

# ST. MARY'S LAW JOURNAL

## *Bylaws*



As amended by the Law School Faculty on November 12, 2018

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# ST. MARY'S LAW JOURNAL

## *Bylaws*

### MISSION

The mission of the *St. Mary's Law Journal* is to assist the bench, bar, and academia by publishing excellent works of scholarship that illuminate issues of importance to the legal community. The *Law Journal* is committed to the principles of freedom of speech, freedom of press, and academic freedom. Mindful of the long history of St. Mary's University School of Law, and of the need to address legal issues of state, national, and international importance, the *Law Journal* seeks to promote the Rule of Law, access to justice, and the integrity of the legal profession.

### I. ORGANIZATION TITLE AND PUBLICATIONS

The organization governed by these Bylaws shall be called the *St. Mary's Law Journal*, hereinafter referred to as the *Journal*.

The *St. Mary's Law Journal* shall produce two publications: (1) the *St. Mary's Law Journal* (consisting of four issues annually), and (2) the *St. Mary's Journal on Legal Malpractice & Ethics* (consisting of one issue annually). All members of the organization shall be considered members of the *St. Mary's Law Journal* only. A member may not indicate membership of the *St. Mary's Journal on Legal Malpractice & Ethics* on their resume. A member may refer to *the St. Mary's Journal on Legal Malpractice & Ethics* on their resume only to the extent that their Comment or Recent Development is published in it.

### II. BYLAW CONSTRUCTION, AMENDMENT, AND DISTRIBUTION

#### A. *Bylaw Construction*

The *Journal* Editorial Board shall construe these Bylaws. Disputes regarding Bylaw construction shall be resolved by the Editorial Board with the right of appeal to the *Journal* Faculty Advisory Committee whose decision shall be final.

#### B. *Bylaw Amendment*

These Bylaws may be altered by an amendment that is:

1. Adopted by a simple majority of the Editorial Board at a meeting called for that purpose at which all Board members are present;
2. Subsequently approved by the *Journal* Faculty Advisory Committee; and
3. Approved by a majority vote at any regular or special meeting of the Faculty.

#### C. *Bylaw Distribution*

1. Every Applicant, Staff Writer, Associate Editor, Senior Associate Editor, and Editorial Board member shall be entitled to receive a copy of these Bylaws upon request and upon signing a receipt therefore.
2. A copy of the current *Journal* Bylaws shall also be kept on reserve in the Law Library.
3. Every Applicant, Staff Writer, Associate Editor, Senior Associate Editor, and Editorial Board

member shall read and be familiar with these Bylaws.

### III. PURPOSES OF THE ST. MARY'S LAW JOURNAL

The purposes of the *Journal* are:

- A. To publish two separate legal periodicals of scholarly merit and practical use; and
- B. To further the legal education of its members by developing its members' advanced legal research and writing skills and providing practical experience in the day-to-day operation of a legal publication.

### IV. DEFINITIONS

#### A. *Applicant*

An applicant is any law student in the full-time or part-time juris doctorate program at St. Mary's University School of Law who has submitted a completed application for *Journal* membership and has successfully completed the first-year required curriculum.

The term "grade point average" for the purpose of eligibility for membership on the *St. Mary's Law Journal* means the numeric average of grades earned only in the courses listed above.

An applicant may also be an LL.M. candidate or transfer student in accordance with V.A.2 below.

#### B. *Comment*

A Comment is a student-written work by a Staff Writer, to be completed in the fall semester, that complies with guidelines set forth each year by the Editorial Board in the *Journal's* "Redbook" (see I below). In particular, a Comment discusses a current legal issue by examining the development of the history and present state of a narrow area of the law and commenting upon its future evolution.

##### 1. **Publish**

A publishable Comment is one of excellent quality selected by the Editorial Board for publication contingent upon completion of the final editorial process.

##### 2. **Credit with Honors**

A Comment receiving a designation of "credit with honors" is one of excellent quality and meets the minimum requirements set forth in the Redbook each year by the Editorial Board, but is not selected for publication by the Editorial Board.

##### 3. **Credit**

A credit-worthy Comment is one of good quality and meets the minimum requirements set forth in the Redbook each year by the Editorial Board.

##### 4. **No Credit**

A no-credit Comment is one of poor quality that does not meet the minimum requirements set forth in the Redbook.

**C. Faculty Advisory Committee and Dean**

The Law Journal Faculty Advisory Committee is appointed by the Dean of the St. Mary's University School of Law. The Committee assists the Editorial Board in formulating policy, supervises the Editorial Board's editing of the *Law Journal*, and provides guidance about issues related to the operation of the *Law Journal*. The Committee, in consultation with the Editorial Board, makes the final decision on the editing and approval for publication of all matters submitted to the journal for publication.

**D. Invitee**

An invitee is an Applicant who has been invited by the Editorial Board to become a *Journal* member.

**E. Journal Member**

A *Journal* member refers to a Staff Writer, an Associate Editor, a Senior Associate Editor, or an Editorial Board member.

**1. Staff Writer**

A Staff Writer is a law student who has been invited to become a *Journal* member and has accepted that invitation.

**2. Associate Editor**

An Associate Editor is a student who has successfully completed the requirements of a Staff Writer and who, after submission of an application, is elected by a simple majority of the Editorial Board to assist in the editorial process.

**3. Senior Associate Editor**

A Senior Associate Editor is a student who has successfully completed the requirements of a Staff Writer and who, after submission of an application, is elected by a simple majority of the Editorial Board to assist in the editorial process.

**4. Editorial Board Member**

An Editorial Board member is a student who has successfully completed the requirements of a Staff Writer and who, after submission of an application, is elected by a simple majority of the previous Editorial Board to serve in any of the eleven Editorial Board positions.

**F. Plagiarism**

Plagiarism includes but is not limited to:

1. The use of five or more words from any source without quotation marks and appropriate footnote; or
2. The use of another's idea from any source without appropriate footnote to the source. This idea or "thought plagiarism" includes but is not limited to "paraphrasing someone else's argument as your own, or presenting someone else's line of thinking in the development of your paper as though it were your own," without appropriate footnote. C. HODGES & M. WHITTEN, *HARBACE COLLEGE HANDBOOK* 456 (9th ed. 1982).
3. Exceptions may be made for terms of art upon the discretion of the Editor in Chief.

**G. Quorum**

A quorum is six members of the Editorial Board.

**H. Recent Development**

A Recent Development is a student-written work authored by a third-year *Journal* member that discusses in detail a recent development in the law.

**I. Redbook**

The Redbook is created by the Editorial Board each year and serves as the general operations manual for *Journal* members, providing information, guidelines and requirements for cite-checking, the Comment writing process, and other administrative duties.

## V. STAFF WRITER SELECTION

There are two ways to become a Staff Writer on the *Law Journal*: (1) the Grade-On Selection Process (*see* V.A) and (2) the Write-On Competition (*see* V.B).

**A. Grade-On Selection Process**

Juris doctorate students who earn a place on the Dean's List (calculated as the top ten percent of each section) at the end of their first semester of study will be invited to become Staff Writers on the *Law Journal* without the necessity of participating in the Write-On Competition. Invitations will be distributed by the Editor in Chief in hardcopy or electronic format during the Spring semester no later than April 1, and must be accepted by invitees in hardcopy or electronic format at a date set by the Editor in Chief. Any invitation not accepted by the deadline will be deemed to lapse. If an invitation lapses, the invitee may still enter the Write-On Competition.

A student who accepts an invitation to become a Staff Writer under this subsection will not become a Staff Writer until and unless the student has completed the required courses listed in IV.A above at St. Mary's University School of Law, is in good academic standing, as defined in the St. Mary's University School of Law Student Handbook, and has satisfied Staff Writer Orientation requirements. Orientation occurs only once each year, normally in August. (Under this provision, a full-time student will normally become a Staff Writer during his or her second year of study, and a part-time student will normally become a Staff Writer during his or her third year of study.)

**B. Write-On Competition**

A student who has completed the required courses listed in IV.A above at St. Mary's University School of Law, and is in good academic standing may apply for membership on the *Journal* by participating in the first scheduled writing competition following completion of the required courses.

1. The Editorial Board reserves the right not to consider an application submitted after the announced deadline.
2. A student who has completed one year of law school at another ABA-approved school and who has been accepted for, or has applied for transfer to, St. Mary's University School of

Law may seek membership on the *Journal*. Likewise, a graduate of another law school who has been accepted for, or has applied for, admission to the LL.M. program at St. Mary's University School of Law may seek membership on the *Journal*. Such transfer students and LL.M. students must participate in and meet the deadlines of the regular Write-On Competition. Notice of the opportunity to apply for membership will be provided by the Editor in Chief to all transfer or LL.M. candidates whose applications have been accepted by, or are pending as of, May 1.

3. A visiting (transient) student who has served in good standing for at least two semesters on a law review or law journal at an ABA-accredited law school may apply for membership on the *Journal* as a Senior Associate Editor or Associate Editor prior to the beginning of the fall semester. A full-time student in the LL.M. program at St. Mary's University School of Law, who has served in good standing for at least two semesters on a law review or law journal while obtaining a J.D. or equivalent, is eligible to apply for membership on the *Journal* as a Senior Associate Editor or Associate Editor prior to the fall semester.
4. A student who completed the first year of course work in the evening program and subsequently transfers to the day program at the beginning of the fall semester of their second year may apply for membership on the *Journal* by participating in the following spring's annual writing competition if the student has successfully completed the courses listed in IV.A above.

**C. *Notification of the Writing Competition, Application Availability, Receipt of Applications***

1. No later than twenty-eight (28) days before the first day of the spring final exam period, the incoming Editorial Board shall announce the writing competition to every section of the first year class in the day program and to all classes in the evening program which may have eligible candidates.
2. No later than twenty-eight (28) days before the first day of the spring final exam period, the incoming Editor in Chief shall ensure that an announcement of the writing competition and applicable deadlines are published in *The Witan* or other appropriate newsletter of weekly circulation in the School of Law. If there ceases to be such a newsletter, the Editor in Chief shall ensure that:
  - a. A written announcement of specific guidelines and deadlines is printed and placed in each eligible student's mail box; and
  - b. A copy of such written announcement is placed on the *Journal* bulletin board.
3. The incoming Editorial Board shall make the writing competition packet available at the *Journal* office no earlier than 11:00 a.m. on the last day of the spring semester final exam period.
4. The date and time by which an Applicant's writing competition packet shall be received shall be clearly specified within the materials for the writing competition.
  - a. This date shall be no earlier than two weeks from the last day of the spring semester final exam period.
  - b. This date shall be no later than eight weeks from the last day of the spring semester final exam period.
  - c. The exact date and time shall be set by the Editorial Board. The Board shall consider both



the size and scope of the writing competition materials in setting a deadline.

5. Writing Competition Packets may be mailed to the Journal office; however, all mailed entries must be postmarked no later than the deadline date and arrive at the Journal office within ten (10) days after the stipulated date, regardless of the postmark date.
  - a. If an Applicant chooses to rely upon a reliable overnight delivery service, the Applicant is responsible for submitting the application to the delivery service in a manner that ensures delivery prior to the deadline.
  - b. If the delivery service fails to deliver the application prior to the deadline, the applicant maintains the burden of proving that the application was submitted to the delivery service prior to the deadline and that the means of delivery requested would have guaranteed delivery prior to the deadline.
6. Any entries not meeting these guidelines shall be excluded from the writing competition.

***D. Writing Competition Packet and Application Guidelines***

1. The incoming Research/Articles Editor, after consultation with the incoming Editorial Board and outgoing Research/Articles Editor and upon the approval of the Editor in Chief, shall prepare a set of materials for the writing competition.
2. The materials shall consist of a set of detailed instructions, an application form, a written problem, and a group of resources.
3. No resources other than those contained in the materials shall be used in the competition.
4. The written problem shall be designed to test an Applicant's legal analysis and writing skills.
5. The writing competition packet shall include an application form that solicits general biographical information from Applicants in order to expedite notification of the competition results.

***E. Selection Procedure of Write-On Competition***

1. Upon receipt of an Applicant's writing competition packet, Business Office personnel shall:
  - a. Separate the name of the Applicant from each packet so that each packet is anonymous.
2. Name
  - a. During the reading process, no Editorial Board member shall have access to any Applicant's name.
  - b. The Editor in Chief shall only have access to an Applicant's name after the selection process is completed and for notification purposes only.
3. Each Editorial Board member shall read his or her proportionate share of the writing entries, as divided by the Editor in Chief, in a timely manner. Each entry will be reviewed by at least five Editorial Board members and scored on a grading scale prescribed by the Editor in Chief in consultation with the chair of the Faculty Advisory Committee.
4. After each writing entry has been scored by the Editorial Board members, the Editor in Chief shall begin the selection process.
  - a. The Editor in Chief shall compile a list of the average score for each Applicant's writing

entry and the corresponding Applicant's grade point average.

(1) If any writing entry receives an average score of zero (0), that Applicant's writing competition packet shall be removed from any further consideration.

(2) The entire group of remaining writing competition packets shall form the application pool.

5. The *Law Journal* may have 40 Staff Writers each year. In determining how many persons will be invited to become members based on the Write-On Competition, the number of students who accepted invitations under Section V-A (the Grade-On Selection Process), and who have not withdrawn acceptances, will be subtracted from the number forty. The Applicants receiving the highest scores in the Write-On Competition will be invited to become Staff Writers, until the total number of students accepting Staff Writer positions equals forty.
6. An applicant who commits plagiarism in the Write-On Competition is ineligible to become a Staff Writer.

#### **F. Invitee**

1. When all Invitees have accepted or rejected the *Journal's* invitation and all alternates have been notified of whether they are invited to become *Journal* members, the list of new Staff Writers shall be final and may not be appealed.
2. When the list of Staff Writers is final, the Editor in Chief shall post the list on the *Journal* bulletin board and forward copies to the Faculty and Dean.
3. The Editor in Chief shall also ensure that all incoming Staff Writers receive timely notice of the date, time, and location of the Staff Writer Orientation.

## **VI. STAFF WRITER**

#### **A. Eligibility**

An Invitee who accepts the *Journal's* invitation of membership shall become a Staff Writer.

#### **B. Duties and Responsibilities**

Staff Writers shall:

1. Write a Comment during their fall semester of membership.
2. Adhere to the requirements and guidelines set forth in the Redbook.
3. Complete the requisite number of cite-checking hours as determined by the Managing Executive Editor.
4. Attend any mandatory *Journal* member meetings, including Staff Writer Orientation.
5. Participate in various administrative duties deemed necessary to accomplish the purposes of the *Journal* as set forth in these Bylaws.

### ***C. Pass/Fail Credits & Writing Requirement Fulfillment***

1. Staff Writers may receive two (2) pass/fail credit hours in the fall and one (1) pass/fail credit hour in the spring upon successfully completing all duties and responsibilities. Failure to comply with all minimum requirements may result in a grade of “fail” and/or institution of removal procedures per D below. Although a student may elect to serve as Staff Writer without registering for credit, such student must comply with all minimum requirements in order to maintain membership.
2. If the Editorial Board recommends that a Comment receive “credit,” awards a Comment “credit with honors,” or decides to publish a Comment, the Chair will, pursuant to paragraph 3 below, consider that the Comment has satisfied the law school writing requirement for the completion of the J.D. degree.
3. Grades are assigned by the Chair of the Faculty Advisory Committee. The Chair shall consult with the Editor in Chief and shall consider the recommendation of the Editorial Board, but is not bound by that recommendation. The Chair may consult with other members of the Faculty Advisory Committee with respect to assignment of grades. A grade awarded pursuant to these procedures is subject to review under the academic appeals provisions of the St. Mary’s University School of Law Student Handbook. If the Chair of the Faculty Advisory Committee rejects the recommendation of the Board in assigning a grade, the Editorial Board shall be so informed and shall have standing to appeal that decision under the terms of the Student Handbook, which shall be construed to permit such an appeal.
4. No-Credit Recommendation
  - a. The following procedure shall govern any Comment given a no-credit recommendation:
    - (1) The Editorial Board by simple majority assigns the Comment a no-credit recommendation.
    - (2) The Editor in Chief notifies the Staff Writer orally and in writing of the no-credit recommendation. Written notice shall be sent by certified mail return receipt requested to the address on file with the University Registrar.
    - (3) If the Staff Writer requests in writing to the Editor in Chief within thirty (30) calendar days of receiving written notice of the no-credit recommendation, the Editor in Chief, Managing Executive Editor and the Staff Writer’s Comment Editor shall meet with the Staff Writer to explain the Editorial Board’s recommendation. The day that the Staff Writer receives the written notice of the no-credit recommendation counts as the first day.
    - (4) Regardless of whether such a meeting is held, the Staff Writer has an absolute right to contest the no-credit recommendation to the Editorial Board for up to thirty (30) calendar days following receipt of written notification of the Board’s recommendation.
      - (a) The Staff Writer must submit a written complaint to the Editor in Chief detailing the Staff Writer’s complaints in regard to the no-credit recommendation.
      - (b) The Editor in Chief shall distribute copies of this complaint to each Editorial Board member for review.
      - (c) The Editor in Chief shall arrange the time and place for a hearing with the Staff Writer within fourteen (14) calendar days after receipt of the complaint.
    - (5) Once a hearing is arranged, the Staff Writer shall come before the entire Editorial Board and present his or her specific objections to the no-credit recommendation as

detailed in the complaint.

- (a) The Staff Writer shall have twenty (20) minutes to present his or her case to the Editorial Board.
- (b) Neither the Staff Writer nor the Editorial Board members shall be allowed to question the other during the meeting.
- (c) Upon completion of the hearing, the Editorial Board shall vote by secret ballot as to whether to deny or grant the Staff Writer's appeal.
  - (i) If the Staff Writer's request is granted, the Staff Writer's Comment shall be provided a credit recommendation.
  - (ii) If the Staff Writer's request is denied, the no-credit recommendation shall stand.

#### **D. Removal**

1. Membership on the *Journal* is a privilege, not a right.
2. An individual may be removed from the position of Staff Writer if he or she:
  - a. Fails to adhere to the requirements and guidelines for Comment writing as set forth in the Redbook.
  - b. Fails on three (3) separate occasions, after receiving a single initial verbal or written warning from his/her assigned Associate Editor or Original Editor, to adhere to a particular editing and/or cite-checking requirement set forth in the Redbook. Each occasion must be subsequently detailed in writing to the Staff Writer by his/her assigned Associate Editor or Original Editor with sufficient specificity to make the Staff Writer aware of both his/her improper editing and/or cite-checking procedure(s) and the proper editing and/or cite-checking procedure(s), as approved by the Managing Executive Editor with regard to both substantive content and sufficient specificity, with copy sent to the Editor in Chief.
  - c. Fails to attend Staff Writer Orientation. If the Staff Writer fails to attend Staff Writer Orientation, the Editor in Chief may recommend to the Editorial Board that the Staff Writer be removed from *Journal* membership in accordance with 3.e below.
  - d. Fails to attend two (2) or more mandatory monthly meetings.
  - e. Fails to meet two (2) or more established production deadlines without providing the Editor in Chief or Managing Executive Editor three (3) days notice and receiving approval for an extension of the deadline from the Editor in Chief or Managing Executive Editor. Such production deadlines must have been made available seven (7) days prior to the production deadline.
  - f. Fails to satisfactorily complete any administrative duties deemed necessary by the Editor in Chief and Managing Executive Editor to accomplish the purposes of the *Journal* as prescribed in these Bylaws.
  - g. Fails to receive credit in a *Law Journal* course during any marking period. If the Staff Writer fails to receive credit in a *Law Journal* course during any marking period, the Editor in Chief shall recommend to the Editorial Board that the Staff Writer be removed from *Journal* membership in accordance with 3.e below.
3. Removal Procedure
  - a. The Editor in Chief or the Managing Executive Editor shall prepare and deliver a written complaint to the Staff Writer that alleges violation of one or more provisions listed in subparagraph 2 above. The first written complaint shall include the following notice to the

Staff Writer: **“Continued violation of the *Journal* bylaws, Redbook guidelines and provisions, or directives of members of the Editorial Board may result in proceedings to remove you from *Journal* membership.”**

- b. After the first written complaint is delivered to the Staff Writer, a meeting shall be held between the Editor in Chief, Managing Executive Editor, the Staff Writer’s Comment Editor and the Staff Writer in question in order to resolve the problem.
- c. In the event no progress is made toward resolution of the problem after the meeting regarding the first written complaint, the Editor in Chief or Managing Executive Editor shall prepare a second written complaint to the Staff Writer that alleges violation of one or more provisions listed in sub-paragraph 2 above. The second written complaint shall include the following notice to the Staff Writer: **“Continued violation of the *Journal* bylaws, Redbook guidelines and provisions, or directives of members of the Editorial Board may result in proceedings to remove you from *Journal* membership.”**
- d. After the second written complaint is delivered to the Staff Writer, a meeting shall be held between the Editor in Chief, Managing Executive Editor, the Staff Writer’s Comment Editor and the Staff Writer in question in order to resolve the problem.
- e. In the event no progress is made toward resolution of the problem since the meeting regarding the second written complaint, the Editor in Chief may recommend to the Editorial Board that the Staff Writer be removed from *Journal* membership. The Editor in Chief or Managing Executive Editor shall prepare and deliver written notice to the Staff Writer in question that contains:
  - (1) A full description of the allegation;
  - (2) An offer of an opportunity to be heard before the Editorial Board;
  - (3) A deadline of fourteen (14) calendar days for the Staff Writer to respond in writing to the offer to be heard;
  - (4) A statement that absent a request for a hearing or following the hearing, the Editorial Board shall vote on the removal.
- f. Once the Staff Writer in question has either failed to respond to the offer for a hearing, refused a hearing, or been heard, the Board may deliberate on the Staff Writer’s removal.
- g. A two-thirds majority vote by those members of the Editorial Board that are present and voting shall be required for approval of the recommendation to remove a Staff Writer.
- h. The Board decision containing the reasons therefore shall be put in writing by the Editor in Chief or Managing Executive Editor and shall be provided to the Staff Writer.
- i. The right of appeal by the Staff Writer in question, or by any Board member who was present and voting, is to the Faculty Advisory Committee.
- j. Any removal shall result in the Staff Writer forfeiting credit for the semester during which he or she was removed. Such removal shall be without academic penalty; the student’s transcript shall reflect that the student withdrew from the course.

#### ***E. Withdrawal***

Any withdrawal will be without academic penalty if it occurs prior to the last day of scheduled class during the instruction portion of a semester. Withdrawal thereafter shall result in a failing grade. Regardless, the student’s transcript shall reflect that the student withdrew from the course.

#### ***F. Leave of Absence***

1. A leave of absence may be permitted if requested prior to the start of the semester in which the leave is sought.

2. A leave of absence may be granted at the discretion of the Editorial Board upon showing of good cause.
  - a. Good cause includes, but is not limited to, financial considerations, leave of absence from school, serious illness, academic considerations, and other personal concerns.
  - b. The Editorial Board shall also take into consideration the anticipated workload during the semester in which the Staff Writer will return to active status.
3. A request for a leave of absence must be made in writing and delivered to the Managing Executive Editor or Editor in Chief.
  - a. The Editorial Board shall consider the request at a regular meeting or at a meeting called for that purpose.
  - b. The Staff Writer making such a request shall be given an opportunity to appear before the Board and explain the reasons for the request.
  - c. The decision of the Board, including the reasons for the decision, shall be put in writing by the Editor in Chief or Managing Executive Editor and delivered to the Staff Writer.
4. If the Staff Writer's request for leave of absence is granted, the Staff Writer shall return to active status during the semester designated by the Editorial Board; no further reinstatement process shall be followed.
5. If the Staff Writer's request for leave of absence is denied, the right of appeal is to the Faculty Advisory Committee, whose decision shall be final.

**G. Reinstatement**

1. Request for Reinstatement
  - a. Upon written application, a former Staff Writer who was removed or who withdrew from *Journal* participation may request reinstatement to his or her prior status.
  - b. Any former Staff Writer disqualified from association with the *Journal* because of a plagiarism violation may not request reinstatement.
2. Procedure
  - a. Upon written application to the Editor in Chief, the Editorial Board shall consider the application for reinstatement.
    - (1) The reasons for the former Staff Writer's disassociation shall be considered.
    - (2) Good cause of the disassociation must be shown, which includes financial considerations, leave of absence from school, severe illness, academic consideration, or other personal concerns.
  - b. The former Staff Writer shall be given the opportunity to appear before the Board and present his or her reasons for requesting reinstatement at a meeting called for that purpose.
  - c. After a hearing or if the former Staff Writer declines a hearing, the Board shall vote by optional secret ballot on the application.
    - (1) A two-thirds majority vote of the full Editorial Board shall be required for approval of the reinstatement application.
    - (2) The decision of the Board, stating the reasons for the decision, shall be put in writing by the Editor in Chief or Managing Executive Editor and delivered to the former Staff Writer.
  - d. The right of appeal by a former Staff Writer denied reinstatement, or by any Board member who was present and voting, is to the Faculty Advisory Committee, whose

decision is final.

## VII. ASSOCIATE EDITOR & SENIOR ASSOCIATE EDITOR

### A. *Eligibility*

Staff writers are eligible to serve as Associate Editors or Senior Associate Editors following:

1. Completion of an application;
2. Election by a simple majority vote of the Editorial Board; and
3. Satisfactory completion of all Staff Writer duties and responsibilities as defined in VI.B.

### B. *Duties and Responsibilities*

Duties and responsibilities of Associate Editors and Senior Associate Editors are determined by the Editorial Board and include, but are not limited to:

1. Completion of the requisite number of cite-checking hours.
  - a. An Associate Editor is required to complete a minimum of sixty (60) cite-checking hours per semester.
  - b. A Senior Associate Editor is required to complete a minimum of 120 cite-checking hours per semester.
2. Assisting the Editorial Board in the editorial process.
3. Adhering to the requirements and guidelines set forth in the Redbook.
4. Attending monthly meetings, the date of which is determined by the Managing Executive Editor.
5. Participating in various administrative duties deemed necessary to accomplish the purposes of the *Journal* as set forth in these Bylaws.

### C. *Tenure*

Associate Editors and Senior Associate Editors are appointed for two (2) semesters.

### D. *Recent Developments*

1. Associate Editors and Senior Associate Editors may submit a Recent Development for publication.
2. The Editorial Board shall evaluate any Recent Developments submitted for publication and determine whether an offer of publication will be made.
  - a. Acceptance or rejection must be given to the Associate Editor or Senior Associate Editor within two (2) weeks of submission of the Recent Development.
  - b. The decision of the Editorial Board shall be final.

### ***E. Pass/Fail Credit***

1. Upon fulfillment of the duties prescribed herein, an Associate Editor may be awarded one (1) pass/fail credit hour per semester. Failure to perform duties in a satisfactory manner, or other violation of these bylaws, may result in a grade of “fail” and/or institution of removal procedures per F below. Although a student may elect to serve as an Associate Editor without registering for credit, such student must comply with all minimum requirements in order to maintain membership.
2. Upon fulfillment of the duties prescribed herein, a Senior Associate Editor shall be awarded one (1) or two (2) pass/fail credit hours per semester, depending upon the number of credits for which the Senior Associate Editor is registered. Failure to perform duties in a satisfactory manner, or other violation of these bylaws, may result in a grade of “fail” and/or institution of removal procedures per F below. Although a student may elect to serve as a Senior Associate Editor without registering for credit, such student must comply with all minimum requirements in order to maintain membership.
3. Grades are assigned by the Chair of the Faculty Advisory Committee. The Chair shall consult with the Editor in Chief and shall consider the recommendation of the Editorial Board, but is not bound by that recommendation. The Chair may consult with other members of the Faculty Advisory Committee with respect to assignment of grades. A grade awarded pursuant to these procedures is subject to review under the academic appeals provisions of the St. Mary’s University School of Law Student Handbook. If the Chair of the Faculty Advisory Committee rejects the recommendation of the Board in assigning a grade, the Editorial Board shall be so informed and shall have standing to appeal that decision under the terms of the Student Handbook, which shall be construed to permit such an appeal.

### ***F. Removal***

1. Membership on the *Journal* is a privilege, not a right.
2. An Associate Editor or Senior Associate Editor may be removed from the position of Associate Editor or Senior Associate Editor if he or she:
  - a. Fails to attend two (2) or more monthly meetings.
  - b. Fails to meet two (2) or more established production deadlines without providing the Editor in Chief or Managing Executive Editor three (3) days notice and receiving approval for an extension of the deadline from the Editor in Chief or Managing Executive Editor. Such production deadlines must have been made available seven (7) days prior to the production deadline.
  - c. Fails on three (3) separate occasions, after receiving a single initial verbal or written warning from his/her assigned Original Editor, to adhere to a particular editing and/or cite-checking requirement set forth in the Redbook. Each occasion must be subsequently detailed in writing to the Associate Editor/Senior Associate Editor by his/her assigned Original Editor with sufficient specificity to make the Associate Editor/Senior Associate Editor aware of both his/her improper editing and/or cite-checking procedure(s) and the proper editing and/or cite-checking procedure(s), as approved by the Managing Executive Editor with regard to both substantive content and sufficient specificity, with copy sent to the Editor in Chief.
  - d. Fails to satisfactorily complete any editorial or administrative duties deemed necessary by



the Editor in Chief and Managing Executive Editor to accomplish the purposes of the *Journal* as prescribed in these Bylaws.

### 3. Removal Procedure

- a. The Editor in Chief or the Managing Executive Editor shall prepare and deliver a written complaint to the Associate Editor or Senior Associate Editor that alleges violation of one or more provisions listed in sub-paragraph 2 above. The first written complaint shall include the following notice to the Associate Editor or Senior Associate Editor: “Continued violation of the *Journal* bylaws, Redbook guidelines and provisions, or directives of members of the Editorial Board may result in proceedings to remove you from *Journal* membership.”
- b. After the first written complaint is delivered to the Associate Editor or Senior Associate Editor, a meeting shall be held between the Editor in Chief, Managing Executive Editor, and the Associate Editor or Senior Associate Editor in question in order to resolve the problem.
- c. In the event no progress is made toward resolution of the problem after the meeting regarding the first written complaint, the Editor in Chief or Managing Executive Editor shall prepare a second written complaint to the Associate Editor or Senior Associate Editor that alleges violation of one or more provisions listed in sub-paragraph 2 above. The second written complaint shall include the following notice to the Associate Editor or Senior Associate Editor: “Continued violation of the *Journal* bylaws, Redbook guidelines and provisions, or directives of members of the Editorial Board may result in proceedings to remove you from *Journal* membership.”
- d. After the second written complaint is delivered to the Associate Editor or Senior Associate Editor, a meeting shall be held between the Editor in Chief, Managing Executive Editor, and the Associate Editor or Senior Associate Editor in question in order to resolve the problem.
- e. In the event no progress is made toward resolution of the problem since the meeting regarding the second written complaint, the Editor in Chief may recommend to the Editorial Board that the Associate Editor or Senior Associate Editor be removed from *Journal* membership. The Editor in Chief or Managing Executive Editor shall prepare and deliver written notice to the Associate Editor or Senior Associate Editor in question that contains:
  - (1) A full description of the allegation;
  - (2) An offer of an opportunity to be heard before the Editorial Board;
  - (3) A deadline of fourteen (14) calendar days for the Associate Editor or Senior Associate Editor to respond in writing to the offer to be heard;
  - (4) A statement that absent a request for a hearing or following the hearing, the Editorial Board, absent the Board member in question, shall vote on the removal.
- f. Once the Associate Editor or Senior Associate Editor in question has either failed to respond to the offer for a hearing, refused a hearing, or been heard, the Board may deliberate on the Associate Editor or Senior Associate Editor removal.
- g. A two-thirds majority vote by those members of the Editorial Board that are present and voting shall be required for approval of the recommendation to remove an Associate Editor or Senior Associate Editor.
- h. The Board decision containing the reasons therefore shall be put in writing by the Editor in Chief or Managing Executive Editor and shall be provided to the Associate Editor or Senior Associate Editor.
- i. The right of appeal by the Associate Editor or Senior Associate Editor in question, or by

- any Board member who was present and voting, is to the Faculty Advisory Committee.
- j. Any removal shall result in the Associate Editor or Senior Associate Editor forfeiting credit for the semester during which he or she was removed. Such removal shall be without academic penalty; the student's transcript shall reflect that the student withdrew from the course.

### **G. *Withdrawal***

Any withdrawal will be without academic penalty if it occurs prior to the last day of scheduled class during the instruction portion of a semester. Withdrawal thereafter shall result in a failing grade. Regardless, the student's transcript shall reflect that the student withdrew from the course.

### **H. *Reinstatement***

1. Request for Reinstatement
  - a. Upon written application, a former Associate Editor or Senior Associate Editor who was removed or who withdrew from *Journal* participation may request reinstatement to his or her prior status.
  - b. Any former Associate Editor or Senior Associate Editor disqualified from association with the *Journal* because of a plagiarism violation may not request reinstatement.
2. Procedure
  - a. Upon written application to the Editor in Chief, the Editorial Board shall consider the application for reinstatement.
    - (1) The reasons for the former Associate Editor or Senior Associate Editor's disassociation shall be considered.
    - (2) Good cause for the disassociation must be shown, which includes financial considerations, leave of absence from school, severe illness, academic consideration, or other personal concerns.
  - b. The former Associate Editor or Senior Associate Editor shall be given the opportunity to appear before the Board and present his or her reasons for requesting reinstatement at a meeting called for that purpose.
  - c. After a hearing or if the former Associate Editor or Senior Associate Editor declines a hearing, the Board shall vote by optional secret ballot on the application.
    - (1) A two-thirds majority vote of the full Editorial Board shall be required for approval of the reinstatement application.
    - (2) The decision of the Board, stating the reasons for the decision, shall be put in writing by the Editor in Chief and delivered to the Associate Editor or Senior Associate Editor.
  - d. The right of appeal by a former Associate Editor or Senior Associate Editor denied reinstatement, or by any Board member who was present and voting, is to the Faculty Advisory Committee, whose decision is final.

## **VIII. EDITORIAL BOARD**

### **A. *Composition***

The Editorial Board shall be composed of an Editor in Chief, an Managing Executive Editor, a Legal Malpractice & Ethics Editor in Chief, a Solicitation/Articles Editor, a Research/Articles Editor, two (2) Articles Editors, and four (4) Comment Editors, as described below.

## ***B. Appointment***

### **1. Eligibility**

Staff writers are eligible to apply for membership on the *Journal* Editorial Board following satisfactory completion of all Staff Writer duties and responsibilities as defined in VI.B.

### **2. Selection Process**

a. All interested Staff Writers must complete an application prepared by the Editorial Board.

(1) The Editorial Board shall set a deadline by which all applications must be submitted.

(2) All information on the application forms shall be kept confidential.

b. As soon as possible after the application deadline, the Editorial Board shall furnish to each full-time Faculty member a list of all Board applicants along with their relevant credentials, which should include, but is not limited to, current grade point average, law school activities, whether the Comment received credit, credit with honors, or was selected for publication, and work/life experiences.

(1) Faculty members may make comments or observations concerning the Editorial Board applicants and their suitability for various positions.

(2) The Faculty may meet and determine that an applicant for third-year membership is unacceptable.

(a) This decision shall be in writing and shall clearly state the Faculty's objection as to why the applicant is deemed unacceptable.

(b) The decision shall be timely furnished to the Editorial Board prior to conducting interviews.

(c) If the Faculty deems a Board applicant unacceptable, the Editorial Board shall review the Board applicant's credentials, taking into consideration the Faculty's objection.

(d) If the Editorial Board agrees with the Faculty that the Board applicant is not suitably qualified, that Board applicant will not be further considered for a Board position.

(e) If the Editorial Board does not agree with the Faculty that the Board applicant is not suitably qualified, the Editorial Board shall request the Faculty to reconsider their decision at a Faculty meeting.

(i) Prior to the meeting, the Editor in Chief will notify the Board applicant in writing of the Faculty's objection.

(ii) The Board applicant will be given the opportunity to prepare a written response to the Faculty's objection, which will be distributed to all Faculty members prior to the Faculty meeting.

(iii) The current Editor in Chief, Managing Executive Editor, and Board applicant shall be available for questioning at the Faculty meeting.

(iv) If the Faculty affirms its decision, the Board applicant may not be considered for a Board position.

(3) In the absence of a formal faculty meeting, the faculty may provide individual feedback to the Editorial Board regarding the Board applicants.

c. The Editorial Board shall schedule and conduct interviews with all eligible Board applicants no later than March 1 in order to permit Board applicants to describe their own availability for and interest in particular Editorial Board positions.

d. Upon completion of the interviews, the Editorial Board shall meet within one week and select the incoming Editorial Board.

(1) Each position shall be considered separately, and the vote shall be by a simple majority.

- (2) Election to the Editorial Board is based upon, but not limited to, the following factors:
    - (a) Writing ability of the Board applicant as evidenced by the material submitted for publication.
    - (b) Grade point average and class rank.
    - (c) The manner in which the Board applicant has performed his or her administrative duties.
    - (d) The interests of the Board applicant in regard to particular positions.
    - (e) The ability of the Board applicant both to work effectively with others and to direct the work of others.
  - e. A list of the Staff Writers selected to the incoming Editorial Board shall be forwarded to each full-time Faculty member prior to a Faculty meeting with the agreement that names are not to be revealed pending Faculty approval.
    - (1) The current Editor in Chief and Managing Executive Editor shall be present for questioning if requested by the Faculty.
    - (2) If a selected Board applicant is rejected by the Faculty, the Editorial Board shall reconvene to elect another eligible Board applicant and, if desired, to make readjustments in positions already filled.
    - (3) In lieu of reconvening under (2), above, the Editorial Board may submit an alternate slate of candidates to the faculty for their consideration.
  - f. No later than one day following Faculty approval, all Board applicants shall be notified of their selection or non-selection.
  - g. The names of the new incoming Editorial Board members shall be posted on the *Journal* Bulletin Board after all Board applicants have been notified.
3. **Vacancy**
- a. In the event a vacancy occurs on the Editorial Board, such vacancy may be filled by a qualified Staff Writer or Associate Editor elected by a simple majority vote of the Editorial Board and approved by the Faculty.
  - b. In the event a vacancy occurs on the Editorial Board, the Editorial Board may decide to finish its term without filling the vacant position.
  - c. In the event a vacancy occurs more than one month before the next scheduled Faculty meeting, and upon approval of the Faculty Advisory Committee Chairperson, the individual selected by the Editorial Board may begin to serve as a voting member of the Editorial Board pending final approval of the Faculty.

**C. Transition**

1. The incoming Editorial Board members shall begin service immediately upon notification of selection to the Editorial Board and shall conclude service after they have ensured that the public distribution of four issues of the *Journal* has occurred.
2. The outgoing Editorial Board shall turn over to the incoming Editorial Board a sufficient amount of student works and professional articles for their first issue.
3. After consultation with the outgoing Editor in Chief and Managing Executive Editor, the incoming Editor in Chief and Managing Executive Editor shall make all editing assignments.
4. The incoming Editor in Chief shall meet with the Chairperson of the Faculty Advisory

Committee not more than two (2) weeks after the announcement of the new Editorial Board in order to discuss the organization, goals, concerns of the Faculty, and other related matters.

5. Within one (1) week of the Editor in Chief's meeting with the Chairperson of the Faculty Advisory Committee, the new Editor in Chief shall call a meeting of the new Editorial Board.
6. Although two Editorial Boards will serve concurrently from the date the incoming Editorial Board is announced until the outgoing Board's duties are completed, the outgoing Board shall retain superior authority on all matters. The incoming Board shall be considered "in training" during this period. Each outgoing Board member shall train his or her successor; as such, the incoming editor and the outgoing editor shall meet within two (2) weeks of the announcement of the new Board to begin the training process.
7. The incoming Editorial Board shall conduct the spring writing competition.

#### **D. Pass/Fail Credit**

1. Upon fulfillment of the duties prescribed herein, an Editorial Board member may receive one (1) or two (2) pass/fail credits, depending upon the number of credits for which the Board member is registered. Failure to perform duties in a satisfactory manner, or other violation of these bylaws, may result in a grade of "fail" and/or institution of removal procedures per H below. Although a student may elect to serve as an Editorial Board member without registering for credit, such student must comply with all minimum requirements in order to maintain membership.
2. At the end of the fall and spring semesters, the Editor in Chief shall transmit to the Chairperson of the Faculty Advisory Committee a pass or fail evaluation regarding each Board member.
3. The Chairperson of the Faculty Advisory Committee shall evaluate the performance of the Editor in Chief.
4. Grades are assigned by the Chair of the Faculty Advisory Committee. The Chair shall consult with the Editor in Chief and shall consider the recommendation of the Editorial Board, but is not bound by that recommendation. The Chair may consult with other members of the Faculty Advisory Committee with respect to assignment of grades. A grade awarded pursuant to these procedures is subject to review under the academic appeals provisions of the St. Mary's University School of Law Student Handbook. If the Chair of the Faculty Advisory Committee rejects the recommendation of the Board in assigning a grade, the Editorial Board shall be so informed and shall have standing to appeal that decision under the terms of the Student Handbook, which shall be construed to permit such an appeal.

#### **E. Duties**

1. **General Duties of Editorial Board Members**
  - a. During the fall and spring semesters, Editorial Board members are expected to make themselves available in the *Journal* office as necessary during the hours of 7:00 a.m. to 5:00 p.m. between Monday and Friday.
  - b. During the summer following selection, Editorial Board members shall complete the

requisite number of cite-checking hours necessary to complete any cite-checking assigned by the Managing Executive Editor.

(1) The incoming Editor in Chief and Managing Executive Editor shall establish the required amount of cite-checking hours.

(2) In no event shall the required number of cite-checking hours exceed sixty (60).

- c. All Editorial Board members shall attend the Staff Writer Orientation.
- d. Editorial Board members shall perform any editorial and administrative duties that the Editor in Chief or the Managing Executive Editor deems necessary to accomplish the purposes of the *Journal* as set forth in these Bylaws.
- e. Each Editorial Board member shall complete the duties of his or her position, as described by these Bylaws, in a satisfactory manner.
- f. Editorial Board member responsibilities shall continue until the book proofs for Issue 4 are received, reviewed and returned to the printer.

## 2. Editor in Chief

- a. The Editor in Chief is the chief executive officer of the *Journal* and has final responsibility for its functioning.
- b. The Editor in Chief's responsibilities are divided into two general areas: editorial and administrative.

(1) Editorial duties:

- (a) Performing the final critical reading in the editorial process of the text and footnotes;
- (b) Guiding the editorial process in conjunction with the Managing Executive Editor;
- (c) Serving as the chairperson of the Editorial Board;
- (d) Presiding at all Editorial Board meetings;
- (e) Presiding at all *Journal* member meetings; and
- (f) Negotiating the printing contract with the printer.

(2) Administrative duties include:

- (a) Representing the *Journal* to the:
  - (i) Dean;
  - (ii) Faculty Advisory Committee;
  - (iii) Faculty;
  - (iv) *Journal* members;
  - (v) Applicants;
  - (vi) Invitees;
  - (vii) Student body; and
  - (viii) Other law reviews and professional organizations interested in the *Journal's* progress and development.
- (b) Implementing on a day-to-day basis the goals and objectives established by the Editorial Board and these Bylaws.
  - (i) This task includes establishing a detailed timeline for the publication process of each issue.
  - (ii) At every regularly scheduled Editorial Board meeting the Editor in Chief shall monitor the progress of the contents of each issue with reference to this timeline.
- (c) Developing and overseeing, in conjunction with the *Journal* Business Manager:

- (i) The budget for the current year and preparing a proposed budget for the next fiscal year;
- (ii) Effective circulation and advertising quotas;
- (iii) Economic and efficient methods of running the *Journal*.
- (d) Planning and organizing an orientation and training session for all Staff Writers at the beginning of the fall semester.
- (e) Meeting with the Staff Writers whose Comments have been selected for publication to discuss the final editorial process and necessary deadlines.
- (f) Preparing a monthly status report for the Dean, with copies distributed to the Faculty Advisory Committee.
- (g) Organizing committees and delegating task in preparation for the annual *Journal* Banquet, which is held to introduce the incoming Editorial Board, honor the outgoing Editorial Board, and serve as the *Journal's* primary annual public relations function.
- (h) Maintaining and updating a monthly checklist of tasks to be accomplished during the Editorial Board's tenure.
- (i) Evaluating the performance of other Editorial Board members, Senior Associate Editors, Associate Editors, and Staff Writers on a pass or fail basis and transmitting these evaluations to the Chairperson of the Faculty Advisory Committee at the end of the fall and spring semesters.
- (j) Performing the preliminary tasks necessary to the selection of the incoming Editorial Board.
- (k) Coordinating Faculty reads of any student-authored manuscripts for legal sufficiency. The Editor in Chief may also submit practitioner-authored manuscripts for review by the Faculty.

### 3. **Managing Executive Editor**

- a. The Managing Executive Editor is the second-in-command of the *Journal* in regard to administrative matters.
- b. The Managing Executive Editor assists the Editor in Chief in administrative matters and presides at Editorial Board meetings and other *Journal* member meetings in the absence of the Editor in Chief.
- c. Final Editorial Process
  - (1) In conjunction with the Editor in Chief, the Managing Executive Editor has the responsibility of directing the final editorial processes.
  - (2) The Managing Executive Editor is in charge of all phases of the final editorial process, which includes, but is not limited to, monitoring the progress of the contents of each issue.
- d. In conjunction with the Editor in Chief, the Managing Executive Editor shall make a final critical reading in the editorial process of the text and footnotes.
- e. Comment Select
  - (1) The Managing Executive Editor, with the Editor in Chief, shall plan the procedure to be followed during the meeting of the Editorial Board held for the purpose of evaluating Comments submitted for publication.
  - (2) This meeting shall be known as Comment Select and shall be chaired by the Managing Executive Editor
- f. The Managing Executive Editor shall oversee the instruction of all *Journal* members on the use of *The Bluebook: A Uniform System of Citation*, *Texas Rules of Form*, and the Redbook.

- g. Record-Keeping
  - (1) The Managing Executive Editor shall keep itemized records on every manuscript selected for publication.
  - (2) The Managing Executive Editor shall maintain a file on each Senior Associate Editor, Associate Editor, and Staff Writer, containing class schedule, Agreement Not to Plagiarize, and any information relevant to the performance of *Journal* duties.
- h. The Managing Executive Editor shall oversee the evaluation of unsolicited manuscripts by the Solicitation/Articles Editor, Research/Articles Editor, and two (2) Articles Editors.
  - (1) The Managing Executive Editor shall promptly issue a letter notifying the author of an unsolicited manuscript of acceptance or rejection within two (2) weeks of receipt of the manuscript.
  - (2) The decision to accept or reject shall be by a simple majority vote of the Managing Executive Editor, Solicitation/Articles Editor, Research/Articles Editor, and two (2) Articles Editors, after consultation with the Editor in Chief regarding topic and space availability.
- i. The Managing Executive Editor bears the responsibility of assigning administrative duties to all *Journal* members.
- j. As to Associate Editors and Senior Associate Editors, the Managing Executive Editor:
  - (1) Oversees the completion of their duties; and (2) Conducts monthly meetings.

#### 4. **Legal Malpractice & Ethics Editor in Chief**

- a. The Legal Malpractice & Ethics Editor in Chief shall be responsible for planning, coordinating, and preparing a Symposium conference and the issue entitled *St. Mary's Journal on Legal Malpractice & Ethics*.
- b. The permanent topic for the Symposium conference and issue shall be Legal Malpractice and Ethics.
- c. The Legal Malpractice & Ethics Editor in Chief shall:
  - (1) Coordinate with the Solicitation/Articles Editor the solicitation of manuscripts from attorneys, professors, judges, and other professionals.
  - (2) Consult with the Research/Articles Editor regarding Comment topics for the *St. Mary's Journal on Legal Malpractice & Ethics*.
  - (3) Have the option, with the Editorial Board's approval, to select already edited works for publication in the *St. Mary's Journal on Legal Malpractice & Ethics*.
  - (4) Perform the final edit of materials for the Symposium conference and for all articles in the *St. Mary's Journal on Legal Malpractice & Ethics*.

#### 5. **Solicitation/Articles Editor**

- a. The Solicitation/Articles Editor shall bear responsibility for soliciting manuscripts and shall also function as an Articles Editor.
- b. Solicitation
  - (1) The Solicitation/Articles Editor shall:
    - (a) Select and develop topics for potential articles.
    - (b) Solicit works from attorneys, professors, judges, and other professionals.
    - (c) Screen prospective authors.
  - (2) The Solicitation/Articles Editor bears the responsibility of ensuring that at least three (3) manuscripts are in-house and are passed on to the incoming Editorial Board.
- c. Articles Editor—The Solicitation/Articles Editor shall also function as an Articles Editor,



performing all duties prescribed to that position within these Bylaws.

## 6. **Research/Articles Editor**

- a. The duties of the Research/Articles Editor include maintaining research files, developing Comment topics, and functioning as an Articles Editor.
- b. Research Files—The Research/Articles Editor shall:
  - (1) Read and evaluate judicial and legislative material received by the *Journal*, including slip opinions, advance sheets, digests, newspapers, and periodicals.
  - (2) Create the writing packet for the spring writing competition.
  - (3) Maintain the *Journal* library.
- c. Comment Topic Development—The Research/Articles Editor shall:
  - (1) Assist Staff Writers in developing topics.
  - (2) Establish deadlines for submission of Comment topics.
  - (3) Evaluate topics submitted for current interest, possible preemption, and sufficiency of research materials.
  - (4) Approve topics suitable for submission by a Staff Writer.
- d. Articles Editor—The Research/Articles Editor shall also function as an Articles Editor, performing all duties prescribed to that position within these Bylaws.

## 7. **Article Editors**

- a. Article Editors shall bear primarily responsible for editing professionally written manuscripts submitted for publication in the *Journal*; such duties include, but are not limited to:
  - (1) Performing careful edits on assigned manuscripts.
  - (2) Coordinating the cite-checking process for assigned manuscripts.
  - (3) Reporting on the progress of any assigned manuscript at Editorial Board meetings.
  - (4) Communicating with the author regarding the progress of an assigned manuscript.
- b. Article Editors shall also read and evaluate unsolicited manuscripts, determining whether an offer of publication shall be made.

## 8. **Comment Editors**

- a. Comment Editors bear the primary responsibility for editing student-written works.
- b. Comment Editors shall edit Staff Writer outlines and Comment drafts for organization, word choice, grammar, citation form, research depth, and substantive errors during the Comment writing process.
- c. Comment Editors shall report on the progress of his or her assigned Staff Writers regarding the Comment writing process during Editorial Board meetings.
- d. Comment Editors shall guide Comments selected for publication through the final editorial process, which includes, but is not limited to
  - (1) Reviewing any changes made by the Staff Writer.
  - (2) Verifying that the Staff Writer meets the necessary deadlines.
  - (3) Performing careful edits on assigned manuscripts.
  - (4) Coordinating cite-checking process for assigned manuscripts.
  - (5) Reporting on the progress of any assigned manuscript at Editorial Board meetings.
  - (6) Communicating with the author regarding the progress of an assigned manuscript.

## **F. Meetings**

1. The Editorial Board shall meet on a regular basis at a time and place determined by the Editor in Chief after consultation with the members of the Editorial Board.
  - a. During the fall and spring semesters, the Board shall meet at least every two (2) weeks.
  - b. During the summer months, the Board shall meet when deemed necessary by the Editor in Chief.
  - c. In addition, Board meeting shall be held when requested by any three (3) Board members.
2. A quorum must be present at every Board meeting. No more than three (3) proxies may count toward the quorum.
3. Voting
  - a. Votes shall be by simple majority of those present at a meeting subject to the quorum requirement.
  - b. Voting Proxy
    - (1) Subject to subparagraphs 3.b.(4) below and 2. above, Board members may vote in person or by proxy.
    - (2) All proxies shall be in writing and filed with either the Editor in Chief or the Managing Executive Editor prior to the meeting for which the proxy is intended.
    - (3) Every proxy shall be revocable and shall automatically cease should the proxy giver attend the meeting for which the proxy is intended.
    - (4) The Editor in Chief may determine that proxies are not permitted at a meeting but must give at least twenty-one (21) calendar days written notice to the Board members prior to such meeting. The Editor in Chief, however, shall permit voting proxies at meetings of the Editorial Board when the School of Law is not in regular session (e.g., summer session or winter session), subject to this subparagraph 2. above.
  - c. Upon prior arrangement with the Editor in Chief, members may participate in a meeting via conference call. Such members will count toward a quorum and may retain their right to vote.
  - d. A two-thirds majority vote of the full Editorial Board may be required in specific situations, as prescribed in these Bylaws.
  - e. The Editor in Chief shall not vote at regular meetings, except in the event of a tie, in which the Editor in Chief shall cast the deciding vote.

## **G. Conflicts**

1. No Editorial Board member shall register for the spring bar exam of any jurisdiction; however, a Board member may register for the fall or spring Multistate Professional Responsibility Exam (MPRE).
2. No Editorial Board member shall engage in on- or off-campus employment during the fall or spring semesters, unless the Faculty Advisory Committee has granted permission to that Board member (unpaid internships of up to ten (10) hours are allowed).
3. No Editorial Board member may engage in extracurricular activities that interfere with Editorial Board duties.

## **H. Removal**

1. Membership on the *Journal* is a privilege, not a right.

2. An Editorial Board member may be removed from the Editorial Board, if he or she:
  - a. Fails to attend three (3) or more Editorial Board meetings.
  - b. Fails to attend Staff Writer Orientation.
  - c. Fails to meet three (3) or more established production deadlines without providing the Editor in Chief or Managing Executive Editor three (3) days notice and receiving approval for an extension of the deadline from the Editor in Chief or Managing Executive Editor. Such production deadlines must have been made available seven (7) days prior to the production deadline.
  - d. Participates in on- or off-campus employment without obtaining permission from the Faculty Advisory Committee.
  - e. Participates in *non-Journal* activities that interfere with his or her *Journal* duties.
  - f. Fails to be available in the *Journal* office per sub-paragraph D( 1 )(a) above.
  - g. Fails to satisfactorily complete any editorial or administrative duties deemed necessary by the Editor in Chief and Managing Executive Editor to accomplish the purposes of the *Journal* as prescribed in these Bylaws.
3. If the Board member in question is the Editor in Chief or Managing Executive Editor, the Legal Malpractice & Ethics Editor in Chief shall take his or her place in the removal procedure.
4. Removal Procedure
  - a. A meeting shall be held between the Editor in Chief, Managing Executive Editor, and the Board member in question in order to resolve the problem.
  - b. The Editor in Chief shall prepare and deliver a written complaint to the Board member that alleges violation of one or more provisions listed in sub-paragraph 2 above. The first written complaint shall include the following notice to the Board member: **“Continued violation of the *Journal* bylaws, Redbook guidelines and provisions, or directives of members of the Editorial Board may result in proceedings to remove you from *Journal* membership.”**
  - c. After the first written complaint is delivered to the Board member, a meeting shall be held between the Editor in Chief, Managing Executive Editor, and the Board member in question in order to resolve the problem.
  - d. In the event no progress is made toward resolution of the problem after the meeting regarding the first written complaint, the Editor in Chief or Managing Executive Editor shall prepare a second written complaint to the Board member that alleges violation of one or more provisions listed in sub-paragraph 2 above. The second written complaint shall include the following notice to the Board member: **“Continued violation of the *Journal* bylaws, Redbook guidelines and provisions, or directives of members of the Editorial Board may result in proceedings to remove you from *Journal* membership.”**
  - e. After the second written complaint is delivered to the Board member, a meeting shall be held between the Editor in Chief, Managing Executive Editor, and the Board member in question in order to resolve the problem.
  - f. In the event no progress is made toward resolution of the problem since the meeting regarding the second written complaint, the Editor in Chief may recommend to the Editorial Board that the Board member be removed from *Journal* membership. The Editor in Chief or Managing Executive Editor shall prepare and deliver written notice to the Board member in question that contains:

- (1) A full description of the allegation;
  - (2) An offer of an opportunity to be heard before the Editorial Board;
  - (3) A deadline of fourteen (14) calendar days for the Board member to respond in writing to the offer to be heard;
  - (4) A statement that absent a request for a hearing or following the hearing, the Editorial Board, absent the Board member in question, shall vote on the removal.
- g. Once the Board member in question has either failed to respond to the offer for a hearing, refused a hearing, or been heard, the Board may deliberate on the Board member's removal.
  - h. A two-thirds majority vote by those members of the Editorial Board that are present and voting shall be required for approval of the recommendation to remove a Board member.
  - i. The Board decision containing the reasons therefore shall be put in writing by the Editor in Chief or Managing Executive Editor and shall be provided to the Board member.
  - j. The right of appeal by the Board member in question, or by any Board member who was present and voting, is to the Faculty Advisory Committee, whose decision shall be final.
  - k. Any removal shall result in the Editorial Board member forfeiting credit and scholarship funds for the semester during which he or she is removed. Such removal shall be without academic penalty; the student's transcript shall reflect that the student withdrew from the course.

#### ***I. Withdrawal***

1. Any withdrawal will be without academic penalty if it occurs prior to the last day of scheduled class during the instruction portion of a semester. Withdrawal thereafter shall result in a failing grade. Regardless, the student's transcript shall reflect that the student withdrew from the course. If an Editorial Board member withdraws from the Board, scholarship funds shall be forfeited for the semester in which withdrawal occurred.
2. No reinstatement shall be allowed following withdrawal of an Editorial Board member.

### **IX. AMERICANS WITH DISABILITIES ACT**

The Editorial Board may make exceptions to any of the requirements in the Bylaws or standard procedure for any individual if such exceptions are necessary to comply with the American Disabilities Act. An applicant or *Journal* member who believes that he or she should be entitled to such an exception shall contact the Editor in Chief as well as the appropriate office or administrator at St. Mary's University. The applicant or *Journal* member shall comply with the necessary University and/or School of Law requirements for documenting the disability and the need for an exception to the Bylaws and/or *Journal* procedure.

### **X. UNLAWFUL DISCRIMINATION AND HARASSMENT**

Consistent with St. Mary's University's protection of prospective students, students, prospective employees, and employees, the *St Mary's Law Journal* prohibits unlawful discrimination against individuals, including sexual harassment, as well as discrimination based on the individual's race, gender, age, disability, national origin, or citizenship.

## XI. VIOLATION OF AGREEMENT NOT TO PLAGIARIZE

### A. *Disqualification*

An Applicant, Staff Writer, Associate Editor, Senior Associate Editor, or Editorial Board member who fails to abide by the Agreement Not to Plagiarize, appearing in Appendix A of these Bylaws shall be permanently disqualified from association with the *Journal*.

### B. *Agreement Not to Plagiarize*

No student may compete for membership or earn any credit for Advanced Legal Research or other *Journal* course until the Agreement Not to Plagiarize has been read, signed, and delivered to the Managing Executive Editor.

1. At the beginning of the fall semester, the Managing Executive Editor shall distribute to all members a copy of the Agreement Not to Plagiarize and establish a deadline for the return of the signed form to the Managing Executive Editor.
2. At the beginning of the spring writing competition, the Managing Executive Editor shall distribute to the Applicants a copy of the Agreement Not to Plagiarize and establish a deadline for the return of the signed form to the Managing Executive Editor.

### C. *Procedure When Violation Occurs in Writing Process*

The following procedure shall be followed in the event of any alleged plagiarism violation regarding any paper, including preliminary drafts, submitted in either the writing competition or for consideration of publication in the *Journal*.

1. The complainant shall submit to the Managing Executive Editor and Editor in Chief a copy of both that paper in question and the material allegedly plagiarized.
  - a. If the accused is either the Editor in Chief or the Managing Executive Editor, the Legal Malpractice & Ethics Editor in Chief shall take his or her place in carrying out these procedures.
  - b. The complainant shall in no ease try to resolve the problem individually with the accused.
2. A meeting shall be held with the Editor in Chief, the Managing Executive Editor, the complainant, and the accused in attendance.
  - a. The purpose of this meeting shall be to inform the accused of the allegation.
  - b. Intent is irrelevant to a finding that plagiarism has occurred.
3. If as a result of this meeting, the Editor in Chief or Managing Executive Editor believes that plagiarism has occurred, the Editor in Chief shall recommend to the Editorial Board that the accused be permanently disqualified from association with the *Journal*.
4. No further action on the Editor in Chief's recommendation shall be taken until the following steps are accomplished:
  - a. The Editor in Chief has submitted written notice to the accused, containing:
    - (1) A full description of the allegation;
    - (2) An offer of an opportunity to be heard before the Editorial Board;

- (3) A deadline of ten (10) days for response to the offer to be heard;
  - (4) A statement that absent a timely request for a hearing or following the hearing, the Editorial Board shall vote on the disqualification.
- b. The accused has either failed to respond to the offer for a hearing, refused a hearing, or been heard.
5. A two-thirds majority vote by optional secret ballot of the full Editorial Board is required for approval of the recommendation to disqualify the member from association with the *Journal*.
    - a. If, however, the accused is an Editorial Board member, this student shall not be present during the discussion of or vote on disqualification.
    - b. The Board decision containing the reasons therefore shall be put in writing by the Editor in Chief and provided to the accused.
  6. The right of appeal by the accused, or by any Board member who was present and voting, is to the Faculty Advisory Committee, whose decision shall be final.
  7. Pass/fail credit, and in the case of Editorial Board members, scholarship funds, shall be forfeited during the semester in which a member is disqualified from association with the *Journal*. The student's transcript shall reflect that the student withdrew from the course.

**D. Procedure When Violation Occurs During Editorial Process**

The following procedure shall be followed in the event a Staff Writer, Associate Editor, Senior Associate Editor, or Editorial Board member is accused of failing to abide by the plagiarism rules in the editorial process.

1. The complainant shall in writing report to the Managing Executive Editor and Editor in Chief the substance of his or her allegation.
  - a. If the accused is either the Editor in Chief or the Managing Executive Editor, the Legal Malpractice & Ethics Editor in Chief shall take his or her place in carrying out these procedures.
  - b. The complainant shall in no case try to resolve the problem individually with the accused.
2. A meeting shall be held with the Editor in Chief, the Managing Executive Editor, the complainant, and the accused in attendance.
  - a. The purpose of this meeting shall be to inform the accused of the allegation and to seek explanation.
  - b. Plagiarism in the editorial process requires intent on the part of the accused editor in question.
3. If as a result of this meeting, the Editor in Chief or Managing Executive Editor believes that plagiarism has occurred, the Editor in Chief shall recommend to the Editorial Board that the accused be permanently disqualified from association with the *Journal*.
4. No further action on the Editor in Chief's recommendation shall be taken until the following steps are accomplished:
  - a. The Editor in Chief has submitted written notice to the accused, containing:
    - (1) A full description of the allegation;

- (2) An offer of an opportunity to be heard before the Editorial Board;
    - (3) A deadline often (10) days for response to the offer to be heard;
    - (4) A statement that absent a timely request for a hearing or following the hearing, the Editorial Board shall vote on the disqualification.
  - b. The writer in question has failed to respond to the offer for a hearing, refused a hearing, or has been heard, and any subsequent remedies by appeal have been exhausted.
5. A two-thirds majority vote by optional secret ballot of the full editorial Board is required for approval of the recommendation to disqualify the member from association from the *Journal*.
    - a. If, however, the accused is an Editorial Board member, this student shall not be present during the discussion of or vote on disqualification.
    - b. The Board decision containing the reasons therefore shall be put in writing by the Editor in Chief and provided to the accused.
  6. The right of appeal by the student writer in question, or by any Board member who was present and voting, is to the Faculty Advisory Committee, whose decision shall be final.
  7. Pass/fail credit, and in the case of Editorial Board members, scholarship funds, shall be forfeited during the semester in which a member is disqualified from association with the *Journal*. The student's transcript shall reflect that the student withdrew from the course.

## **XII. EFFECTIVE DATE**

These Bylaws shall take effect on the date upon which they are approved by the Faculty of the St. Mary's University School of Law and will apply to the selection of the 2019–2020 *Journal* Editorial Board. Moreover, these Bylaws will apply to current members of the *Journal*.

## APPENDIX A — AGREEMENT NOT TO PLAGIARIZE

This agreement concerning plagiarism applies to preliminary as well as final drafts. No student may compete for candidacy or earn any credit for Advanced Legal Research or any *Law Journal* course until this agreement has been read, signed, and delivered to the Managing Executive Editor of the *St Mary's Law Journal* (hereinafter "*Journal*").

For purpose of any writing submitted in competition for candidacy to the *Journal* or submitted for consideration of publication in the *Journal*, plagiarism is defined as (1) the use of five or more words from any source without quotation marks and appropriate footnote or endnote, and (2) the use of another's idea from any source without appropriate footnote or endnote to the source.

"Idea" or "thought" plagiarism includes, but is not limited to, "paraphrasing someone else's argument as your own, or even presenting someone else's line of thinking in the development of your paper as though it were your own," without appropriate footnotes or endnotes. C. HODGES & M. WHITTEN, *HARBACE COLLEGE HANDBOOK* 456 (9th ed. 1982).

Any person competing in the Writing Competition who intentionally or unintentionally fails to abide by this rule shall be disqualified permanently from consideration for candidacy on the *Journal* in accordance with the procedures outlined in the *Journal's* Bylaws.

Any Staff Candidate, Staff Writer, Associate Editor, Senior Associate Editor, or Editorial Board member who fails to abide by this rule in the submission of any item for publication will be permanently terminated from any association with the *Journal* in accordance with the procedures outlined in the *Journal's* Bylaws. If a *Journal* member fails to cite a source, whether intentionally or unintentionally, he or she is guilty of plagiarism.

Any Associate Editor, Senior Associate Editor, or Editorial Board member who fails to abide by this rule in the editorial process of any writing shall be permanently terminated from association with the *Journal* in accordance with the procedures outlined in the *Journal's* Bylaws. The application of this rule to the editorial process requires intent on the part of the editor in question.

I have read and understood the term "plagiarism" as defined above and the consequences for failing to abide by this agreement.

Member's Name (Print): \_\_\_\_\_ Date: \_\_\_\_\_

Member's Signature: \_\_\_\_\_