Development maintains a legal employment site on Networkx. Explore this site thoroughly. You will find advice regarding the development of resumes and cover letters, suggestions for successful interviewing, guidance regarding the out-of-state job search, and information on legal career options. All of these resources can be found in the "Resource Library" in Networkx. In addition, a variety of employment opportunities (both in Montana and out-of-state) are posted daily on Networkx along with application instructions and deadlines. Opportunities include summer internship positions for first- and second-year students as well as full-time positions for third-year students preparing to graduate and alumni.

Student interns work under the supervision of a licensed attorney and although the duties vary among positions, legal intern work usually involves investigation, legal research, legal writing, and in some instances, court appearances. A student practice rule has been adopted by the United States District Court for Montana and the Supreme Court of Montana (See Appendix F). The rule provides special practice opportunities for law students who have satisfactorily completed legal studies amounting to at least two-thirds (2/3) of the total credit hours required for graduation or who are within five credit hours (assuming ninety credits are required for graduation) of meeting this requirement and who have successfully completed the required professional responsibility course.

Each autumn and spring, Career Development organizes on-campus interviews, inviting legal employers from Montana and the surrounding states to interview our students for intern, law clerk and associate positions. Many students receive their first offer of legal employment as a result of these on-campus recruiting events. All interview postings and schedules can be viewed on Networkx under the OCI tab.

### XXXVI. Graduation Requirements

#### A. Application for JD Degree

At the beginning of the fifth semester of law study, the law school Registrar prepares a graduation audit for each student in the graduating class, which the student reviews with the Registrar to plan the last two semesters of study. At the beginning of the final semester, graduating students complete an Application for the Juris Doctor Degree and submit it with the graduation fee to the law school Registrar. The law school Registrar advises and assists students with the paperwork, but the final responsibility for making sure all graduation requirements are fulfilled and recorded in the student's academic history lies with the students. More information about degree audits and the graduation application process can be found on Law Student Information in Canvas.

## B. Requirements for JD Degree

Candidates for the degree of Juris Doctor must:

1. have received a baccalaureate degree from an approved college or university;
2. complete 90 semester hours of law credits with a cumulative grade point average of 2.30 (2.0 for student matriculating prior to 2016) in all law courses for which the student has registered and received a grade, with a minimum of 45 semester credits earned at The University of Montana;
3. complete all courses required in the first, second and third years as specified in the program of instruction and
4. earn at least 64 credits of the 90 semester hours of law credits required for graduation from courses other than those listed below:
  - a. Clinic Field Placements (i.e., those clinics that are not in-house clinics);
  - b. Non-law courses (even if taken for law credit or as part of a joint program);
  - c. Law Reviews;
  - d. Competition Teams;
  - e. Independent Study (even if taken to satisfy the AWR requirement);
  - f. Credits earned for study or activities in a country outside the U.S. that are not law related; and
  - g. Any other course that involves study primarily outside the class room.
5. earn 60 of earn at least 60 of the 90 required law credits from courses offered as in-person at the Alexander Blewett III School of Law. Definition 7 of the ABA Standards and Rules of Procedure for Approval of Law Schools defines a Distance Education Course as a course where “students are separated from all faculty members for more than one-third of the instruction and the instruction involves the use of technology to support regular and substantive interaction between the students and all faculty members, either synchronously or asynchronously.” (See Standard 306, ABA Standards and Rules of Procedure for Approval of Law Schools.) Students are responsible for tracking distance education courses in their individual degree audits.

Credit is earned by attending courses regularly, preparing thoroughly for and reciting satisfactorily in class sessions, passing exams, writing papers, participating in simulated exercises, or other appropriate assessment methods.

Note: Students must register for 12 credits per semester to qualify for full financial aid and may register for at least six credits per semester to qualify for partial financial aid.

The difference between partial and full financial aid is in the amount of tuition and fee dollars, not in the amount of the living allowance.

## C. Faculty Policy Regarding Approval of Candidates for Graduation

Prior to graduation, the faculty of the Alexander Blewett III School of Law, meeting as a committee of the whole, reviews candidates for graduation and considers whether each candidate shall be approved for graduation.

1. Students who can complete all graduation requirements in the courses for which they are enrolled in either autumn or spring semester may be approved for graduation by the faculty in that semester.
2. Students who fail to meet the above conditions will not be eligible for graduation until they have completed all graduation requirements. Students approved under Section (1) on the condition they would satisfy all graduation requirements that semester, but who subsequently fail to do so, will be eligible for approval after satisfying all graduation requirements.

Faculty may disqualify a candidate for graduation if:

- a. The candidate is not qualified for graduation by reason of his or her lack of academic standing.
- b. The candidate committed violation(s) of the Law School Honor Code, and because of such misconduct, at the time of graduation is subject to expulsion or suspension from the Law School.
- c. The candidate committed violation(s) of the Law School Honor Code and, at the time of the faculty action, has failed to comply with any disciplinary sanction, including restitution, imposed because of such misconduct.
- d. The candidate engaged in misconduct (on-campus and off-campus) described in The University of Montana Student Conduct Code, and at the time of graduation is subject to expulsion or suspension from The University of Montana.
- e. The candidate engaged in misconduct (on-campus and off-campus) described in The University of Montana Student Conduct Code, and at the time of the faculty action, has failed to comply with any disciplinary sanction, including restitution, imposed because of such misconduct.
- f. The candidate fails to disclose conviction of a crime as required by Law School admission or other reporting.
- g. The candidate has been convicted of any crime (as defined in the law school application and Succeeding Certificate) after acceptance to the law school. If at the time of graduation the student has been charged with a crime, but the criminal justice system has not disposed of the matter, the faculty may suspend the candidate's graduation until the matter has been resolved. The faculty shall suspend graduation only if the faculty firmly believes that if the matter had resulted in conviction, the faculty would have disqualified the candidate for graduation.

A candidate disqualified for graduation is entitled to a due process hearing at which the burden is on the candidate to show cause why he or she should be permitted to graduate despite the disqualification. If the candidate claims that impairment by chemical dependency or brain disorder caused the behaviors, the burden is on the student to demonstrate that he or she has taken steps that address the behaviors.

### XXXVII. ABA Accreditation Standards

#### A. Application of Standards to the Law School

The Alexander Blewett III School of Law at the University of Montana maintains compliance with the ABA Revised Standards for Approval of Law Schools, which are [available online](#). The law school acknowledges that its standards must at minimum comply with the ABA Standards; however, the law school retains the right to adopt rules and standards that differ from the ABA Standards so long as the rules and standards of the law school autumn within the minimum and/or maximum requirements as set forth by the ABA Standards.

The following procedure to address student complaints regarding compliance with ABA accreditation standards is provided as required by ABA Standard 510.

#### B. Complaints Concerning Compliance with ABA Standards

Students who believe the Law School has not complied with ABA Standards may file a written complaint using the procedures set forth below.

Only complaints addressing significant problems that directly implicate the law school's compliance with the ABA Standards are covered under this procedure. This procedure does not apply to any other complaints, the

procedures for which are set forth elsewhere in this Handbook, including grade appeals, petitions for reinstatement, honor code violations, and student conduct code violations.

#### Complaint:

Students may file a written complaint to bring to the attention of the law school a significant problem that directly implicates the school's compliance with the ABA Standards. The complaint must (1) indicate the name, address, and email of the complainant, (2) cite the specific ABA Standard for which a lack of compliance is alleged, and (3) describe in detail the behavior, program, or process that is the subject of the complaint and how it violates the cited ABA standard.

#### Time for Filing Complaint:

The complaint must be filed by a student within 30 days of discovery by the complainant of the alleged noncompliance with the ABA Standards.

#### Filing Procedure:

Any complaint must be in writing, addressed to the Dean of the law school, and either hand delivered to the Dean with written acknowledgment of its receipt by the Dean or delivered by certified mail, return receipt requested, to Office of the Dean, Alexander Blewett III School of Law at the University of Montana, 32 Campus Drive, Missoula, Montana 59812.

#### Procedures for Addressing Complaint:

Upon receipt of a complaint the Dean shall refer the complaint to the Student Affairs Committee. The Committee will review the complaint, gather further information it deems appropriate, and, within a reasonable time, recommend to the Dean an appropriate resolution.

Upon receipt of the Committee's recommendation, the Dean shall determine how the law school will respond to the matter and shall notify the complainant of that decision in writing, mailed to the street address provided by the student in the complaint.

#### Maintenance of Complaint Records:

The Dean's office shall maintain a copy of the complaint and a summary of the process and resolution of the complaint for a period of seven years or, if shorter, until the next review by the ABA Accreditation Committee, but at least for the time period that the complainant is a student.

#### XXXVIII. [Guidelines for Selection of the Graduation Speaker](#)

The primary graduation speaker is selected by the Dean in consultation with the Student Bar Association Third Year Class Representative and the faculty. The Dean and the Dean's counselors are mindful of the multiple constituents of the School of Law who have an interest in the graduation ceremony - e.g., the graduates' families and friends, the graduates, the faculty, alumni, future graduates of the law school, friends of the law school and the University. In that regard, over the years the Dean will look to a mix of speakers - some who may have Montana roots and some who hail from elsewhere. Every year the Dean will look to a person who has distinguished herself in the legal profession or in public service.

### XXXIX. The Montana Student Bar Association

The Montana Student Bar Association (MSBA) is an association of the students of the Alexander Blewett III School of Law. The Executive Board consists of a President, Vice-President, Law School Division/American Bar Association Representative, Business Manager, and Community Relations Coordinator who are elected from members of the second and third-year classes. The Executive Board also includes representatives selected from each class. The MSBA is affiliated with the Law Student Division of the American Bar Association.

The Mission of the MSBA is as follows:

The students of the Alexander Blewett III School of Law are committed to advancing the noble ideals of the legal profession and promoting lifelong involvement in public affairs. The Montana Student Bar Association is dedicated to improving the quality of legal education at the University of Montana, providing students with an effective representative voice in the affairs of the School of Law and the University, and making legal education and the legal profession more responsive to the needs of society.

The Objectives of the MSBA are set out below:

Section 1: The SBA shall promote academic standards, procedures, and regulations that will serve to advance student welfare, improve the quality of teaching and learning, protect the privacy and integrity of student academic records, and provide for the most positive and accurate evaluation of student academic performance.

Section 2: The SBA shall promote academic offerings that will best meet the needs of law students, their future clients, the legal system, and the community they will serve.

Section 3: The SBA shall promote a balanced program of educational, social, and cultural extracurricular activities to enhance each student's legal education through community involvement and civic participation.

Section 4: The SBA shall promote reform within the legal profession to ensure that the legal system is more responsive to the needs of the society.

Section 5: The SBA shall promote the protection of the rights and privileges of all law students in policy-making deliberations of the Alexander Blewett III School of Law, and of governmental bodies on campus and at local, state, and national levels.

Section 6: The SBA shall promote awareness regarding the social, ethical, and professional responsibilities inherent in the study and practice of law.

Section 7: The SBA may pursue other objectives not in conflict with these Bylaws.

SBA annually allocates student fees to student groups in the law school. The budget is finalized in the autumn of every academic year. Budgets are prepared and finalized for SBA approval and ratified by SBA membership by a majority vote. Budgeting will follow procedures as set forth in the SBA Bylaws. The complete Montana Student Bar Association Bylaws are included in Appendix C to this Handbook. A list of current student groups can be found on the School of Law website.

### XL. Student Representation on Faculty Committees

The LSD/ABA representative is the student representative to the faculty as a committee of the whole. The student representative has the right to vote on all matters considered by the faculty, except for matters involving faculty appointments, promotion and retention, and individual students.

One student serves on each of the following law faculty committees: Faculty Appointments (non-voting); Strategic Planning; Curriculum; Admissions and Scholarships (non-voting); Library; Technology and Facilities; Student Affairs, including Honor Code Committee (3 student voting members for honor code issues only, with 1 of the 3 designated as voting member for other issues). Student representatives to faculty committees serve one-year terms, and they are appointed by the President of the SBA, with the advice and consent of the SBA Executive Board. They have all the rights, powers, and privileges of a faculty member on each committee, including voting rights, except that:

1. the student representative to the Admissions Committee participates in the work of the Admissions and Scholarship Committee only when the committee considers general admissions or scholarship policy prior to making its recommendations to the faculty, and
2. the student representative to the Faculty Appointments Committee participates in the work of the Committee, not as a voting member, but as an advisor to present the viewpoints of the student body to the Committee.

Students are elected to serve on the Honor Code Committee as provided in the Honor Code.

Law students participate in the evaluation of law faculty members at the conclusion of every course that is offered in the School of Law. An MSBA committee and other participating law students are also involved with interviewing and evaluating all candidates for faculty positions in the School of Law.

## XLI. Publications

### A. Montana Law Review

The Montana Law Review, one of the oldest law reviews in the West, is the principal scholarly journal of Montana law and related legal issues. Published semiannually, it includes articles by leading scholars and practitioners, as well as student comments and notes on recent developments. An online edition provides current reporting and analysis of pending cases. The Montana Law Review sponsors a lecture series and a biennial symposium named for the Honorable James R. Browning, a member of the inaugural editorial board and later the Chief Judge of the United States Court of Appeals for the Ninth Circuit.

All students are encouraged to submit scholarly work for publication. To become a Montana Law Review staff member, first and second-year law students participate in the Montana Law Review's annual writing competition held each spring. The write-on and selection process is anonymous and subject to the School of Law's Honor Code.

Staff members receive one credit per semester and board members receive two credits per semester. Board members are selected from current second-year student staff members each fall.

Subscribers, private donors, the U.S. District Court for Montana's attorney admissions fund, and Montana Law Gear sales provide significant operating support for the Montana Law Review.

The School of Law's Dean oversees and monitors the procurement, maintenance, and distribution of all Law School merchandise to ensure that such procurement, maintenance, and distribution remains independent from similar University of Montana operations.

The School of Law's Dean grants the Montana Law Review the general right to procure, maintain, and distribute any gear displaying, either through word or design, its name or mission. Additionally, the School of Law's Dean grants the Montana Law Review the specific right to procure, maintain, and distribute Montana Law Gear.

"Montana Law Gear" includes, but is not limited to, merchandise procured, maintained, and/or distributed by the Montana Law Review. The color, design, and products offered are within the discretion of the Montana Law Review, subject to supervision by the School of Law's Dean. Montana Law Gear includes, but is not limited to, any variations and/or alterations of the following marks—word, design, or otherwise—used to reference Montana Law, the University of Montana Alexander Blewett III School of Law, Browning Symposia and Lectures, or traditional symbols of the same.

#### B. Public Land and Resources Law Review

The Public Land and Resources Law Review, first published under the direction of Margery Hunter Brown, is a leader in public land law, natural resources law, and federal Indian law. Its mission is to encourage vibrant academic exchange, examine significant recent legal developments, and inform future policy.

Furthermore, as the only Law Review to focus on public land issues, the PLRLR is positioned as a current leader in one of the most pivotal subjects of our time.

Published annually, the PLRLR's material derives from a variety of sources, including articles by leading scholars and practitioners, student comments and notes, and collaborative guidance documents. Its online presence includes student-written summaries of significant recent cases, as well as the Public Land Law Review Blog. The PLRLR further sponsors and organizes the biennial Public Land Law Conference, which centers on legal issues in public land law, natural resource law, and federal Indian law of current interest to scholars, attorneys, professionals, and students.

The PLRLR welcomes all students to submit relevant written scholarship for publication. It also encourages students to participate in an annual write-on process tailored for the selection of the following year's staff. The editorial board is comprised of third-year students who successfully complete a year as a staff member. For their work on the PLRLR, staff members receive one credit per semester, and editorial board members receive two credits per semester.

#### XLII. Student Groups

A list of current student groups can be found on the Alexander Blewett III School of Law website.

The School of Law's Dean oversees and monitors the procurement, maintenance, and distribution of all Law School merchandise to ensure that such procurement, maintenance, and distribution remains independent from similar University of Montana operations.

The School of Law's Dean grants Student Groups the general right to procure, maintain, and distribute any gear displaying, either through word or design, the Student Group's name or mission. For procurement, maintenance, and distribution of Montana Law Gear, see Student Handbook Section XLI, ¶ A.

#### XLIII. Law School Pro Bono Program

##### A. Pro Bono Program Goals and Definition of Student Pro Bono Service

Raising awareness of access to justice concerns and supporting Pro Bono service reflects a shared community value and it is an institutional priority. ABIII graduates recognize the character, values, and professionalism

necessary to serve society as lawyers, including the importance of Pro Bono work, service, and access to justice for underserved communities. To support this learning outcome, the Law School maintains a voluntary Pro Bono Program. The goals of the Pro Bono Program are to: (1) support and encourage student awareness of their professional obligation to engage in Pro Bono service, (2) provide hands-on learning opportunities for students through approved Pro Bono service opportunities, and (3) promote, encourage, and recognize Student, Staff, and Faculty participation in Pro Bono service.

The Pro Bono Program focuses on the promotion and development of professional legal values and the delivery of free legal services to underserved persons, communities, and organizations. Service in the Pro Bono Program is limited to law-related service that meets an access to justice need. It does not include non-legal volunteer work, and it does not include service for which any compensation or academic credit is received.

Students are encouraged to render at least (50) hours of student Pro Bono service during their law student career. Law Student Pro Bono service is defined as:

Supporting or (if authorized by a jurisdiction's Rules of Professional Conduct and Student Practice Rule) rendering law-related services with no compensation or expectation of compensation and with no receipt of academic credit to:

1. persons of limited means
2. charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means
3. individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties, or public rights, or charitable, religious, civic, community, governmental, and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate.

#### B. [Inclusion of Pro Bono Service in the 1L Introductory Program, and in Staff and Faculty Orientation](#)

To reflect the Law School community's shared commitment Pro Bono service, the Oath administered to incoming Law Students includes a pledge to engage in Pro Bono services. The Introductory Program for new Law Students includes a Pro Bono Service and Access to Justice component. Orientation programs for new Students, including transfer Students, and orientation programs for Staff, and Faculty include information about the Pro Bono Program and how to enroll and participate in the Program.

#### C. [Requirements and Recognition](#)

##### 1. [Pro Bono Program Enrollment](#)

Students, Staff, and Faculty can participate in the Program by completing a Pro Bono Program pledge form. The pledge form includes:

- a description of the Pro Bono Program's purpose and goals;
- a definition of qualifying Pro Bono Service;
- the hour goals to be eligible for institutional recognition;
- an agreement to log hours in a database designated by the Pro Bono Coordinator, in a form and on a schedule designated by the Pro Bono Coordinator; and
- an agreement to provide follow-up information and feedback about the participant's experience with the Program.

## 2. Service Recognition

Students, Staff and Faculty enrolled in the Pro Bono Program are eligible for institutional recognition.

### a) *Student Pro Bono Service*

Hours Required for Recognition:

- Students who complete at least fifteen (15) hours of Pro Bono service during their first year in law school (from the first day of a student's first year of law school to the day before the first day of the student's second year of law school) receive a "Dean's First Year Student Pro Bono Recognition" certificate.
- Students who complete at least fifteen (15) hours of Pro Bono service during their second year in law school (from the first day of the student's second year of law school to the day before the first day of the student's third year of law school) receive a "Dean's Second Year Student Pro Bono Recognition" certificate.
- Students who complete at least twenty (20) hours of Pro Bono service during their third year in law school (from the first day of the student's third year of law school to the last day of final exams of the student's last semester of law school) receive a "Dean's Third Year Student Pro Bono Recognition" certificate.
- Students who complete at least fifty (50) hours of Pro Bono service during their law school career (from the first day of law school to the last day of final exams of the student's last semester in law school) receive a notation on their law school transcript that they completed the Law School Pro Bono Service Program requirements.
- Students who complete at least one hundred fifty (150) hours of Pro Bono service during their law school career (from the first day of law school to the last day of final exams of the student's last semester in law school) receive:
  - A "Pro Bono Honors" notation on their Law School transcript
  - An announcement during the graduation ceremony and a notation in the graduation ceremony materials that the student is graduating with "Pro Bono Honors"

Student Pro Bono recognition certificates, transcript designations, and honors designations are official confirmation and recognition of a student's commitment to Pro Bono service and may be referenced and included in employment application materials.

### b) *Application to Current Students and Transfer Students*

Students whose law school career began before the adoption of this Program and transfer students who engaged in Pro Bono service at another law school are eligible to participate in the Program and receive transcript and graduation recognition.

Students in this category may participate in the Program by completing a Pro Bono Pledge form and submitting verification to the Faculty Pro Bono Supervisor of:

- the number of hours of Pro Bono service completed,
- the type or nature of Pro Bono service provided; and
- contact information for the lawyer or legal services provider who supervised the student's Pro Bono service.

The Faculty Pro Bono Supervisor will review student submissions to ensure the Pro Bono service complies with the goals of the Program and the Program's definition of Pro Bono service. The Faculty Pro Bono Supervisor will verify the hours and type of service with the lawyer or legal services provider who supervised the student's Pro Bono service. With the Faculty Pro Bono Supervisor's authorization, students in this category may record Student Pro Bono hours completed before the adoption of the Program or at another law school and will be eligible to receive Student Pro Bono Recognition certificates on the same terms as other students.

### 3. Staff and Faculty

Staff and faculty are encouraged to participate in the Pro Bono Program and are eligible for recognition by the Dean at the Dean's discretion.

In consultation with the staff and faculty, the Dean will develop and publish Staff and Faculty Pro Bono service recognition guidelines no later than the last day of the spring semester of every year.

#### D. Staffing

##### 1. Pro Bono Coordinator

The Program is administered by a Pro Bono Coordinator under the direct supervision of a Faculty Pro Bono Supervisor. It is the Faculty's intent that the position be filled by an AmeriCorps Service Member whenever possible. The Pro Bono Coordinator position description is developed by the Dean and the Faculty Pro Bono Supervisor in consultation with the Faculty and the Student Bar Association, and in collaboration with any participating partner agencies or organizations.

##### 2. Faculty Pro Bono Supervisor

The Pro Bono Coordinator is supervised by a Faculty Pro Bono Supervisor. The Faculty Pro Bono Supervisor is a full-time member of the Faculty. The Faculty Pro Bono Supervisor is appointed by the Dean in consultation with the Faculty. The position description for the Faculty Pro Bono Supervisor is developed by the Dean in consultation with the Faculty.

For workload purposes, the Faculty Pro Bono Supervisor designation is allocated 50 workload hours each semester, including the summer semester. Fulfilling the Faculty Pro Bono Supervisor responsibilities is part of the designated Faculty member's job for which the faculty member is compensated and allocated workload credit. It is, therefore, not considered Pro Bono service.

#### E. Oversight and Assessment

The Dean, the Faculty Pro Bono Supervisor, the Pro Bono Coordinator, and a Student representative appointed by the Student Bar Association meet at least quarterly to set goals and priorities for the Pro Bono Program, and to assess the Program's effectiveness. The quarterly meetings are announced at least one week prior to the meeting and are open to students, staff, and faculty. The Faculty Pro Bono Supervisor submits a written report of the quarterly meeting to the faculty within two (2) weeks of the meeting.



## Appendix A: The Alexander Blewett III School of Law Honor Code

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## **(a) CHAPTER 1- INTRODUCTION**

### **▫ 1-101 - PREAMBLE**

The American Bar Association and the Montana Supreme Court establish standards of skill and conduct to which a Montana attorney must conform. The

Alexander Blewett III School of Law requires law students to conform to similar standards. Honor and integrity among law students are essential to develop competent and ethical attorneys, and this Honor Code seeks to develop a pattern of conduct for students to follow in the practice of law. This Code is intended to foster these professional qualities and, when appropriate, to educate students, including those accused of violating this Code, those involved in the enforcement of this Code, and the student body as a whole.

### **▫ 1-201 - DEFINITIONS**

In this Honor Code, unless the context requires otherwise, the following definitions apply.

- (a) "Accused Student" means a student identified in an informal complaint as having allegedly violated the Code. An Accused Student must have applied for admission to the Law School, been admitted to the Law School, or enrolled in a course offered by the Law School at the time of the alleged violation, but need not have been enrolled when proceedings under this Code began.
- (b) "Associate Dean" means the Associate Dean of The Alexander Blewett III School of Law, and the Associate Dean's designee.
- (c) "Chair" means the faculty member selected to be chair of the Honor Code Committee by members of the Committee.
- (d) "Code" means this Honor Code.
- (e) "Committee" means the standing Honor Code Committee. Once a formal hearing on the merits has commenced before the Committee, it shall determine, pursuant to the provisions of this Code, whether an Accused Student has committed the alleged violation(s) and appropriate sanction.

(f) "Counsel" means Faculty Counsel and Student Counsel collectively, who, pursuant to the provisions of this Code, have the authority to review, investigate, charge and prosecute alleged violations of the Code.

(g) "Dean" means the Dean of The Alexander Blewett III School of Law, and the Dean's designee.

(h) "Dismissed complaint file" means the file, electronic or paper, in which copies are retained of any informal complaints that are submitted to Counsel but which are dismissed as untimely or unfounded without a formal complaint being prepared. The dismissed complaint file shall be maintained by the Dean or Associate Dean. Access shall be limited to the Dean, Associate Dean, Director of Students and Faculty Counsel. Documents in this file shall be retained for at least five years but may then be purged at the discretion of the Dean pursuant to Law School record retention policies.

(i) "Faculty Counsel" means a member of the Law School faculty designated by the Dean to review, investigate and prosecute alleged violations of this Code, with the assistance of Student Counsel. Faculty Counsel shall be appointed in the fall by the Dean for a one-year term, and may serve multiple terms, subject to the discretion of the Dean. If the appointed Faculty Counsel cannot fulfill these duties for any reason, the Dean shall appoint a replacement faculty member to serve either in connection with a particular case or as otherwise needed. Subject to the provisions of this Code, Faculty Counsel retains authority to determine whether to prosecute alleged violations and to resolve alleged violations at any time before the Committee begins a formal hearing on the merits. To further the educational function of this Code, Faculty Counsel should generally allow Student Counsel to have a significant role in the process, including allowing Student Counsel to present evidence and argument at the hearing. However, Faculty Counsel retains the discretion to handle all of Counsel's duties if Faculty Counsel believes doing so is necessary to ensure proper enforcement of the Code.

(j) "Formal complaint" means the written complaint prepared by Counsel to initiate proceedings under this Code against an Accused Student after Counsel has determined probable cause exists to support the allegations in an informal complaint. A formal complaint shall identify the Code violation(s) alleged, concisely identify material facts Counsel has identified to date that support the alleged violation(s), and identify the person or persons who filed the informal complaint.

(k) "Informal complaint" means a signed written complaint submitted to Counsel alleging a violation of the Code. An informal complaint shall identify which provisions of the Code the complainant believes have been violated and by whom, state the relevant facts, and include any relevant documentary or other physical evidence the complainant possesses.

(l) "Law School" means The Alexander Blewett III School of Law.

(m) "Permanent academic record" means an Accused Student's official law school file.

Copies of disciplinary records placed in an Accused Student's permanent academic record pursuant to Chapters 4 and 6 of this Code shall be provided by the Dean to all bar associations, professional licensing authorities, and other entities that provide a proper release of information under the Family Educational Rights and Privacy Act ("FERPA"). Educational institutions that the Accused Student is attending or seeking to attend shall be given copies of disciplinary records upon request regardless of whether they have provided a proper release.

(n) "Prosecuted complaint file" means the file, electronic or paper, in which copies are retained of all formal complaints prepared by Counsel, along with copies of all relevant documents memorializing the disposition of complaints, including any written agreements between Accused Students and Counsel and any written decisions of the Committee. The prosecuted complaint file shall be maintained by the Dean or Associate Dean. Access shall be limited to the Dean, Associate Dean, Director of Students and Faculty Counsel. Documents in this file shall be retained for at least five years but may then be purged at the discretion of the Dean pursuant to Law School record retention policies.

(o) "Register of complaints" means the ledger, electronic or paper, in which Faculty Counsel briefly describes all written complaints received, along with their disposition and any sanction imposed. The register shall be maintained by the Dean or Associate Dean. Access shall be limited to the Dean, Associate Dean, Director of Students, and Faculty Counsel. The register is intended to be a permanent record of Honor Code proceedings at the Law School and shall not be purged regardless of other Law School record retention policies.

(p) "Student" means a person enrolled in any course offered by the Law School or a person accepted for admission or readmission.

(q) "Student Counsel" means a first- or second-year law student elected by the student body at the end of spring semester to assist Faculty Counsel in reviewing, investigating and prosecuting violations of the Code. Student Counsel's term shall be one year, starting with the first day of class fall semester, and no student shall serve more than one term. Subject to the discretion of Faculty Counsel, Student Counsel will assist in the review, investigation, and charging of alleged violations, as well as be

primarily responsible for presenting evidence and arguments to the Committee at formal hearings.

In the event the elected Student Counsel cannot fulfill these duties for any reason, the Student Bar Association president shall appoint a replacement to serve either in connection with an individual case or as otherwise needed.

(r) "Student Conduct Code" means the code of conduct applicable to all students at The University of Montana.

(s) "University" means The University of Montana.

### **▫ 1-301 - JURISDICTION**

The following procedures govern alleged violations of the Code. The Law School's authority to take action against a student is subject to state and federal law and the policies of the Montana Board of Regents and the University.

### **▫ 1-401 - GENERAL PROVISIONS**

(a) A student violates the Code when the student attempts to violate it.

(b) A student violates the Code when the student acts knowingly, as defined in Montana Code Annotated § 45-2-101.

(c) The Associate Dean or Director of Students shall insure that each new student receives a paper copy of this Code or is informed where an electronic copy can be found on the Law School's Web site. However, students are conclusively presumed to know the contents of the Code regardless of whether they were given a copy of the Code or informed where a copy could be found, and lack of knowledge is not a defense to an alleged violation of the Code.

## **CHAPTER 2 - VIOLATIONS**

### **▫ 2-101 - MISCONDUCT OBSTRUCTING ENFORCEMENT OF THE CODE**

(a) A student (other than the Accused Student) whom Counsel requests to interview or whom the Committee requests to appear as a witness violates the Code by

failing to comply, unless noncompliance is based on the student's reasonable belief that the information sought is protected by a valid privilege recognized under Montana law. Counsel and the Committee shall make reasonable accommodations regarding scheduling of interviews or testimony.

(b) A student violates the Code by knowingly making false statements, misrepresenting material facts or failing to state material facts to Counsel or the Committee, except that an Accused Student who chooses not to discuss allegations against the Accused Student with Counsel or testify before the Committee does not violate the Code by failing to state material facts to Counsel or the Committee.

(c) A student violates the Code by failing to comply with a final order of the Committee imposed under Chapter 6.

(d) A student violates the Code when the student knows that a violation of this Code has occurred but fails to report the suspected violation as provided in Chapter 3. However, it is not a violation of the Code for a student to fail to report another student's suspected failure to report a violation of the Code. Nor is it a violation of this provision for an Accused Student to decline to be interviewed by the Counsel, or to decline to testify before the Committee, about the Accused Student's own alleged violation.

## ▪ 2-201 - MISCONDUCT INVOLVING WRITING

(a) A student violates the Code by incorporating into work the student offers for credit passages taken either word for word or in substance from work of another person, unless the student credits the original author and identifies the original author's work with quotation marks, footnotes, citations, or other appropriate attribution.

(b) A student violates the Code by offering for credit as the student's work any work prepared by another person.

(c) A student violates the Code by offering for credit work the student has previously either prepared for compensation or offered for credit, unless the student secures the instructor's written permission in advance of submission.

(d) A student violates the Code by offering for credit work prepared in collaboration with another person unless the student secures the instructor's written permission in advance of submission. Unless the instructor so states in a written instruction, a student does not prepare work in collaboration with another person if the

student merely discusses with such other person matters relevant to the work in question.

## ▪ 2-301 - MISCONDUCT INVOLVING EXAMINATIONS AND OTHER ASSESSMENTS

(a) A student violates the Code by using during an examination or assessment materials not authorized by the instructor, or by improperly using during an examination or assessment materials authorized for limited use by the instructor.

(b) A student violates the Code by taking an examination or assessment for another student, or by permitting another person to take an examination or assessment for him or her.

(c) Unless authorized by the instructor, a student violates the Code by giving, receiving, or obtaining information pertaining to questions on an examination or assessment before or during the examination or assessment period, except as provided in ▪ 2-301(a).

(d) A student taking an examination or assessment violates the Code by failing to comply with instructions given by administrative personnel or faculty administering the examination or assessment.

(e) A student who has taken an examination or assessment and a student who will take the same examination or assessment each violate the Code by discussing its contents with each other.

## ▪ 2-401 - MISCONDUCT INVOLVING PROPERTY

A student violates the Code by taking, keeping, misplacing, or damaging the property of the University or of another person if the student knows or should reasonably know that the student would, by such conduct, obtain an unfair academic advantage.

This section is intended to include, but not be limited to, materials in the library of the Law School. Other violations of library rules are not covered by the Code, but shall remain subject to the rule-making authority of the Law Librarian, the Dean, or such other person or body at the University empowered to deal with violations of library rules.

(b)

## **▫ 2-501 - MISCONDUCT INVOLVING MISREPRESENTATION**

A student violates the Code by misrepresenting facts or failing to state facts necessary to make those statements made not misleading about the student or another person to the faculty or administrative staff of the University, or of the Law School, for the purpose of obtaining an academic or financial benefit, avoiding liability under this Code, or injuring another student academically or financially. In addition to prohibited misrepresentations and omissions that are committed by a student while enrolled or attending classes in the Law School, this provision also applies to prohibited misrepresentations or omissions made during the process of applying for admission to the Law School.

## **▫ 2-601 - MISCONDUCT INVOLVING THE UNIVERSITY STUDENT CONDUCT CODE**

Law students are also subject to The University of Montana Student Conduct Code. Any misconduct that violates the University Student Conduct Code also violates this Code and may be prosecuted by the Law School. Alleged non-academic misconduct that violates this Code only by violating the Student Conduct Code shall be referred to the University's Vice President for Student Affairs for investigation and potential prosecution pursuant to Part V of the Student Conduct Code. Students who are sanctioned by the University for violating the Student Conduct Code may receive additional sanction from the Law School under this Code if, after reviewing all relevant documents, Counsel determines additional sanction may be appropriate and files a Complaint with the Honor Code Committee, which shall determine whether to impose any additional sanctions, pursuant to Chapter 6 of this Code.

## **▫ 2-701 - MISCONDUCT INVOLVING THE UNIVERSITY STUDENT CONDUCT CODE**

Nothing in this policy shall be construed as contradicting the provisions of Policy 302 of the Montana Board of Regents of Higher Education Policy and Procedures Manual, University Operating Policy 250 on free speech, University Operating Policy 735 on discrimination, harassment, and retaliation, any other provisions of the Student Handbook, including the Law School Honor Code, or the University of Montana Student Conduct Code.

Students may not prevent or substantially interfere with law school functions or approved activities. Substantial interference means making it impracticable or unsafe to continue with the functions or activities in question through the student's disruptive conduct.

### **CHAPTER 3 - COMPLAINTS AND INITIAL REVIEW**

(a) A person accusing a student of a violation of the Code shall submit an informal signed written complaint to Counsel. The complainant shall submit the complaint within 90 days after the occurrence of the alleged violations or within 90 days after the complainant knows of or reasonably should have known of the alleged violation.

(b) Upon receiving a signed complaint, Counsel shall conduct a preliminary investigation to determine whether probable cause exists to support the alleged violation(s). During this preliminary investigation, Counsel shall notify the Accused Student of the substance of the complaint, but shall not disclose the identity of complainant at this time. After informing the Accused Student of the rights set forth in Chapter 5, Counsel shall offer the Accused Student the opportunity to discuss the allegations and provide a written response.

(c) If the complaint is untimely, or if Counsel finds no probable cause to believe that the Accused Student violated the Code, or if the instructor of a course in which the alleged violation occurred prefers to handle the matter directly, Counsel shall dismiss the complaint and notify the Accused Student and the complainant of the dismissal. No reference to any complaints dismissed at this stage shall be included in the Accused Student's permanent academic record. However, the informal complaint and the disposition of it shall be listed in the register of complaints and a copy of the informal complaint shall be placed in the dismissed complaint file.

(d) If Counsel finds probable cause to believe that the Accused Student committed an alleged violation, or any other violations discovered during the investigation, Counsel shall proceed pursuant to Chapter 4.

## CHAPTER 4 - PROSECUTING A COMPLAINT

(a) If Counsel's initial investigation determines there is probable cause to support the initial complaint, Counsel shall prepare a formal complaint against the Accused Student.

(b) Before presenting a copy of the formal complaint to the Chair of the Committee, Counsel may offer the Accused Student an informal disposition in which the student would accept responsibility and agree to a sanction proposed by Counsel, including but not limited to the sanctions listed in § 6-601, subject to the following limitations.

(1) Only if Counsel (i) determines an admitted violation is minor, and (ii) the Accused Student has no prior admitted or proven violations, may the complaint be informally disposed of with private reprimand or other sanction that does not require inclusion of the complaint and disposition in the student's permanent academic record.

(2) In all other informal dispositions, including if the Accused Student chooses to voluntarily withdraw from the Law School rather than contest the allegations, the complaint and relevant documents memorializing its resolution will become a part of the student's permanent academic record.

(3) In determining an appropriate sanction for informal resolution of admitted violations, Counsel shall consider the evidence, as well as any additional relevant factors, including but not limited to: (i) the context of the alleged violation, (ii) whether the violation was intentional, (iii) the mental and emotional condition of the Accused Student at the time of the violation, (iv) the Accused Student's candor and demeanor concerning the alleged violation, and (v) whether the violation resulted in substantial benefit to the Accused Student or substantial detriment to others.

(c) If the Accused Student rejects a proposed sanction offered by Counsel to informally resolve the complaint, Counsel shall present a copy of the formal complaint to the Chair of the Committee to initiate proceedings under Chapter 6 of this Code. Counsel shall also serve the formal complaint on the Accused Student either in person or by certified mail sent to the student's last address of record

(d) After initiating formal proceedings, Counsel retains the authority to resolve the complaint through an agreement in writing with the Accused Student, subject to the other provisions of this Chapter, at any time before the Committee's hearing on the merits has begun.

(e) After a formal complaint has been resolved, the complaint and its disposition shall be listed in the register of complaints. Copies of all formal complaints and relevant documents memorializing their disposition, including any written agreements between the Accused Student and the Counsel and any decisions of the Committee, shall be placed in the prosecuted complaint file.

(f) After a formal complaint has been resolved, the Dean shall prepare a brief summary of the nature of the complaint and its disposition, with the Accused Student's name and all identifying information redacted. The Dean shall: (1) post and maintain the summary on the Law School's internal learning management system (e.g., Blackboard or Moodle) and (2) disseminate the summary to all students, staff, and faculty through email or similar means.

(g) The existence of a pending charge against a student otherwise entitled to graduate from the Law School shall not prevent the student's participation in graduation ceremonies. However, pending resolution of the charge, the Law School shall withhold the student's degree. The existence of the charge shall not be included in the student's permanent academic record unless the charge has been admitted or proven. Any bar association providing a proper release of information under the Family Educational Rights and Privacy Act ("FERPA") shall be notified of the pending charge by formal letter from the Deans' Office. Denial of a degree to a graduating student may be imposed as a sanction for an admitted or proven violation of this Code even if all other graduation requirements are met. If the Committee cannot decide the matter in time for an Accused Student who would otherwise graduate to take the next bar examination, or in other exigent situations, and if the Associate Dean and the Accused Student agree, the Associate Dean shall review the record, conduct any additional investigation as warranted, make a final determination of the merits of the complaint, and impose sanctions as provided in Chapter 6 of this Code.

## CHAPTER 5 - RIGHTS OF THE ACCUSED STUDENT

(a) After an informal complaint is made to Counsel, an Accused Student has the right to be told the nature of the complaint and to discuss the allegations and provide a written response to Counsel before a formal complaint is prepared. Verbal and written statements an Accused Student chooses to make are subject to § 2-101(b) of the Code.

(b) After Counsel has prepared and served a formal complaint, the Accused Student has the right to:

- (1) Have sufficient time (generally at least 21 days from when the student was served with the formal complaint) to prepare for a hearing on the merits before the Committee;
- (2) Appear personally before the Committee and testify under oath;
- (3) Retain, at the student's expense, counsel or a representative of the student's choice, except that a student cannot be represented by a current member of the Law School faculty;
- (4) Present relevant evidence to the Committee;
- (5) Make a brief opening statement to the Committee and brief concluding statement, neither of which shall be longer than 15 minutes.
- (6) Examine and cross-examine witnesses;
- (7) Require the Committee to request the presence of witnesses and the production of documents or other evidence, pursuant to Committee procedures;
- (8) Refuse to testify, although a logical inference may be drawn by the Committee from that refusal but cannot be the sole basis for finding that the Accused Student violated the Code;
- (9) Have any hearing closed to the public, or open at the Accused Student's request unless a closed hearing is necessary to protect the overriding individual privacy right of others, as determined pursuant to § 6-301 of the Code;

- (10) Be presumed innocent until a majority of the Committee is convinced by clear and convincing evidence that the student engaged in the alleged conduct and that the conduct violated the Code provision(s) identified in the formal complaint;
- (11) Receive a copy of the Committee's written decision;
- (12) Appeal the decision to the Dean in writing within five business days of receiving the Committee's written decision; and
- (13) Waive any of these rights by notice in writing to the Committee, or by failure to appear after being duly served with the formal complaint and notice of the hearing.

## **CHAPTER 6 - THE HONOR COMMITTEE**

### **¶ 6-101 - MEMBERSHIP OF THE COMMITTEE**

(a) The Committee shall consist of three student members and two faculty members Any Committee member who has accused the student of the violation or has been a witness to the alleged violation will be replaced by an alternate chosen pursuant to subsection (b) below.

(b) The Committee membership will be determined as follows:

- (1) The Chair will be one of the faculty members of the Committee selected by anonymous vote of the Committee.
- (2) The faculty members of the Committee, including any necessary alternates, shall be selected by the Dean of the law school. If not enough faculty members are available to serve on the Committee, the Dean shall appoint alternates from the legal community.
- (3) The student members of the Committee shall be selected annually by their fellow class members. Each class shall elect one representative and one alternate to the Committee. If necessary, the Student Bar Association president shall select a replacement for any student representative or alternate.

## ▪ 6-201 - FUNCTIONS OF THE COMMITTEE

After receiving a formal complaint from Counsel, the Committee shall:

- (a) Promptly notify the Accused Student and Counsel in writing of the time and place of the initial scheduling hearing, which shall be within ten business days of when the Chair receives the formal complaint, unless reasonable cause for delay exists. Notice to the student either shall be served personally or by certified mail to the student's last address of record;
- (b) At the scheduling hearing:
  - (1) Set a time and place for the hearing on the merits, in consultation with the Accused Student and Counsel, but which shall be within 30 days of the scheduling hearing, unless reasonable cause for delay exists;
  - (2) Notify the Accused Student of the rights set forth in Chapter 5; and
  - (3) Require the Accused Student and Counsel to identify all witnesses who will likely testify at the hearing on the merits and any documentary or other physical evidence that will likely be presented;
- (c) Request the presence of witnesses and the production of documentary and other evidence identified by the Accused Student or the student's representative;
- (d) Hear testimony and argument and evaluate evidence;
- (e) Determine by majority vote whether clear and convincing evidence establishes that the Accused Student committed the alleged violation(s) of the Code;
- (f) Determine the appropriate sanction if the Committee determines the Accused Student has committed the alleged violation(s) of the Code; and
- (g) Prepare a brief written decision explaining the basis for the Committee's determination and any sanctions imposed.

## ▪ 6-301 - PROCEDURES OF THE COMMITTEE

- (a) Hearings before the Committee shall ordinarily be closed to the public. A hearing shall be open if requested by the Accused Student, unless the Chair and Associate Dean agree that closure of the proceedings is necessary to protect the overriding individual privacy rights of others.
- (b) Each member of the Committee, on his or her initiative or in response to a challenge by the Accused Student to the member's fairness or objectivity, must decide whether he or she can judge the case before the Committee with fairness and objectivity.
- (c) The Committee shall hold a scheduling hearing on any formal complaint within ten business days of its receipt by the Chair unless reasonable cause for delay is shown by the Accused Student, Counsel, or the Committee.
- (d) The Committee shall hold a hearing on the merits of a formal complaint within 30 days of the scheduling hearing unless reasonable cause for delay is shown by the Accused Student, Counsel or the Committee.
- (e) In conducting a hearing on the merits, the Committee shall:
- (1) Proceed informally and provide reasonable opportunities consistent with the requirements of Chapter 5 for witnesses to be heard at the request of Counsel or the Accused Student;
  - (2) Receive all evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs, regardless of whether the evidence would be admissible in a court of law, except that irrelevant, immaterial, and unduly repetitious evidence shall be excluded, and the rules of privilege recognized by Montana law shall apply;
  - (3) Exclude from the hearing all witnesses except those identified by a party as an expert; and
  - (4) Presume an Accused Student innocent until a majority of the Committee is convinced by clear and convincing evidence that the student committed the alleged violation(s).

(f) If the Committee finds that the Accused Student has committed the alleged violation(s), it shall hold a separate hearing immediately after the conclusion of the hearing on the merits, or at another time convenient to the parties, and provide the Accused Student and the Counsel an opportunity to offer evidence or argument regarding an appropriate sanction.

(g) In determining an appropriate sanction for proven violations, the Committee shall consider the admitted evidence, arguments presented, the student's candor and demeanor toward Counsel and the Committee, and whether the Accused Student has admitted to or been found guilty of prior violations of the Code, regardless of whether those violations are part of the student's official academic record. Sanctions must be approved by a majority of the Committee.

(h) The Committee shall dismiss with prejudice a complaint that it concludes is untimely or fails to allege a violation of the Code.

(i) At the conclusion of its deliberations, the Committee shall state in writing, signed by each concurring member of the Committee, the verdict of the Committee as to each alleged violation of the Code and each sanction imposed.

(j) Within ten business days after issuing its verdict, the Committee shall write a brief decision stating the reasons for it. The Chair of the Committee shall provide copies of the decision to the Accused Student, either personally or by certified mail to the student's last address of record, and to the Counsel, the Associate Dean and the Dean.

(k) The Committee shall make an audio or video recording of its hearing to allow review of the proceedings if an appeal is taken. The Accused Student may have a transcribed copy of the recording prepared at the student's expense. If necessary for recording purposes, a Law School representative otherwise not authorized to attend the hearing may do so, but that person must agree to be bound by the confidentiality provisions of §6-501 of this Code.

(l) The Committee's determination of guilt and appropriate sanction is final in any case not appealed to the Dean within five business days of the student's receipt of a copy of the Committee's written decision. If after reasonable effort a copy of the decision cannot be delivered in person or by certified mail to the Accused Student, then the determination of guilt and sanction become final 20 days after the Committee issued its written decision.

(m) The Committee may proceed with a hearing and render a default judgment in any case where an Accused Student fails to appear after receiving reasonable notice of a hearing of allegations against the student. Such a default judgment may be appealed as provided in Chapter 7.

#### **¶ 6-401 - DUTIES OF THE CHAIR**

The Chair of the Committee shall:

(a) Call and preside over Committee hearings, and set the time and place of all hearings, in consultation with other Committee members, Counsel and the Accused Student;

(b) Issue requests for the presence of witnesses and the production of documents in the name of the Committee;

(c) Order video recorded depositions to preserve the testimony of witnesses who cannot appear personally before the Committee, if deemed necessary;

(d) Direct the course of hearings and the preparation of the hearing record;

(e) Rule on motions, the admissibility of evidence and testimony, and the applicability of any privileges;

(f) Assign the duty of preparing decisions and opinions and approve the form of the final product; and

(g) Notify the proper persons of the Committee's decision.

#### **¶ 6-501 - CONFIDENTIALITY**

The Law School complies with the principles of privacy found in the Montana Constitution, Montana Code Annotated, and the Family Educational Rights and Privacy Act.

(a) All allegations, investigations, statements, hearings, and determinations in connection with Committee proceedings shall be treated as confidential, except as required or permitted by law or this Code.

(b) In the course of ongoing investigations and prosecutions, persons involved in Honor Code proceedings shall disclose information concerning the proceedings only to those persons to whom disclosure is reasonably necessary to further the proceedings, except that an Accused Student may freely discuss the proceedings.

(c) The Law School, including individuals involved in a disciplinary proceeding, may disclose the results of the proceeding (including those that result in private reprimands) and sanction imposed only to those who:

(1) have a legitimate educational interest, which includes but is not limited to Law School faculty;

(2) need to know the results for purposes of record-keeping, enforcement of

the sanctions, further proceedings, admission or graduation from other educational institutions, or compliance with applicable law; or

(3) have provided a proper release of information.

(d) The fact that a disciplinary proceeding has been concluded and the nature of any sanction may be disclosed. The Campus Security Act of 1990 allows, but does not require, disclosure of the results to alleged victims of violent crimes.

#### **▫ 6-601 - AUTHORIZED DISCIPLINARY SANCTIONS**

The Committee shall impose one or more of the following sanctions for violation of any provision of Chapter 2. With the exception of a private reprimand, all sanctions shall be included in the Accused Student's permanent academic record.

(c) Private reprimand. A written finding that the student has violated this Code, given to the student but not made part of the student's permanent academic record. A private reprimand must include the statement that continuation or repetition of the conduct leading to the reprimand, or any other misconduct, will usually result in a more serious disciplinary sanction. A private reprimand must also explain why a more serious sanction was not appropriate.

- (d) Formal reprimand. A written finding censuring a student for violating the Code and placed in a student's permanent academic record. A formal reprimand will include the statement that continuation or repetition of the conduct leading to the reprimand, or other misconduct, will usually result in a more serious disciplinary sanction.
- (e) Failing or reduced grade. An entry on the student's official transcript of a failing or reduced grade in a course in which a violation of the Code occurred along with a written explanation of the reason. This sanction is subject to approval of the faculty member teaching the course.
- (f) Restitution. Requiring the student to pay for damage to or loss of University or other property and for injury to persons. Failure to make arrangements for such restitution will result in cancellation of the student's registration and will prevent the student from re-registering.
- (g) Disciplinary probation. Placing specified conditions upon the student's continued attendance in the School of Law. Any further misconduct will automatically raise the question of suspension or expulsion from the Law School. Disciplinary probation may be for a specified term or for an indefinite term that may extend to graduation or other termination of the student's enrollment in the Law School.
- (h) Suspension. Exclusion from all classes, exams, and activities of the Law School for a specified period. The suspension may commence immediately or at the start of the following semester. An immediate suspension prevents the student from receiving any course credit for classes in which the student is then enrolled.
- (i) Indefinite suspension. Exclusion from all classes, exams, and activities of the Law School for an indefinite period. Readmission is possible, but only upon approval of the faculty.
- (j) Expulsion. Permanent exclusion from the Law School, which includes denial of the award of a degree if the student has otherwise satisfied requirements to graduate. Absent a finding by the Committee of extenuating circumstances, expulsion shall be presumed to be the appropriate sanction for any misrepresentations or omissions prohibited under § 2-501 that i) were made during the process of applying for admission to the Law School, and ii) without which the Committee determines the Accused Student likely would not have been admitted.

## **CHAPTER 7 - APPEALS**

- (a) Decisions of the Committee imposing any sanction may be appealed by the Accused Student to the Dean of the Law School by submitting a written petition stating

the basis for the appeal within five business days of receiving in person or by certified mail the written decision of the Committee.

(b) Decisions by the Dean are subject to review by the University President in a manner consistent with the President's review of decisions of the Academic Court and University Court. See *The University of Montana Student Conduct Code*, §§ IV.C.5. & V.G.4. Decisions of the President are final.

(c) Both the appeal to the Dean and the review by the President are limited to the following two issues:

(1) Whether the evidence provides a reasonable basis for the resulting finding and disciplinary sanction; or

(2) Whether specific alleged procedural errors were so substantial as to deny a fair hearing.

(d) The student may seek further administrative review by the Commissioner of Higher Education and the Board of Regents pursuant to Montana University System Policy and Procedures Manual, 203.5.2.

## **CHAPTER 8 - EFFECTIVE DATE OF THIS CODE**

(a) The effective date of this Code is August, 2011.

# Appendix B: Annual Succeeding Certificate



## ANNUAL SUCCEEDING CERTIFICATE

FULL NAME: \_\_\_\_\_

*You are required to provide completely accurate information in your Application for Admission and to periodically update that information in a Succeeding Certificate. These certificates are an important part of the Law School's admission and retention processes, and they become part of your permanent confidential record. Discovery of inaccurate information will be reported to the bar and may be the basis for disciplinary action. It is to your advantage to disclose and explain at the earliest opportunity any misinformation or omissions in either your application or previously submitted succeeding certificates. For more information, refer to the Law Student Handbook.*

1. Please update your employment history since your original application for admission or your most recent succeeding certificate.
  
2. Have you ever been dropped, suspended, warned, placed on scholastic or disciplinary probation, expelled, requested to resign, allowed to resign in lieu of discipline, otherwise subjected to discipline, or requested to discontinue your studies by any school, college or university?  
Please select one:  
NO.  
  
YES, as previously disclosed in \_\_\_\_\_  
*(Provide title and date of document.)*  
  
YES. Details are provided on a separate, attached document.
  
3. Have you ever been (1) cited for, arrested, charged with, pled guilty to, or convicted of any violation of any law at or after age 18 or (2) convicted of a felony prior to age 18?  
*NOTE: When answering include matters that have been dismissed, expunged, subject to a deferred imposition of sentence, a diversion or deferred prosecution program, or otherwise set aside.*  
Please select one:  
NO.  
  
YES, as previously disclosed in \_\_\_\_\_  
*(Provide title and date of document.)*  
  
YES. Details are provided on a separate, attached document.

PLEASE CONTINUE TO PAGE 2.

**ANNUAL SUCCEEDING CERTIFICATE**

4. Have you ever been cited for, arrested for, charged with, pled guilty to, or convicted of (1) any alcohol or drug related traffic violation other than a violation that was resolved in juvenile court, or (2) of any moving traffic violation during the past ten years?

*NOTE: When answering include matters that have been dismissed, expunged, subject to a deferred imposition of sentence, a diversion or deferred prosecution program, or otherwise set aside.*

**Please select one:**

NO.

YES, as previously disclosed in \_\_\_\_\_  
*(Provide title and date of document.)*

YES. Details are provided on a separate, attached document.

5. Have you ever been disciplined by a professional regulatory body for violating standards of conduct, or have you ever been disciplined, terminated, or allowed to resign in lieu of termination by an employer for an employment offense (such as stealing, falsifying records, or abusing intoxicants or drugs or similar concerns)?

6. **Please select one:**

NO.

YES, as previously disclosed in \_\_\_\_\_  
*(Provide title and date of document.)*

YES. Details are provided on a separate, attached document.

*OPTIONAL: To assist the law school administration in determining scholarships and other awards, please list all law school activities in which you are involved and which you have not previously reported.*

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

**THIS CERTIFICATE IS REQUIRED.**

## Appendix C: Student Bar Association Bylaws

### University of Montana School of Law Student Bar Association Bylaws

#### **MISSION STATEMENT**

The students of the University of Montana School of Law are committed to advancing the noble ideals of the legal profession and promoting lifelong involvement in public affairs. The University of Montana Student Bar Association is dedicated to improving the quality of legal education at the University of Montana, providing students with an effective representative voice in the affairs of the School of Law and the University, and making legal education and the legal profession more responsive to the needs of society.

#### **ARTICLE I**

##### **General Provisions**

- Section 1: The organization shall be known as the University of Montana School of Law Student Bar Association or SBA.
- Section 2: All students enrolled in the University of Montana School of Law shall be considered members of the SBA. Annual membership dues shall be collected through the tuition and fees process.
- Section 3: The SBA is the exclusive official governing organization representing the students enrolled at University of Montana School of Law.
- Section 4: The SBA derives its authority from the consent of the students of the University of Montana School of Law with the original ratification of these Bylaws.
- Section 5: The status of the SBA as the exclusive governing organization of the students of the University of Montana School of Law shall not limit the rights of law students to form independent organizations for the pursuit of specialized goals.
- Section 6: The SBA may develop appropriate relationships with any organization that has an interest in the University of Montana School of Law.
- Section 7: The SBA shall have an office in the University of Montana School of Law building to house its officers, documents, and supplies.
- Section 8: Official copies of these Bylaws shall be kept in the official SBA files and the School of Law Student Services office.

#### **ARTICLE II**

##### **Objectives**

- Section 1: The SBA shall promote academic standards, procedures, and regulations that will

serve to advance student welfare, improve the quality of teaching and learning, protect the privacy and integrity of student academic records, and to provide for the most positive and accurate evaluation of student academic performance.

- Section 2: The SBA shall promote academic offerings that will best meet the needs of law students, their future clients, the legal system, and the community they will serve.
- Section 3: The SBA shall promote a balanced program of educational, social, and cultural extracurricular activities to enhance each student's legal education through community involvement and civic participation.
- Section 4: The SBA shall promote reform within the legal profession to ensure that the legal system is more responsive to the needs of the society.
- Section 5: The SBA shall promote the protection of the rights and privileges of all law students in policy-making deliberations of the University of Montana School of Law, and of governmental bodies on campus and at local, state, and national levels.
- Section 6: The SBA shall promote awareness regarding the social, ethical, and professional responsibilities inherent in the study and practice of law.
- Section 7: The SBA may pursue other objectives not in conflict with these Bylaws.

### **ARTICLE III Powers and Duties**

- Section 1: The SBA retains the power to adopt and publish resolutions representing the position of the students on any issue relevant to a legal education, the legal profession, the legal system, School of Law policies, or University policies.
- Section 2: The SBA retains the power to distribute and utilize funds allocated by the School of Law or generated by revenue-producing operations conducted by the SBA in ways that directly or primarily benefit programs of the School of Law or members of the student body.
- Section 3: The SBA retains the power to establish committees for purposes of reaching any objective vital to any student or students' legal education.
- Section 4: The SBA retains the power to appoint students to all deliberative, advisory or study groups or committees established by the faculty or administration of the School of Law or the University.
- Section 5: The SBA retains the power to recognize and support independent organizations and associations of students in the School of Law and to allocate SBA funds for the use of such recognized groups. Newly formed student groups shall fill out application and petition to show student body interest before funds are allocated.

Section 6: The SBA retains the power to hear any grievances expressed by any student wishing to contact the SBA concerning alleged unfair treatment by faculty members, administrators, SBA officers, or independent student organizations; and the power to communicate findings, inquiries, and resolutions concerning grievances to the appropriate authorities or individuals.

#### **ARTICLE IV Student Rights**

Section 1: Students have the right to be represented by a fellow student at all meetings of faculty and administration on matters concerning legal education.

Section 2: Students have the right to vote in elections for SBA leadership, on initiatives and referenda, on Bylaw amendments, and any other matter deemed appropriate by the SBA Executive Board.

Section 3: Students have the right to petition for recall of SBA leadership, Bylaw amendments, initiative, or for referendum vote on any issue. A petition is defined in Article IX Sec. 12.

Section 4: Students have the right to seek and hold SBA elective or appointive office.

Section 5: Students have the right to be informed of all official actions by the SBA and its committees.

Section 6: Students have the right to receive adequate notice prior to all elections, business meetings, and hearings conducted by the SBA leadership.

Section 7: Students have the right to attend and participate in any meeting of the SBA, its leadership, or its committees. When authorized by state law, an SBA Executive Board majority may convene an executive session.

Section 8: Students have the right of access to the SBA office when at least one member of the SBA Executive Board is present.

Section 9: Students have the right to use any available designated, personal study space within the School of Law building. Space shall be assigned based on class seniority and availability.

Section 10: Students have the right to be free from discrimination, harassment, or intimidation based upon actual or perceived: age, sex, national or ethnic origin, creed, religion, color, race, sexual orientation, gender identity and expression, disability, familial status, pregnancy, political beliefs, military service, or other purely arbitrary criteria.

Section 11: Subject to restrictions set within these Bylaws, students shall retain all other rights and powers of student governance.

Section 12: These express rights are in addition to rights stated in the Law Student Handbook produced by the administration of the University of Montana School of Law.

## **ARTICLE V**

### **Executive Board and Officer Duties**

Section 1: The SBA shall be governed by elected leadership known as the SBA Executive Board.

Section 2: The SBA Executive Board shall be made up of the President, Vice-President, American Bar Association Law Student Division Representative, Business Manager, Community Relations Coordinator, Sustainability Coordinator, and Class Representatives.

Section 3: The SBA Executive Board shall promote or adopt any method to better garner student opinion regarding the School of Law. The President and the ABA Representative are the liaisons to the faculty and administration. The Board may authorize any Board member to represent the organization when appropriate.

Section 4: Each board member shall memorialize the year's events in a log of decisions, actions, and notes to be kept in a folder or binder in the SBA office. The purpose of this log is to provide advice and information to incoming Board Members and to provide continuity for the SBA over years.

Section 5: The President is the leader of the SBA and the SBA Executive Board.

- (A) The President shall be the official spokesperson of the University of Montana School of Law student body.
- (B) The President shall call and preside over General SBA and SBA Executive Board meetings.
- (C) The President shall, with SBA Executive Board approval, appoint students to all student Standing Committees created by these Bylaws.
- (D) The President shall, with SBA Executive Board approval, create student committees to address special issues outside the scope of the Standing Committees.
- (E) The President may call special meetings of the General SBA and its Executive Board when business requires.
- (F) The President, with SBA Executive Board approval, may call special elections.
- (G) The President shall serve as a non-voting student representative to faculty and administrative meetings along with the ABA representative.
- (H) The President is the chair of the Student Services Committee, as in Article VI, Section 4(A).

Section 6: The Vice-President shall serve at the pleasure of the members of the SBA.

- (A) The Vice-President shall preside over meetings of the General SBA or its Executive Board in the President's absence.
- (B) The Vice-President shall serve as a liaison from the SBA Executive Board to the independent student organizations. In this capacity, he or she shall regularly contact the leaders and members of all independent student organizations, and shall chair the Student Organizations Committee.
- (C) The Vice-President shall assign all student cube, desk, and carrel locations. Each student shall have designated study space pursuant to these Bylaws.

Section 7: The American Bar Association Law Student Division Representative shall serve at the pleasure of the members of the SBA.

- (A) The ABA Representative shall act as a liaison between SBA and all other Bar Associations.
- (B) The ABA Representative, in conjunction with the President, shall serve as point of contact between the SBA and other law school governing organizations.
- (C) The ABA Representative shall be the representative to the American Bar Association Law Student Division and supervise enrollment of SBA members in the ABA.
- (D) The ABA Representative shall serve as the voting student representative to the faculty meetings. The ABA Representative shall vote in accordance with the needs and views of the students.
- (E) The ABA Representative shall take minutes at every meeting of the SBA and the SBA Executive Board. The ABA Representative shall provide an unofficial copy of the minutes to each member of the SBA Executive Board. Upon approval of the minutes by the SBA Executive Board the minutes shall be published for all students to view.
- (F) The ABA Representative is the chair of the Student Faculty Relations Committee as in Article VI, Section 4(B).

Section 8: The Business Manager shall serve at the pleasure of the members of the SBA.

- (A) The Business Manager shall prepare, administer, and regularly report on the SBA budget and make the budget available to any student wishing to review it.
- (B) The Business Manager shall, with the approval of the SBA Executive Board, distribute funds to independent student organizations in accordance with these Bylaws.
- (C) The Business Manager shall keep all the official records of the SBA.
- (D) The Business Manager is the chair of the Social Committee as in Article VI, Section 4(I).

Section 9: The Community Relations Coordinator shall serve at the pleasure of the members of SBA.

- (A) The Community Relations Coordinator shall encourage all students and independent student organizations to engage in activities that benefit the

- community outside the law school.
- (B) The Community Relations Coordinator shall identify and publish opportunities for students to become involved in the community outside the law school.
- (C) The Community Relations Coordinator shall, with the assistance of the Public Service Committee and approval of the SBA Executive Board, identify methods of funding these opportunities. This funding shall be independent and separate from the SBA budget and the budgets of the independent student organizations.
- (D) The Community Relations Coordinator shall administer an application based grant program that assists with funding worthy community based activities that meet the approval of the Public Service Committee.
- (E) The Community Relations Coordinator is the chair of the Public Service Committee as in Article VI, Section 4(D)

Section 10: The Third Year Class Representative shall serve at the pleasure of the members of the third year class.

- (A) The Third Year Representative shall represent and seek feedback from the Third Year class.
- (B) The Third Year Representative shall notify the Third Year class of all SBA activities as well as the SBA Executive Board decisions.
- (C) The Third Year Representative shall assist their class with any bar application or graduation concerns.
- (D) The Third Year Representative is the chair of the Career Services Committee as in Article VI, Section 4(E) and is the chair of the Election and Nominations Committee as in Article VI, Section 4(C).
- (E) The Third Year Representative is in charge of the 3L class photo, and as such, is responsible for organizing this event with administration.
- (F) The Third Year Representative is in charge of the 3L class gift, and as such, is responsible for the organization and execution of this task with the help of administration.
- (G) The Third Year Representative is responsible for providing information to all Law Students on the Process of application to the State Bar of Montana, including the necessary fingerprinting for admission.

Section 11: The Second Year Class Representative shall serve at the pleasure of the members of the second year class.

- (A) The Second Year Representative shall represent and seek feedback from the Second Year class.
- (B) The Second Year Representative shall notify the Second Year class of all SBA activities as well as SBA Executive Board decisions.
- (C) The Second Year Representative is the chair of the Technology and Facilities Committee as in Article IV, Section 4(F).
- (D) The Second Year Representative is the chair of the Law Week Committee as in Article IV, Section 4(H).
- (E) The Second Year Representative is responsible for organizing the SBA's

participation in the 1L Intro Program and is to work with Faculty and Administration in this role.

Section 12: There shall be two First Year Class Representatives that shall serve at the pleasure of the first year class.

- (A) The First Year Representatives shall represent and seek feedback from the First Year class.
- (B) The First Year Representatives shall notify the First Year class of all SBA activities as well as SBA Executive Board decisions.
- (C) The First Year Representatives, in conjunction with the rest of the SBA Executive Board, shall assist the members of their class with the transition to Law School.
- (D) The First Year Representatives shall publish all notices and signs notifying students of SBA meetings, functions, and events.
- (E) The First Year Representatives shall serve on the Social Committee.

Section 13: The Sustainability Coordinator shall serve at the pleasure of the members of SBA.

- (A) The Sustainability Coordinator shall be responsible for consolidating all recycling that accumulates in the law school class rooms, study rooms, library, castles center, conference rooms and common areas into bins at designated recycling pickup locations on each floor.
- (B) The Sustainability Coordinator shall maintain a relationship with sustainability partners in the greater UM campus.
- (C) The Sustainability Coordinator shall attend, or send a designated liaison to attend, at least one Sustainable Campus Committee meeting each semester.
- (D) The Sustainability Coordinator shall identify sustainability concerns in the law school and take steps to address those concerns wherever possible through the proper channels.
- (E) The Sustainability Coordinator, in order to carry out the aforementioned duties, may establish a committee from among the members of the Student Bar Association.

Section 14: The term of office for members of the SBA Executive Board shall commence on May 1 following the spring election and continue for one year. The first-year representatives shall begin their term immediately following the fall election. The outgoing SBA officers may remain in the SBA offices after the election to study for finals or to study for the Bar Exam if graduating 3L's.

Section 15: The first duty of any SBA Executive Board member shall be to pledge in a way designated by the Board, to faithfully represent the student body, in accordance with the SBA Bylaws.

Section 16: No student may concurrently hold more than one position on the SBA Executive Board.

Section 17: The Executive Board is authorized to make stylistic, non-substantive, changes to these Bylaws. Upon making these changes, an updated version of the Bylaws shall be published to the student body and the student body shall be directly notified.

## **ARTICLE VI**

### **Student Bar Association Committees**

Section 1: The President, with the approval of the SBA Executive Board, shall appoint members to the SBA Standing Committees with the exception of the Honor Code Committee. The SBA Executive Board has the authority to remove appointed committee members.

Section 2: Unless otherwise provided in these Bylaws, each SBA Standing Committee may consist of students that do not serve on the SBA Executive Board. Membership on each SBA Standing Committee shall be no less than one and no more than twelve. The committees shall meet regularly to complete business assigned to them by the SBA Executive Board.

Section 3: Each SBA Standing Committee shall be chaired by a member of the SBA Executive Board.

Section 4: The SBA Standing Committees shall be governed by these Bylaws:

- (A) The Student Services Committee shall work to improve the quality of School of Law facilities and student services. This President shall chair this committee.
- (B) The Student-Faculty Relations Committee shall work to promote positive relationships between students and faculty and improve the quality of the School of Law's academic climate. The ABA Representative shall chair this committee.
- (C) The Election and Nominations Committee shall supervise all aspects of the election of the SBA Executive Board and the Honor Committee. The Third Year Representative shall chair this committee.
- (D) The Rules Committee shall be tasked with the continuing review of the SBA Bylaws. It shall be powered with resolving any ambiguity within the Bylaws, by providing a written opinion, subject to the ratification of, the SBA Executive Board. The Rules Committee shall consist of three members. At least one must be an SBA Executive Board member and at least one must be an SBA member not on the Executive Board.
- (E) The Public Service Committee shall work to improve the quality of the student body's public service efforts. The activities pursued and approved by this committee will be open to all students. The activity may further efforts in the area of pro bono service, public interest law, government affairs, or other area worthy of community advocacy. The activity may raise awareness about an issue facing an area of the law that benefits a

disenfranchised segment of the population. The Community Relations Coordinator shall chair this committee.

- (F) The Career Services Committee shall work to improve the employment opportunities for all law students by offering feedback and other assistance to the Career Services Office. The Third Year Representative shall chair this committee.
- (G) The Technology and Facilities Committee shall work to improve the quality of technology and learning environments at the School of Law. The Second Year Representative shall chair this committee.
- (H) The Student Organizations Committee shall consist of the leaders of each SBA recognized student organization. The organization shall encourage cooperation amongst student groups and promote student-based events at the School of Law. The Vice-President shall chair this committee.
- (I) The Law Week Committee shall plan activities occurring in conjunction with Montana Law Week. The Second Year Representative shall chair this committee.
- (J) The Social Committee shall plan the Barristers Ball and any other social events designed for students. The Business Manager shall chair this committee. There shall be a Tailgate Sub-Committee to plan all events surrounding sporting events occurring on campus. The First Year Representatives shall co-chair this sub-committee.

Section 5: The SBA Executive Board shall select student representatives to Faculty Committees.

- Section 6:
- (A) The Honor Code Committee shall consist of one third year student, one second year student, and one first year student elected pursuant to these Bylaws. Alternates may also be elected. The members shall serve for a term of one year on the Honor Code Committee. The committee shall be charged with interpreting and enforcing the Honor Code in accordance with the student handbook.
  - (B) The Student Counsel shall be one second year student or one first year student elected pursuant to these Bylaws. The Student Counsel shall serve for a term of one year. The Student Counsel shall be charged with assisting Faculty Counsel in reviewing, investigating and prosecuting violations of the Honor Code.

Section 7: The President, with the approval of the SBA Executive Board, may create other committees to address issues outside the scope of the Standing Committees.

## **ARTICLE VII**

### **Elections**

Section 1: All members of the SBA Executive Board and Honor Code Committee, other than First Year Representatives, shall be elected in April in conjunction with Montana

Law Week. The First Year Representatives shall be elected by the end of the fourth full academic week of the fall semester.

- Section 2: All SBA members of the First and Second year classes on the date of the election shall be qualified electors for the spring election. Only members of the respective academic class shall vote for that class' representative.
- Section 3: The Elections Committee shall have the authority to promulgate rules for the conduct of elections. No candidate for office may be a member of the Election Committee. Every class shall be represented on the committee. The members of the committee shall be the official vote counters for each election.
- Section 4: Candidates for the SBA Executive Board Positions shall be members of the SBA and enrolled and taking classes at the University of Montana School of Law. No candidate may be nominated for more than one SBA Executive Board office.
- Section 5: A call for petitions nominating candidates shall be made by the SBA Executive Board two weeks prior to the election. A copy of the election rules shall be posted with the call for nominations.
- Section 6: In the event of a special election, a call for petitions shall be made one week prior to the election. No SBA member may hold more than one SBA Executive Board office at a time. If a special election is called, any nominees that are current SBA Board Members must resign from their current SBA Executive Board office in order to be eligible for the special election.
- Section 7: Nominations for all officers shall be made by petition signed by 15 qualified electors. Each nominee shall declare on the petition the position the nominee is seeking.
- Section 8: Each nominee for the SBA Executive Board shall attach to the petition a personal statement of no more than one type-written page detailing their interest in the respective position to be posted on the SBA bulletin board and to be made available electronically.
- Section 9: Petitions and statements shall be due 5 p.m. Friday the week before the election.
- Section 10: All nominees shall be in good standing with the School of Law.
- Section 11: The candidate who receives the most votes cast for each executive position shall be elected. In the event of a tie for a position, a runoff election shall be held two academic days later. For the election of First Year Class Representatives, the person with the most votes shall be the chosen, and the person with the second most votes shall be chosen. If the election for First Year Class Representatives results in a tie of two candidates, then those two candidates will be the representatives. If there is a tie for the position receiving the second most votes, a runoff election will be held.

- Section 12: Write-in candidacies are permitted if the candidate submits a letter of intent and personal statement to the SBA two days prior to the election. No write-in candidate may be elected who has not received at least 15 votes.
- Section 13: If all positions are not filled by election, they shall be filled by a special election governed by the provisions of this Article. A special election can be held at any time throughout the academic year if given proper notification in accordance with this article.

## **ARTICLE VIII**

### **Vacancies**

- Section 1: Any member of the SBA Executive Board may resign in writing at anytime.
- Section 2: Any student may initiate recall proceedings against any member of the SBA Executive Board by submitting a recall petition to the student members of the Honor Code Committee. The petition must be signed by one-third of the qualified electors the SBA Executive Board member in question represents. The petition must also detail the reasons for recall. If two-thirds of the qualified electors represented by the SBA Executive Board member in question approve the recall petition during a special election, the recalled member will be relieved of his or her duties.
- Section 3: A vacancy occurring in an office shall be filled by a special election governed in accordance with these Bylaws.
- Section 4: A member of a Standing Committee shall be removed and replaced by the SBA Executive Board for missing three consecutive committee meetings and may be removed and replaced for general misconduct.

## **ARTICLE IX**

### **Meetings**

- Section 1: The SBA President or the Executive Board has the power to call a General SBA Meeting. The SBA Executive Board shall notify all students of a General SBA meeting at least one week in advance. A petition of 30 students submitted to the SBA Executive Board may call a General SBA Meeting.
- Section 2: The SBA Executive Board shall meet at least twice an academic month or more if business requires. The SBA Executive Board shall notify all students of an Executive Board meeting at least 48 hours in advance. Special meetings can be called by the President at any time.
- Section 3: SBA Standing Committees shall meet regularly and as often as business requires. The SBA Executive Board shall notify all students of committee meetings at least 48 hours in advance.

Section 4: The Honor Code Committee shall meet as often as business requires.

Section 5: Notice for all meetings shall include the agenda for the meeting.

Section 6: Except as otherwise provided by these Bylaws, the SBA shall be governed by *Robert's Rules of Order, Newly Revised* when applicable and necessary.

Section 7: Quorum for General SBA Meetings is defined as 30 students of the SBA membership who are not members of the SBA Executive Board. No decision made by vote of the SBA shall be considered valid unless quorum is met. In the event a General SBA meeting decision and an SBA Executive Board decision conflict the General SBA meeting decision governs. If no quorum is established, then the agenda for the General SBA Meeting moves to the next meeting of the SBA Executive Board.

Section 8: Quorum for SBA Executive Board meetings shall be six of the ten members.

Section 9: Unless otherwise provided in these Bylaws, Executive Board approval means a simple majority vote in favor of the proposed motion at a meeting in which quorum is met.

Section 10: Unless otherwise provided in these Bylaws, SBA approval means a simple majority vote in favor of the proposed motion at a SBA General Meeting in which quorum is met.

Section 11: Proxies are not allowed in any meeting convened to discuss SBA matters.

Section 12: Business may be conducted by the students through referendum or initiative. Referendum is defined as reconsideration of a SBA decision. Initiative is defined as a new proposal for SBA consideration. Any student may submit a petition with a detailed proposal and the signatures of 30 members to the SBA Executive Board. If the proposal is determined to be in proper order a special election will be called within two weeks for a vote of majority approval by the qualified electors. If the proposal is not determined to be in proper order then the SBA Executive Board will ask the author to resubmit the proposal.

## **ARTICLE X**

### **Financial Affairs**

Section 1: The SBA shall be supported and maintained by funds derived from student fees, receipts from SBA sponsored activities, and donations.

Section 2: For the purpose of being an SBA recognized independent student organization eligible to receive SBA funds, a student group must have a faculty advisor, have Bylaws on file with the School of Law administration and SBA Executive Board, meet regularly, and be open to all members of the School of Law.

- Section 3: All net profits made by an independent student organization shall be disclosed and considered in the budgeting process.
- Section 4: The Business Manager shall call for budget requests from independent student organizations by the Friday of the second week of classes each fall semester. Requests shall include a line item statement of the funds requested; a statement explaining the need and purpose of the funds; a list of outside funding sources used by the organization including any accounts bearing the organization's name; and a narrative of the expenditures made by the organization during the previous year. The Apportioning Process shall follow the CLS Settlement Agreement of July 30, 2011.
- Section 5: All budget requests shall be submitted to the Business Manager by the Friday of the third week of classes each academic year. Late requests may be considered with approval by the SBA Executive Board.
- Section 6: Based upon the budget request submitted by independent student organizations, the Business Manager shall submit a budget proposal to the SBA Executive Board with explanations by the Friday of the fourth week of classes each fall semester. The Business Manager shall provide a copy of these recommendations to each student organization leader.
- Section 7: The SBA Executive Board shall call a meeting by the Friday of the fifth week of classes each fall semester to hear all independent student organizations comments regarding the SBA Budget Recommendations. All organizations requesting funds from SBA shall have a representative appear before the SBA Executive Board to explain the organizations budget requests. No member of the SBA Executive Board shall present on behalf of any student organization. Following the hearing the SBA Executive Board shall hold a meeting to consider changes to the Budget Recommendations.
- Section 8: The SBA Executive Board shall publish to the students a final budget proposal within 48 hours of the budget hearing.
- Section 9: A ratification vote shall be held within 3 days of the final budget proposal being published to the students. The budget will be deemed ratified if a majority of the qualified electors voting vote to approve the budget. If the proposed budget is not ratified the SBA Executive Board shall call another hearing to discuss possible changes to the budget with representatives from each independent student organization. A second budget shall be published no less than one week after the first ratification vote. This process shall continue until a budget is ratified.

Section 10: Any active independent student organization that raises funds beyond the SBA allocation and expends the equivalent of their SBA allocation shall retain control of the raised funds in subsequent academic years. Necessary rules governing this section shall be promulgated by the SBA Executive Board and the School of Law. A group becomes inactive if after 1 year there are no reports to SBA of officer elections or meetings of that student group. If the SBA Executive Board determines that a group has become inactive, it shall reallocate all funds in that group's accounts to the general SBA fund, unless objections are timely raised. These funds are to be distributed or used as decided by the SBA Executive Board.

Section 11: The SBA budget can be viewed at any time by any student.

Section 12: A budget and revenue mechanism separate from the SBA budget will be maintained by the Community Relations Coordinator. These resources will be used by students, groups of students, or independent student organizations on projects that will benefit a community outside the School of Law. The grant process will be governed by the SBA Executive Board and the Public Service Committee.

## **ARTICLE XI Amendments**

Section 1: These Bylaws may be amended by a majority vote at any regularly scheduled SBA election or at any special election. Proposed amendments shall be placed on the ballot if the SBA Executive Board so recommends or if 1/3 of the SBA members sign a petition requesting the proposed amendment be placed on the ballot.

Section 2: Any proposed amendment must be placed on the ballot by one of these procedures and published to the students no less than two weeks prior to the election. Special elections called for the purposes of addressing a proposed amendment shall be called no less than two weeks and no more than four weeks prior to the election.

### **Effective Date**

The effective date of these Bylaws shall be March 15, 2013 and the amendments approved on that date shall revoke and replace all prior Constitutions and Bylaws of the University of Montana Student Bar Association. These Bylaws were enacted on April 24, 1985 and amended on April 22, 1987, October 19, 1994, Fall Semester 2000, Spring Semester 2003, March 14, 2013, and August 30, 2014.

# Appendix D: Rules of Procedure of the Commission on Character and fitness of the Supreme Court of Montana

Effective January 1, 2016

## SECTION 1: PURPOSE

The primary purposes of character and fitness screening before admission to the Bar of Montana are to assure the protection of the public and to safeguard the justice system. An attorney should be one whose record of conduct justifies the trust of clients, adversaries, courts and others with respect to the professional duties owed to them.

The public is adequately protected only by a system that evaluates the character and fitness as those elements relate to the practice of law. The public interest requires that the public be secure in its expectation that those who are admitted to the bar are worthy of the trust and confidence clients may reasonably place in their attorney.

## SECTION 2: DEFINITIONS

Except as otherwise indicated, the following definitions apply:

- (a) "Applicant" as used in these rules refers to any person applying or reapplying for temporary or permanent admission to practice law in Montana, including those applying for admission on motion. This does not include those applying for admission pro hac vice.
- (b) "Commission" as used in these rules refers to the Commission on Character and Fitness, whose members are appointed by the Montana Supreme Court.
- (c) "Fitness" as used in these rules is the assessment of mental and emotional health and condition as it affects the competence of a prospective attorney. The purpose of requiring an applicant to possess this fitness is to exclude from the practice of law any person having a mental or emotional illness or condition which would be likely to prevent the person from carrying out duties to clients, courts or the profession. An applicant may be of good moral character, but may be incapacitated from proper discharge of his or her duties as an attorney by such illness or condition. The fitness required is a present fitness, and prior mental or emotional illness or conditions are relevant only so far as they indicate the existence of a present lack of fitness.
- (d) "Good Moral Character" as used in these rules refers to the qualities of fairness, discreetness, honesty, reasonableness, unquestionable integrity and ability, and willingness to act in accordance with the standards set forth in the Montana Rules of Professional Conduct.
- (e) "Certification" as used in these rules refers to permission to sit for the Montana bar examination and/or be admitted to the practice of law in Montana.
- (f) "State Bar of Montana" is the entity administratively serving the Commission, providing staff and prosecutorial support.

## SECTION 3: GENERAL POWERS

- (a) Administration of Oaths. Any member of the Commission shall have power to administer oaths in relation to any matter within the functions of the Commission.

(b) Admission to the Bar. The Commission shall conditionally or unconditionally certify to the Supreme Court for admission to the Bar such applicants, and only such applicants, who possess the necessary qualifications of good moral character and fitness to practice law, as defined in these rules.

(c) Commission and Staff Judicial Immunity. In exercising its functions and powers, the Commission, its members, employees and all personnel through whom the Commission functions, including the State Bar of Montana and mentors mandated by the Commission, shall enjoy such judicial immunities as the Montana Supreme Court would enjoy if performing the same functions. The Commissioners and/or their designees shall not disclose to any third party any information obtained with respect to the character and fitness of any applicant, declarant, or conditionally certified applicant, except:

(1) upon written authority of such applicant, declarant or conditionally certified applicant;

(2) in response to valid subpoena from a court of competent jurisdiction;

(3) to the Montana Supreme Court, the Montana Supreme Court Commission on Practice, Office of Discipline Counsel, the Montana Board of Bar Examiners, or the Montana Lawyers Assistance Program;

(4) upon written request from other admitting bar agencies or other bar associations when accompanied by an authorization and release duly executed by the person about whom such information is sought;

(5) upon written request from the law school from which the applicant will graduate or has graduated; and

(6) to the National Conference of Bar Examiners.

(d) Subpoena Power. The Commission chair shall have power to issue subpoenas for the attendance of witnesses or for the production of documentary evidence before the Commission or before anyone authorized to act on behalf of the Commission.

The party desiring issuance of such subpoena shall apply therefor with the Commission.

(e) Taking of Testimony. Any member of the Commission, and any other person who has the power to administer oaths, shall have power, upon order of the Commission, to take testimony in reference to any matter within the function of the Commission.

(f) Third-Party Privilege. Records, statements of opinion and other information regarding an applicant for admission to the bar communicated in good faith and without malice by any entity, including any person, firm or institution, to the Commission or its members, employees or agents are privileged, and no evidence thereof is admissible in any lawsuit. Waiver, if any, of such privilege by voluntary disclosure shall be determined under Mont. R. Evid. 503.

(g) Fees and Expenses. Commission members shall be entitled to actual and necessary travel and per diem compensation provided by the State Bar of Montana for its committees. The Commission may engage professional staff through the State Bar of Montana necessary to accomplish its tasks.

(h) Other Powers. The Commission shall have such other powers as are set out in the Rules for Admission to the Bar of the State of Montana. The powers set out in these rules regarding subpoenas, discovery and testimony shall be governed where applicable by the Montana Rules of Civil Procedure.

#### **SECTION 4: MORAL CHARACTER & FITNESS**

(a) Every applicant for admission to the Bar of Montana shall be of good moral character and fitness. The applicant shall have the burden of proving by clear and convincing evidence that he or she is possessed of good

moral character and fitness. No applicant shall be certified by the Commission to the Bar Admissions Administrator for examination and/or admission to the Bar of Montana unless such applicant first produces satisfactory evidence to the Commission of good moral character and an adequate knowledge of the standards and ideals of the profession and that such applicant is otherwise fit to take the oath and perform the obligations and responsibilities of an attorney. The Commission must be convinced that prior or present conduct of the applicant of which the Commission becomes aware would cause a reasonable person to believe that such applicant would, if admitted to practice law in Montana, be willing and able to act in accordance with the standards set forth in the Montana Rules of Professional Conduct, and would act fairly, discreetly, honestly, reasonably, and with unquestionable integrity in all matters in which he or she acts as an attorney at law. An attorney should be one whose record of conduct justifies the trust of clients, adversaries, courts, and others with respect to the professional duties owed to them. A record manifesting a lack of honesty, trustworthiness, diligence or reliability of an applicant may constitute a basis for denial of admission.

(b) Evidence of any of the following will be treated by the Commission as cause for further inquiry before the Commission decides whether the applicant possesses the character and fitness to practice law:

1. Unlawful conduct;
2. Academic misconduct;
3. Making or procuring any false or misleading statements or omissions of relevant information, including any false or misleading statement or omission in the Application for Admission to the Bar of Montana, or in any testimony or sworn statement submitted to the Commission;
4. Misconduct in employment;
5. Acts involving dishonesty, fraud, deceit or misrepresentation;
6. Abuse of legal process;
7. Neglect of financial responsibilities;
8. Neglect of professional obligations;
9. Violation of an order of the court;
10. Current mental or emotional illness or disorder;
11. Drug or alcohol dependency;
12. Denial of admission to the bar in another jurisdiction on character and fitness grounds;
13. Disciplinary action by a lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction; and
14. Any other conduct which reflects adversely upon the character or fitness of the applicant.

(c) In making the determination on character and fitness of each applicant, the following factors shall be considered in assigning weight and significance to prior conduct of the applicant:

1. The applicant's age at the time of the conduct;
2. The recency of the conduct;
3. The reliability of the information concerning the conduct;

4. The seriousness of the conduct;
5. The factors underlying the conduct;
6. The cumulative effect of the conduct or information;
7. The evidence of rehabilitation;
8. The applicant's positive social contributions since the conduct;
9. The applicant's candor in the admission process; and
10. The materiality of any omissions or misrepresentations.

(d) An applicant may, by written request to the Commission on Character and Fitness, withdraw an Application for Admission at any time. However, in such event the

Commission may continue its investigative and adjudicatory functions to conclusion. Failure on the part of the applicant to provide requested information and/or documentation within a reasonable amount of time may result in denial of certification for examination and/or admission.

(e) Alternatively, an applicant may, by written request, withdraw with prejudice an application for admission to the Bar of Montana. The Commission shall accept the withdrawal with prejudice and shall immediately dismiss its investigative and adjudicatory functions. An applicant who files a withdrawal with prejudice shall be permanently barred from filing a subsequent application for admission to the Bar of Montana.

(f) An applicant who has been disbarred from the practice of law in another jurisdiction shall not be eligible to apply for admission to the Bar of Montana for a period of five (5) years from the date of disbarment. The applicant must also submit written proof of compliance with the terms and conditions of his or her disbarment or proof of good standing from the state in which he or she was disbarred.

(g) An applicant who has been suspended from the practice of law in another jurisdiction shall not be eligible to apply for admission to the Bar of Montana until expiration of the period of suspension and until the applicant has submitted written proof of compliance with the terms of the suspension.

(h) An applicant who resigned from the practice of law in another jurisdiction in lieu of discipline or in lieu of cooperating with the disciplinary process shall not be eligible to apply for admission to the Bar of Montana for a period of five (5) years from the date of resignation.

(i) An applicant who initiated the admissions process in another jurisdiction, but was denied admission or withdrew from the process prior to a final determination on admission in that jurisdiction shall not be eligible to apply for admission to the Bar of Montana until the original jurisdiction has made a final determination on the applicant's admissibility in that jurisdiction, unless the Commission grants a waiver for good cause shown.

(j) An applicant found guilty of a felony is conclusively presumed not to have present good moral character and fitness. The presumption ceases upon completion of the sentence and/or period of probation.

(k) There shall be a rebuttable presumption that nondisclosure of a material fact on the application is prima facie evidence of the lack of good character. The presumption shall be the same whether the nondisclosure is discovered prior or subsequent to the applicant's admission to the bar. The presumption may be rebutted by clear and convincing evidence of mistake or of rehabilitation and current good character.

## SECTION 5: INVESTIGATION, HEARING, & CONDITIONAL CERTIFICATION PROCESS

(a) Initial Investigation. Every applicant's moral character and fitness to practice law shall be investigated by the Bar Admissions Administrator and the National Conference of Bar Examiners.

1. Any concerns the Bar Admissions Administrator has will be referred to a subcommittee of two (2) members of the Commission for further

investigation.

2. In every such investigation, the Bar Admissions Administrator or the State Bar of Montana may obtain such information as bears upon the character, fitness and general qualifications of the applicant and administer oaths and affirmations, and compel by subpoena the attendance of witnesses and the production of books, papers, and documents. Any member of the Commission may administer such oaths and affirmations and have all other powers as set forth under Section 3.

3. Objection to any applicant may be made by any person by filing with the Commission a sworn statement setting forth the basis for the objection.

This statement will be made available to the applicant.

4. The subcommittee may require sworn taped interviews with an applicant to clarify information in the application, to determine eligibility for admission or to facilitate the investigation.

(b) Post Investigation. Following its investigation, the Bar Admissions Administrator or the State Bar of Montana shall recommend to the Commission that an applicant be granted certification; granted conditional certification subject to probationary terms as specified by the subcommittee; or denied certification.

1. In the event the subcommittee recommends denial of certification for examination and/or admission, written notice shall be served upon the applicant advising the applicant as to the matters which, if proven, would preclude a favorable finding by the Commission.

2. If such notice is served upon an applicant, the applicant shall file an answer to the notice within twenty (20) days from receipt of the notice. If an applicant fails to file an answer to the notice within such time or within any extension of time allowed by the Commission, the matters shall be deemed admitted and the Commission shall enter findings of fact, and appropriate conclusions of law, which may include a recommendation that the applicant not be admitted to the State Bar of Montana.

3. In the event the subcommittee does not agree upon a recommendation, the full Commission will decide whether to certify, conditionally certify or deny certification for examination and/or admission. Such decision will be by a majority vote of the full Commission.

(c) Hearing. In the event the applicant is denied certification, the Commission shall notify the applicant in writing of the specific reasons for denial. The applicant shall have thirty (30) days from receipt of the decision to file a written request for hearing. The hearing panel shall consist of the remaining members of the Commission not participating in the investigation of the applicant. A majority of the hearing panel shall make the final decision.

1. The Commission shall notify the applicant in writing of the date, time, and place of such hearing and of the applicant's right to be represented by counsel at the hearing, to examine and cross-examine witnesses, to adduce evidence bearing on the aforesaid adverse matters and upon the applicant's moral character and general fitness to practice law and, for such purposes, to make reasonable use of the Commission's subpoena powers.

2. If the applicant files a written request for hearing, the applicant must supply a list of witnesses, including addresses and phone numbers, and all supporting documentation including evidence, affidavits, exhibits, etc., he or she feels is necessary to support his or her certification at least ten (10) days prior to the hearing. The applicant must supply the original and nine (9) copies of all such materials to the Commission's office, 7 West Sixth Avenue, Suite 2B, P.O. Box 577, Helena, MT 59624.

3. The hearings before the Commission shall be open unless the applicant requests that they be private and the panel chair rules that the applicant's individual privacy requires that the meeting be closed. In making this determination, the panel chair must find that the demands of individual privacy clearly exceed the merits of public disclosure.

4. The burden of proof shall be on the applicant to establish by clear and convincing evidence that the applicant is possessed of good moral character and general fitness to practice law.

5. Rules of Evidence need not be observed. The Commission may, in its discretion, take evidence in other than testimonial form, having the right to rely upon records and other materials furnished to the Commission in response to its request for assistance in its inquiries. The Commission may, in its further discretion, determine whether evidence to be taken in testimonial form shall be taken in person at the hearing or upon deposition,

but all testimonial evidence shall in either event be taken under oath. A complete stenographic record of the hearing shall be kept, and a transcript may be ordered by the applicant at the applicant's own expense.

6. The Commission on Character and Fitness shall, when denying admission, issue written findings of fact, conclusions of law, and decision concerning the applicant's character and fitness to practice law.

(d) Conditional Certification.

1. The subcommittee or a majority of the remaining members of the full Commission may conditionally certify the applicant for examination and/or admission. The subcommittee and Commission may require specific probationary terms for admission, including, but not limited to, requiring alcohol or drug treatment, requiring medical care, requiring psychological or psychiatric care, requiring professional office practice or management counseling, requiring enrollment with a consumer credit counseling service, requiring practice supervision, requiring notice to the Commission on Character and Fitness if a complaint against the applicant is filed by the Commission on Practice and/or Office of Disciplinary Counsel, and requiring professional audits or reports. The Commission may require persons to supervise the probation and may recommend that cooperation with such supervisors be a probationary term. The Commission may require a specific duration for such probationary terms.

2. If the applicant refuses the subcommittee's final terms of the conditional admission, the character and fitness process will proceed as if the subcommittee had recommended denial as provided under Section 5(b)(1) of these Rules.

(e) Failure to Comply with Stipulation. Upon failure to comply with the terms and conditions of the conditional certification stipulation, the Commission may:

1. Request evidence of compliance with the stipulation be submitted to the Commission within ten (10) days following the date of the request.

2. In the event there is continued non-compliance with the stipulation, the Commission may convene a show cause hearing at the request of the applicant applying the provisions of Section 5(c) of these Rules. Prior to completion of the conditional admission period, the Commission may conclude that violation of any probationary terms may be grounds to withdraw certification for admission and examination. After completion of the conditional admission, the Commission may conclude that violation of any probationary terms for admission may be grounds for

recommendation by the Commission to the Montana Supreme Court that applicant's certification to practice law be revoked and that the applicant's admission to the State Bar of Montana immediately be revoked.

## **SECTION 6: SUPREME COURT REVIEW**

(a) The findings of fact, conclusions of law, and final decision of the Commission shall be conclusive unless a verified Petition for Review shall be filed by the applicant with the Montana Supreme Court within thirty (30) days following service upon the applicant of the findings, conclusions, and decision in the manner provided by these rules. A copy of the Petition for Review shall also be filed with the Commission. Within thirty

(30) days of receipt of said Petition, the Commission shall transmit the entire record to the Clerk of the Supreme Court and a response to the Petition fully advising the Court as to the Commission's reasons for its decision, and admitting or contesting any assertions made by the applicant in said Petition.

(b) Any interlocutory order of the Commission shall be subject to review as provided by Rule 17 of the Montana Rules of Appellate Procedure.

(c) To the extent practicable, an appeal by an applicant for admission to the practice of law from a final decision of the Commission shall be governed by the rules set forth in the Montana Rules of Appellate Procedure.

(d) If the applicant is, was, or has applied to be licensed to practice law in another jurisdiction, the Commission may provide such jurisdiction(s) with a copy of their findings of fact, conclusions of law, and final decision without prior approval from the applicant.

## **SECTION 7: REAPPLICATION**

Except as otherwise specified within these rules, an applicant denied certification may reapply for admission no earlier than four (4) years from the date of the final decision. "Final decision" refers to the last decision made: by the Supreme Court if the matter has been appealed, or by the Commission if it has not been appealed. The applicant must be able to demonstrate, by clear and convincing evidence, rehabilitation and current fitness to practice law.

## Appendix E: Montana Supreme Court Board of Bar Examiners' Rules

Effective January 1, 2016

### **Rule 101 – Board of Bar Examiners.**

- A. Contact with Board of Bar Examiners. All correspondence or other communications to the members of the Board of Bar Examiners must be directed to the Bar Admissions Administrator, State Bar of Montana, P.O. Box 577, Helena, MT 59624, phone (406) 442-7660. Applicants may not contact Board members directly, unless given prior approval by the Bar Admissions Administrator.
- B. Public Request. Upon request, the Bar Admissions Administrator or the Administrator's designee may confirm that an individual has filed an application for admission to the State Bar of Montana.

### **Rule 102 – Bar Examination Content, Certification, and Dates.**

- A. Examination Composition. The Uniform Bar Examination is prepared and coordinated by the National Conference of Bar Examiners and comprises the Multistate Essay Examination (MEE), two Multistate Performance Test tasks (MPT), and the Multistate Bar Examination (MBE). It is uniformly administered, graded, and scored by user jurisdictions and results in a portable score subject to individual jurisdiction admission requirements. Applicants must sit for all components in the same administration to earn a Uniform Bar Examination score. Scores from any one component of the Uniform Bar Examination may not be carried forward to any subsequent examination. An applicant must sit for all components of the Uniform Bar Examination in the same administration to gain admission to the State Bar of Montana.
- B. Certification. An applicant may not sit for the Montana Uniform Bar Examination unless the applicant has been duly certified or conditionally certified by the Commission on Character and Fitness.
- C. Dates of Examination. The Uniform Bar Examination is administered over two days. The MBE is given annually on the last Wednesdays of February and July, and the MEE and MPT are given on the preceding Tuesdays. Unless otherwise directed by the Board, the February examinations are administered in Helena, Montana, and the July examinations are administered in Missoula, Montana. The examination facility is determined by the Board.
- D. Montana Law Seminar. All applicants must attend a Montana Law Seminar (MLS) as a prerequisite to admission to the State Bar of Montana. The seminar is held twice annually on the Thursday immediately following the administration of the Uniform Bar Examination or other date directed by the Board.

The Board may establish a two-track approach to the MLS with all applicants taking the same course in one session and splitting the other session into litigation and commercial/transactional tracks. Limited portions of the MLS may be by video, recorded, or live via video link.

### **Rule 103 – Examination, Administration, and Grading.**

- A. Attendance at Examination. An applicant may not be admitted to a Uniform Bar Examination session more than one-half hour after the session begins. An applicant who is admitted after an examination session begins may not receive extra time and the examination session will conclude as scheduled.
- B. MEE and MPT Grading. Each examination paper produced by an applicant on the MEE and MPT is separately graded. Examination papers are graded and credited by applicant number and not by applicant name.

C. Score Combining. MBE answer sheets are scanned and centrally scored by the National Conference of Bar Examiners. MEE and MPT answers are graded on a scale of zero to six, with six being the highest qualifying score and zero being the lowest possible score. All scores are converted to the 400 Uniform Bar Examination point scale and combined with the MBE scaled scores. MEE and MPT scores are scaled to the MBE, with the MBE weighted 50%, the MEE 30%, and the MPT 20%.

An applicant with a combined scaled score of 270 or higher will be deemed to have passed the Montana Uniform Bar Examination.

D. Disruption During Examination. Should a serious disruption occur during any portion of a Uniform Bar Examination session, the Bar Admissions Administrator or proctors must record the incident on the proctor and irregularity report forms and the Board will be notified. If examination time is lost by the general examination population due to the disruption, a corresponding amount of time will be added to the end of the same examination session, if reasonably feasible.

E. Individual Emergencies During Examination. If during the course of Uniform Bar Examination administration an applicant has a sudden and unexpected emergency not of the applicant's making and the Bar Admissions Administrator has approved the applicant's departure or other inability to complete the examination, the departure will be treated as a deferral and the fees will transfer to the next examination. The Bar Admissions Administrator will record the incident on the proctor and irregularity report forms and the Board will be notified.

#### **Rule 104 – Testing Accommodations.**

A. Application Deadline for Testing Accommodations. An applicant who claims a disability and who seeks an accommodation to sit for the Uniform Bar Examination shall submit a request for the accommodation with supporting evidence by the application filing deadline for the relevant Uniform Bar Examination administration unless the disability occurs between the application filing deadline and the relevant Uniform Bar Examination administration.

B. Consideration of Testing Accommodation Requests. Requests for testing accommodation are considered on a case-by-case basis. To qualify for accommodation, the requesting applicant must submit evidence sufficient to satisfy the Board or its designee that:

1. the applicant is otherwise qualified to sit for the Uniform Bar Examination;
2. the applicant suffers from a disability;
3. the disability limits the applicant's ability to demonstrate, under standard testing conditions, that the applicant possesses the knowledge, skills, and abilities tested on the Uniform Bar Examination;
4. the disability is permanent or long-term;
5. the disability has a current substantial impact on the applicant. A mere submission of a medical diagnosis of impairment is insufficient to qualify the applicant for accommodation; and
6. the requested accommodation must address only a disability the law recognizes and must be tailored to address the disability as it relates to the Uniform Bar Examination testing conditions. The requested accommodation may not give the applicant an advantage over other applicants, but must permit the applicant to perform "on a level playing field" with other applicants.

Requests for accommodations will be considered by the Board or its designee based on the information submitted by the applicant and other information as may be reasonably available to the Board. Taking into account the resources available to it, the Board may, but is not required to, seek the assistance of experts on the particular request for

accommodation.

The Board may require the applicant to provide additional information relating to the claimed physical or mental impairment and prior testing accommodations received, and may require the applicant to submit to examination by a qualified professional designated by the Board in connection with the applicant's requested testing accommodation.

C. Appeal of Board Decision. The Board's decision on whether to grant the requested accommodation or to offer an alternative accommodation is final. An applicant may petition for relief from the Board's decision by petitioning the Montana Supreme Court.

D. Subsequent Accommodation Requests.

Applicants who retake the Uniform Bar Examination shall submit "Form 1: Applicant Request for Test Accommodations" each time they apply for the Uniform Bar

Examination, even if they previously requested and were granted accommodations by the Board. It is not necessary to resubmit supporting evidence that was submitted with a previous request if the applicant sat for the Uniform Bar Examination within the preceding three years and:

- (1) is requesting the same accommodation that was previously granted; and
- (2) has had no material changes in the physical or mental impairment for which the previous accommodation was granted. New supporting evidence is required if there is any change in the requested accommodation. An update to prior medical evidence assessing the applicant's current functional limitations and ongoing need for accommodation is required if the nature of the applicant's impairment changes. The Board may require an update to prior evidence in all cases in which it determines that the prior evidence is insufficient to establish the applicant's current level of impairment and need for accommodation.

E. Definitions.

1. "Accommodation" means an adjustment to or modification of the Uniform Bar Examination testing conditions that addresses the functional limitations related to the applicant's disability without:

- a. fundamentally altering the nature of the Uniform Bar Examination or the Board's ability to determine through examination whether the applicant possesses the necessary knowledge, skills, and abilities to pass the Uniform Bar Examination;
- b. imposing an undue burden on the Board;
- c. compromising the security of the Uniform Bar Examination; or
- d. compromising the validity of the Uniform Bar Examination.

2. "Disability" means a disability under the Americans with Disabilities Act of 1990 (ADA), which defines a person with a disability as a person with a physical or mental impairment that substantially limits one or more major life activity that is of central importance to daily life.

3. "Qualified professional" means a licensed physician, psychiatrist, or other health care provider who has comprehensive training in the field related to the applicant's disability.

4. "Substantially limits one or more major life activity" means the physical or mental impairment prevents or severely restricts the applicant from performing or engaging in activities that are of central importance to most persons' daily lives.

## **Rule 105 – Rules of Conduct.**

A. Examination Rules of Conduct. An applicant shall abide by all rules and instructions governing the administration of all portions of the Uniform Bar Examination. An applicant MAY NOT:

1. falsify the application or proofs required for admission to the Uniform Bar Examination;
2. utilize any unauthorized notes, books, recordings, electronically retrievable data, or other unauthorized materials while taking the examination. The only items permitted in the examination room are those that have been approved by the Board:
  - (a) computers specifically configured for use of computer-based testing, such as Exam Soft; or (b) blue books issued by the test proctors and approved writing tools. Any item that may provide the applicant with information or access to information other than the applicant's own knowledge is prohibited, including but not limited to notes, cell phones, backpacks, purses, wallets, cameras, electronic or wireless devices, or timing devices. The Board may prohibit any item not specifically referenced at any time, including at the examination session. Possession of a prohibited item in the examination may be treated as a cheating incident, and examination proctors are authorized to confiscate any unauthorized item.
3. use answers or information from other applicants while taking the examination;
4. provide answers or information to other applicants taking the examination;
5. read questions on the examination prior to the announcement to begin the examination;
6. continue to answer any question after the announcement to stop when the session has ended;
7. remove any multiple-choice, machine-scored examination question from the examination room, or otherwise communicate the substance of any of those questions to others, including applicants or persons who are employed by or associated with bar review courses;
8. remove any essay questions, scrap paper, or other materials from the examination room, or otherwise communicate the substance of any of those questions to others, including applicants or persons who are employed by or associated with bar review courses;
9. compromise the security or the integrity of the Uniform Bar Examination; or
10. disregard any instruction given by the Bar Admissions Administrator during the course of the examination or cause generalized disruption of the examination.

B. It is the Board's policy that the Uniform Bar Examination administration and related conduct of a Montana Bar applicant be beyond reproach. Applicants are at all times to maintain a professional attitude toward other applicants, proctors, and other examination personnel. Conduct that constitutes a violation of these Rules, the Rules for Admission, or any rules or instructions provided by examination personnel may result in immediate disqualification to sit for and in ejection from the examination. Cheating or taking any action that disrupts or compromises the security or integrity of the Uniform Bar Examination may result in immediate disqualification to sit for and in ejection from the examination.

### **Rule 106 – Impoundment, Investigation, and Appeal.**

A. Impoundment of Examination Results. If the Board or the Bar Admissions Administrator has cause to believe an applicant has violated any of the rules of conduct set forth above, the applicant's bar examination papers and results may be impounded pending investigation by the Board.

B. Investigation by the Board of Bar Examiners Subcommittee.

1. The Bar Admissions Administrator shall refer any concern regarding violation of the Rules of Conduct to a subcommittee of two members of the Board for further investigation. In such investigation, the Bar Admissions Administrator or the subcommittee may obtain information that relates to the applicant's conduct, administer oaths and affirmations, and compel by subpoena the attendance of witnesses and the production of books, papers, and documents. The subcommittee may require sworn taped interviews with an applicant to clarify information or to facilitate the investigation.

2. If it appears to the subcommittee that there is credible evidence that would establish an applicant's violation of any rule of conduct, the Bar Admissions Administrator shall serve written notice on the applicant by certified mail stating with particularity the facts upon which the alleged violation is based.

3. The applicant shall file a verified answer with the Bar Admissions Administrator within thirty days of service of the notice. The answer must identify with

specificity the alleged violations disputed by the applicant and set forth any evidence that can contradict the charges. The applicant may request a hearing before the Board of Bar Examiners. The applicant shall supply an original and seven copies of all materials to the Board's office.

4. In the event the applicant does not submit a written answer as provided in Rule 106 B.3., the Board shall deem the facts set forth in the written charges to be established. The charges shall become part of a permanent file of the Commission on Character and Fitness. The applicant may not reapply for admission for at least three years from the date the Board confirms the violation.

5. If an applicant files an answer but does not request a hearing, the Board Chair shall appoint a committee made up of Board members other than the two members assigned to investigate the claimed violation. The committee must consist of no fewer than three and no more than 5 members. If there is an insufficient number of Board members available for appointment, the Chair may appoint a member of the State Bar of Montana in good standing to sit as a member of the committee. The committee shall review the evidence gathered by the Bar Admissions Administrator, the two-member subcommittee, together with the submission received from the applicant, and render a final decision by a majority vote of its members.

C. Hearing.

1. If the applicant requests a hearing, the hearing panel must consist of a majority of the members of the Board who did not serve on the subcommittee appointed by the Bar Admissions Administrator. A majority of the hearing panel shall make the final decision.

2. The Board shall notify the applicant in writing of the date, time, and place of the hearing and of the applicant's right to be represented by counsel at the hearing, to examine and cross-examine witnesses, and to present evidence.

3. The applicant shall supply a list of witnesses, including addresses and phone numbers, and all supporting documentation including any evidence, affidavits, and exhibits the applicant determines are necessary to support the applicant's position at least ten days prior to the hearing. The applicant shall supply an original and seven (7) copies of all materials to the Board's office.

4. The hearings before the Board must be open to the public unless the applicant requests that they be private and the panel chair finds that the demands of the applicant's individual privacy clearly exceed the merits of public disclosure and rules that the hearing be closed.

5. The Rules of Evidence need not be observed. The Board may take evidence in other than testimonial form and rely upon records and other materials furnished to the Board in response to its investigation. The Board may determine whether evidence to be taken in testimonial form will be taken in person at the hearing or upon deposition, but in either event all testimonial evidence must be taken under oath. The Board shall maintain a complete record of the hearing.

6. The hearing panel shall determine by a preponderance of the evidence whether the applicant violated the examination rules of conduct.

D. Findings and Decision.

1. The Board shall issue a written decision which shall be served upon the applicant by certified mail and reported to the Commission on Character and Fitness.

2. In its decision the Board may take one or more of the following actions:

- a. void the results of the examination taken;
- b. transmit a written report of the matter to bar admission authorities in any jurisdiction;
- c. take such other action as the Board deems appropriate.

E. Supreme Court Review.

1. The final decision of the Board is conclusive unless a verified Petition for Review is filed by the applicant with the Montana Supreme Court within thirty days following service of the decision upon the applicant. The record of the hearing before the Board must be transcribed at the applicant's expense and provided to the Court. A copy of the Petition for Review and the hearing transcript must also be served upon the Board.

2. Within thirty days of receipt of the Petition, the Board shall transmit the entire record to the Clerk of the Supreme Court with a response to the Petition fully advising the Court as to the Board's reasons for its decision, and admitting or contesting any assertions made by the applicant in the Petition

## Appendix F: Montana Student Practice Rule

### Montana Federal District Court Local Rules In The Supreme Court of the State of Montana

No. 12982

In the Matter of the Establishment )  
 )  
Of a ) Order  
 )  
Montana Student Practice Rule )

Per Curiam:

Dean Robert E. Sullivan of the University of Montana Law School, and Ronald

F. Waterman, Esq., Chairman of Liaison Committee of the Montana Bar Association (now the State Bar of Montana) and the Student Bar Association of the Law School, petitioned this Court to adopt a rule permitting and governing student practice.

A hearing was had on said petition and the proposed rule was also submitted to our local Bar Associations throughout Montana and received many endorsements, and the Court having now considered the matter and being advised in the premises,

It is hereby ordered that the following rule permitting and governing law student practice be adopted:

#### Montana Student Practice Rule

##### I. Purpose

The bench and the bar are responsible for providing competent legal services.

This rule is adopted as one means of providing assistance to practicing lawyers in providing such services and to encourage law schools to provide clinical instruction in trial work of varying kinds.

##### II. Activities.

An eligible law student may appear in any court or before any administrative tribunal in this state on behalf of any person if the person on whose behalf he is appearing has indicated in writing his consent to that appearance and the supervising lawyer has also indicated in writing approval of that appearance, in the following matters:

1. Any civil matter. In such cases the supervising lawyer is not required to be personally present by the judge, magistrate, or referee before whom the matter is pending.
2. Any criminal matter in which the defendant does not have the right to the assignment of counsel under any constitutional provision, statute, or rule of this Court. In such cases the supervising lawyer is not required to be personally present in court.
3. Any criminal matter in which the defendant has the right to the assignment of counsel under any constitutional provision, statute, or rule of this court. In such cases the supervising lawyer must be personally present throughout the proceedings and shall be fully responsible for the manner in which they are conducted.
4. An eligible law student may also appear in any criminal matter on behalf of the State with the written approval of the supervising lawyer and the prosecuting attorney or his authorized representative.
5. In each case the written consent and approval referred to above shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.
6. A judge may exclude a law student from active participation in proceedings before the court, in the interest of orderly administration of justice or for the protection of a client or witness, and shall thereupon grant a continuance to secure the attendance of the supervising lawyer.

Under the general supervision of a member of the State Bar of Montana, but outside the personal presence of that lawyer, an eligible law student may engage in other activities, including:

1. Preparation of pleadings and other documents to be filed in any matter in which the student is eligible to appear, but such pleadings or documents must be signed by the supervising lawyer.
2. Preparation of briefs, abstracts, and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising lawyer.
3. Advising, negotiating, and performing other appropriate legal services, but only after prior consultation with and obtaining the express consent of the supervising lawyer. Negotiations are subject to final approval of the supervising lawyer.
4. An eligible law student may participate in oral argument in the Supreme Court of Montana, but only in the presence of the supervising lawyer.

### **III. Requirements and Limitations**

In order to make an appearance pursuant to this rule, the law student must:

1. Be duly enrolled in a law school approved by the American Bar Association.
2. Have completed legal studies amounting to at least two-thirds (2/3) of the total credit hours required for graduation.
3. Be certified by the dean of the law school as being of good character and competent legal ability and as being adequately trained to perform as a legal intern.
4. Be introduced to the court in which he is appearing by an attorney admitted to practice in that court.
5. Neither ask for nor receive any compensation or remuneration of any kind for his services from the person on whose behalf he renders services; but this shall not prevent a lawyer, legal aid bureau, law school, public defender agency, or the state from paying compensation to the eligible law student, nor shall it prevent any agency from making such charges for its services as it may otherwise properly require.
6. Certify in writing that he has read and is familiar with and will abide by the Code of Professional Responsibility.

### **IV. Certification**

The certification of a student by the law school dean:

1. Shall be filed with the clerk of the court; and, unless it is sooner withdrawn, it shall remain in effect until the expiration of twelve (12) months after it is filed, or admission to the bar, whichever occurs first. Upon exceptional circumstances shown, the dean may renew the certification for one more twelve (12) month period. Law school graduates who must take the bar examination are eligible until the results are announced of the first bar examination after their certification under this rule.
2. May be withdrawn by the dean at any time by mailing a notice to that effect to the clerk of the court, who shall forthwith mail copies thereof to the student and the supervising lawyer.
3. May be terminated by the court at any time without notice or hearing and without any showing of cause.

#### **V. Supervision**

The lawyer under whose supervision an eligible law student participates in any of the activities permitted by this rule shall:

1. Be a member in good standing of the Montana State Bar Association whose service as a supervising lawyer for this program is approved by a judge of the court in which the student must appear.
2. Assume personal professional responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work.
3. Assist and counsel the law student in the activities mentioned in these rules and review such activities with such student, all to the extent required for the proper practical training of the student and the protection of the client.
4. No supervising lawyer shall have supervision over more than one (1) law student at any one time; however, in the case of recognized legal aid, legal assistance, public defender and similar programs furnishing legal assistance to indigents or of state, county, or municipal legal departments, the supervising lawyer may supervise two (2) law students at one time.
5. This restriction shall not apply to any clinical legal education program conducted as a part of the curriculum of any law school in this state.

#### **VI. Miscellaneous**

1. Nothing contained in this rule shall affect the right of any person who is not admitted to practice law to do anything that he might lawfully do prior to the adoption of this rule.

This rule shall not restrict any previous court orders concerning student practice.

It is further ordered that this rule shall be effective May 1, 1975. Dated this 30th day of April, 1975.