The following advisory opinion was rendered by the Honor Court at the request of Dean Berman pursuant to Article 10 of the Honor Code.

Advisory Opinion
October 10, 2007
(Signing Attendance Sheet for Another)

Jacqueline A. Golon, Chief Justice

The Honor Court hereby issues this advisory opinion regarding the following situation: Student A sees that Student B is not in class when the attendance sheet for a course is being passed for signatures from student to student. Student A signs Student B’s name on the sheet and is later overheard in the hallway talking to Student B saying, “don’t worry, your absence in the class has been taken care of.” The Court was asked to render an opinion as to (1) whether Student A’s conduct constitutes a violation of the Honor Code and (2) if Student B does not inform the professor that s/he was absent, whether Student B has violated the Honor Code. The Court has formed an opinion regarding both of these questions. The Court also believes that there are other potential situations which might arise due to this situation which should be addressed.

First, the Court addresses the question of whether Student A has violated the Honor Code by signing Student B’s name on the attendance sheet. The Court’s opinion is that, under the language of Section 3.01 of the Honor Code, Student A’s conduct would constitute a violation of the Honor Code. Section 3.01 states:

Any conduct by a student that tends to gain or give an unfair advantage for any student in any academic matter or in any matter relating to academic credentials is considered unethical and a violation of the Code. It shall not be necessary for the Prosecutor to prove that any advantage was, in fact, achieved.¹

Student A is acting in a manner that would tend to gain or give an unfair advantage to Student B. There is no provision of the Code which states that a violation will only occur if a student’s conduct tends to gain or give an unfair advantage to him or herself. The language states “for any student.” Also, this is a matter relating to academic credentials. Students of the Law School are subject to an attendance policy which states that each absence which exceeds the limitation imposed by the attendance policy “shall result in a one-step letter grade reduction for the course.”² Thus the number of absences Student B acquires can affect their final grade. Section 3.01 clearly shows that, in a situation where Student A signed

¹ UMKC School of Law Honor Code § 3.01.
² UMKC 2007-08 Catalog (Law 1.0 2007-06-13) – Administrative Rules and Regulations, Attendance Policy.
Student B’s name in order to ensure that Student B would not be counted as absent, Student A’s conduct would constitute a violation of the code.

The Court must discuss Section 3.03 Mens Rea, which states:

Unless otherwise specifically stated in this Code, a student is not guilty of a violation unless he or she acted knowingly or recklessly with respect to each material element of the violation.3

In the situation posed, Student A acted knowingly in signing Student B’s name on the attendance sheet. Student A was aware that Student B was not present to sign the attendance sheet. Student A knowingly signed Student B’s name on the line provided for Student B’s signature. Also, in this instance, as detailed in the discussion between Student A and Student B in the hallway, Student A made an explicit comment to Student B which would represent Student A’s understanding of Student A’s Actions. Student A’s conduct was a violation of the Honor Code.

The Court next addresses the question of whether Student B’s failure to inform the professor of his or her absence would constitute a violation of the Honor Code. In the proposed situation, the Court presumes Student B to understand Student A’s comment in the hallway to mean that Student A signed the attendance sheet for Student B.

It is the opinion of the Court that Student B’s failure to use his or her best efforts to correct the situation would constitute a violation of the Honor Code.4 The Court also finds that Student B’s failure to report Student A’s conduct would constitute a separate violation of the Honor Code. Student B’s conduct, failure to report the absence, would tend to gain an unfair advantage in an academic matter or a matter relating to academic credentials under Section 3.01 of the Honor Code. Student B may tend to gain an unfair advantage by not receiving an absence. As stated above, absences may subject a student to a lower grade based on the attendance policy. Under Section 3.03, Student B acted knowingly or recklessly by failing to report the absence as Student B gained knowledge that the situation occurred following his or her discussion with Student A.

Student B also violates Section 3.02i of the Honor Code by failing to report Student A’s conduct. Section 3.02i states:

No student other than the accused shall fail to report a suspected violation of this Code or fail to give information about such violation… except for good cause shown.5

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3 UMKC School of Law Honor Code § 3.03.
4 UMKC School of Law Honor Code § 3.02i.
5 UMKC School of Law Honor Code §3.02i.
Thus, regarding both questions submitted to the Court for an advisory opinion, the Court finds that, in both questions, the conduct of the Students would constitute the above mentioned Honor Code violations.

The Court has other reservations regarding this situation. It occurs to the Court that Student A and/or Student B may have also violated Section 3.02k of the Honor Code, which states:

No student shall improperly induce a person not to comply with this Code.\(^6\)

In the Court’s opinion, if Student A improperly induced Student B not to comply with the Code by signing Student B’s name, Student A’s actions would result in a violation of the Honor Code. The Court can also imagine a situation where Student B might have asked Student A to sign the attendance sheet for Student B before the class began when Student B knew that s/he would be absent. In that situation, Student B would be found to have improperly induced Student A to not comply with the Code. In this particular situation, the Court would need more facts before making such a finding. The Court merely hypothesizes upon variants of the posed situation.

The Court has one final reservation regarding the situation. In the situation posed to the Court, Student A was overheard stating that Student B’s absence had been taken care of. If that witness had reason to suspect a violation upon hearing that statement, then a duty will arise under 3.02i for that witness to report the suspected violation.

The Honor Code has issued this advisory opinion on this 10th day of October, 2007.

Signatures of the Justices are contained in the original opinion, located in the Administrative Suite.

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Jacqueline A. Golon, Chief Justice  Fawzy T. Simon, 3L Justice

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Kevin D. Humiston, 2L Justice   Lara K. Pabst, 2L Justice

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Christopher D. Aulepp, 1L Justice   Anne K. Morrison, 1L Justice

\(^6\) UMKC School of Law Honor Code § 3.02k.