

# A Certified Charlatan: The Emergence of Cheating in Law School

by Lyndze Thompson



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A majority of law students have seen *The Paper Chase*, a film (and then TV series) following the path of the character James Hart, a struggling 1-L who almost folds to the mounting pressure of law school.<sup>1</sup> Similar to James Hart, those who have attended law school know all too well that the stakes are high, the pressure is intense, and the stress of grades are ingrained into the minds of all students. As pressures build, the benefits of cheating become exceptionally enticing, particularly when the benefit of moving up in class rank outweighs the increasingly fading consequence of being caught.<sup>2</sup>

After surveying thousands of students at 54 schools, the Center for Academic Integrity at Duke University reported that 45 percent of law students cheat.<sup>3</sup> This statistic is especially shocking due to the fact that law students are the next cohorts of the self-regulated legal profession. Moreover, ethics and professionalism have been mainstreamed into required courses for law school graduates within the last 50 years. The legal profession also developed the Multistate Professional Responsibility Exam and updated the Model Code of Professional Responsibility, and some states began to include ethics in continuing legal education training requirements.<sup>4</sup> Despite this increased emphasis on ethics and professionalism in legal education, a growing number of law students are still cheating.<sup>5</sup>

Cheating can generally be classified into four "motivational" categories. The first motive for cheating is a fear of failing.<sup>6</sup> While it is natural to fear failure, some students will struggle with certain subjects no matter how hard they study, consequently increasing the appeal of cheating. The second motive for cheating is the fear of being average.<sup>7</sup> All students recognize that grades are a major part of their future. Many associate success in the classroom with success in the real world. This association fosters the "do what it takes to get what you want" mentality. The third motive for cheating is extracurricular activities.<sup>8</sup> These extracurricular activities may include part-time employment, attending social events with friends, or being overwhelmed with family or personal problems at home

and viewing cheating as the route to reach their goals.<sup>9</sup> Finally, some students are unwilling to do the work.<sup>10</sup> Students who "breezed" their way through college do not want to put in the time and effort required of law school students. These students suffer from not knowing how to properly study, so they take the easy way out by cheating. However, all four motivations for cheating often go hand in hand with the belief that cheating is "no big deal" and "everyone does it."

William G. Buss and Melvin R. Novick have identified five methods of cheating: (1) impersonation, (2) copying others, (3) working past the deadline, (4) obtaining improper access to answers and/or questions, and (5) fraud.<sup>11</sup> While Buss and Novick observed these methods in 1980, technological advancements have increased the catalog of options for cheating to a vast list of Web-based resources. Cheating comes in many shapes and forms, just like the reasons students cheat. Students may see the inherent honor violation that cheating entails, but they may not understand the seriousness of the act.

Besides law students being the next cohort of attorneys, why is cheating so serious? Cheating is unacceptable because it is unfair to honest students.<sup>12</sup> Professor Michael Bishop, chair of the Iowa State University Department of Philosophy and Religion states,

A cheater receives through deception what honest students work hard for; and in classes graded on a curve, he lowers their grades to boot. Cheating also cheapens the diploma. How valuable can a sheepskin be if so many people receive it under false pretenses? But the devaluation is not just figurative. [A law degree] is a valuable commodity, only if people trust that it is a mark of excellence. That trust is undermined as people become aware of the amount of cheating on campus.<sup>13</sup>

Cheating, however, does not simply harm other honest students, the reputation of the campus, or the legal profession; it also significantly affects the student who chooses to cheat. When a student cheats, the individual

is not only wasting money on an education and violating the honor code, he or she also is failing to learn the material that is essential to the practice of law.

Additionally, all students enter into a contractual obligation with the law school.<sup>14</sup> A majority of these contracts are a testament to follow the honor code, stating the student will honestly earn academic recognition and will report any violation of the honor code to the university.<sup>15</sup> When the honor code is violated, the act of cheating is handled according to the respective university's disciplinary guidelines. The guidelines usually contain due process protections and confidentiality, with consequences including class failure, suspension, expulsion, and even legal penalties.<sup>16</sup> The cheater will face not only formal discipline but also personal embarrassment and loss of reputation.

Courts have placed the onus of responsibility for academic honesty on both the law student and the law school. In *Valente v. University of Dayton*, the District Court of the Southern District of Ohio stated that "law students who cheat on examinations are both academically and morally unfit for the practice of law[,] and law schools must take social responsibility for defending the public against those who cheat."<sup>17</sup> The conclusion is that law schools have the added responsibility of defending the public from cheating students. This principle needs to be assimilated into the self-regulating legal profession to increase detection and enforcement of judicial redress against lawyers who cheat.

When the stakes are high and the stress of good grades becomes unbearable, the idea of cheating seems to transform into an advan-

tageous alternative. Temptation emerges, and the numerous options for cheating come to the fore. The various reasons and channels for cheating bring several repercussions that can end a student's dream of obtaining a law degree. The reputation of the university, the legal profession, and relationships with classmates will all be damaged from a decision that can never be pardoned: the decision to cheat. ☉

## Endnotes

<sup>1</sup>*The Paper Chase* (Thompson-Paul Productions, Twentieth Century Fox Film Corp. released Oct. 16, 1973) (transcript on file).

<sup>2</sup>M. Chester Nolte, *To Cheat or Not to Cheat: That Is Not the Question*, 24 ED. LAW REP. 13, 15 (1985).

<sup>3</sup>Emily Sachar, *MBA Students Cheat More Than Other Grad Students Study Finds*, BLOOMBERG (Sept. 25, 2006), [www.bloomberg.com/apps/news?pid=newsarchive&sid=aw7s9m0BmcBo](http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aw7s9m0BmcBo).

<sup>4</sup>Mark Hansen, *1965-1974: Watergate and the Rise of Legal Ethics*, ABA JOURNAL (Jan. 1, 2015), [www.abajournal.com/magazine/article/19651974\\_watergate\\_and\\_the\\_rise\\_of\\_legal\\_ethics](http://www.abajournal.com/magazine/article/19651974_watergate_and_the_rise_of_legal_ethics).

<sup>5</sup>William Wagner, *The Root of Institutional Integrity*, MICH. B.J. 48, 49 (June 2003).

<sup>6</sup>School Law, *Cheating at School*, Lawyers.com (2015), [education-law.lawyers.com/school-law/cheating-at-school.html](http://education-law.lawyers.com/school-law/cheating-at-school.html).

<sup>7</sup>*Id.*

<sup>8</sup>*Id.*

<sup>9</sup>*Id.*

<sup>10</sup>*Id.*

<sup>11</sup>Nolte, *Supra* note 2 at 23; (citing Buss and Novick, *The Detection of Cheating on Standardized Tests: Statistical and Legal Analysis*, 9 J. LAW & EDUC. 1-64 (1980); *Educational Testing: a Challenge for the Courts*, 1973 U.Ill.L.F. 375 (1973)).

<sup>12</sup>Michael Bishop, *What's Wrong With Cheating*, California State University (2013), [www.csusm.edu/dos/studres/wwwc.html](http://www.csusm.edu/dos/studres/wwwc.html).

<sup>13</sup>*Id.*

<sup>14</sup>*Valente v. Univ. of Dayton*, 689 F. Supp. 2d 910, 923 (S.D. Ohio 2010).

<sup>15</sup>*Id.*

<sup>16</sup>Van Thompson, *The Effect on Students Who Get Caught Cheating in College*, (2015), [education.seattlepi.com/effects-students-caught-cheating-college-1219.html](http://education.seattlepi.com/effects-students-caught-cheating-college-1219.html)

<sup>17</sup>*Valente*, 689 F. Supp. 2d at 923.



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