

# Plagiarism, Lack of Original Thought, Double-dipping, and Student Drafts

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## I. Academic Misconduct at Florida State University

**A. Plagiarism.** Plagiarism is a violation of the Florida State University College of Law 2000-2001 Student Handbook:<sup>1</sup>

Plagiarism is *representing the work of another as the student's own*. Students are expected to know and employ accepted conventions of citations and attribution. Failure to indicate quoted or paraphrased sources constitutes plagiarism. More specific definitions of plagiarism for particular courses or in particular contexts may be supplied by a course instructor, editor, or faculty employer of a student. A student should request clarification in case of doubt. Any student charged under this section may prove by a preponderance of the evidence that the misrepresentation of work resulted from mistake or inadvertence as a complete defense. (*emphasis added*)

In its first sentence, the Florida State University Academic Honor Code includes plagiarism in the sense defined in the College of Law's Student Conduct Code:<sup>2</sup>

Regarding academic assignments, violations of the Academic Honor Code shall include *representing another's work or any part thereof, be it published or unpublished, as one's own*. It shall also include *presenting or submitting any academic work in a manner that impairs the instructor's ability to assess the student's academic performance*. For example, plagiarism includes failure to use quotation marks or other conventional markings around material quoted from any source. (emphasis added)

**B. Related Forms of Academic Misconduct.** The University's Academic Honor Code includes a second category of misconduct not contained in the College of Law's Student Conduct Code: "presenting or submitting any academic work in a manner that impairs the instructor's ability to assess the student's academic performance." This second category includes several problems that have arisen at the Law School: (1) turning in a paper which is sufficiently footnoted, but which consists of blocks of text copied from other works written by other authors or by the student (for example, for another class); and (2) turning in a draft of a paper which is inadequately footnoted.

Because the College of Law's Student Conduct code requires law students to abide by University rules and regulations,<sup>3</sup> law students must be careful to avoid not only plagiarism as

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<sup>1</sup>Fla. State Univ. College of Law, 2000-2001 Student Handbook, at 29.

<sup>2</sup>Fla. State Univ., Student Handbook 1999-2000, at 87.

<sup>3</sup>Fla. State Univ. College of Law [Student Conduct Code](#) ¶ 1.

defined in the College of Law's Student Conduct Code but also other forms of misconduct included in the second part of the University's Academic Honor Code relating to academic assignments.

## II. Academic Misconduct Generally

**A. Plagiarism.** Every writer *uses* the ideas or words of other writers. Plagiarism is the *taking* of another's words<sup>4</sup> or ideas<sup>5</sup> without giving sufficient attribution to the other writer. Other writers have explained why attribution is important:

By its very nature, writing involves both individual and collaborative activity. Even when a piece of writing has but one author, that author employs a language system that is shared with others and draws upon ideas and values that are not his or hers alone. Indeed, one of the most important parts of becoming a writer within the academic community is learning how to balance the obligations of individuality and collaboration. As a college writer, you are expected to use writing to develop and assert your own ideas and beliefs - - to think for yourself. But at the same time you are expected in college writing to engage the thinking of others, to place your own writing within the context of academic discourse by using or criticizing arguments from that discourse....Plagiarism undermines the intellectual collaboration -- the exchange of ideas -- that should mark academic discourse because it permits the writer to avoid any genuine involvement with the concepts or opinions of others.<sup>6</sup>

"Conversely, properly acknowledging the authority for your ideas places your writing within a wider historical-legal context and therefore permits the reader a fuller appreciation for the depth of your research and the compass of your work."<sup>7</sup>

The variety of "evasive variations and colorable alterations by which a plagiarist may disguise the source" from which material has been copied<sup>8</sup> or ideas taken seems endless. The list below contains overlapping definitions of plagiarism from a variety of sources:

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<sup>4</sup> The plagiarism of words is also considered a copyright violation.

<sup>5</sup> Univ. of B.C., Faculty of Arts, [Plagiarism Avoided: Taking Responsibility for Your Work, Pt. I](#) (April 1999); but see Ronald B. Standler, [Plagiarism in Colleges in USA](#) (2000), who considers deliberate plagiarism of ideas to be a form of misconduct that should be treated separately from plagiarism. See also, Santa Clara Univ. Sch. of Law, [Student Handbook](#), Definitions ("Plagiarism' means intentionally or knowingly representing the words or ideas of another as one's own").

<sup>6</sup> Univ. of So. Cal. Office for Student Conduct, [Guide to Avoiding Plagiarism](#).

<sup>7</sup> Elizabeth Fajans & Mary R. Falk, [Scholarly Writing for Law Students](#), 3d ed. (2005). Law Library: KF250 .F35 2005 (additional copy on reserve).

<sup>8</sup> 20 Am. Jur. Proof of Facts, "Plagiarism in Narrative Fiction," § 2, at 730, cited in Univ. of Missouri--Columbia, [Student Handbook](#), Honor Code, "Plagiarism – A Comment."

## Plagiarism of Words

- (1) **plagiarism of authorship:** putting one's own name to another's work."<sup>9</sup>
- (2) **word-for-word or direct**<sup>10</sup> **plagiarism:** copying "phrases or passages out of a published work without using quotation marks, without acknowledging the source, or both;"<sup>11</sup>
- (3) **original writing plagiarism,** "paraphrasing the characteristic or original phraseology, metaphor, or other literary device of another without proper attribution;"<sup>12</sup>
- (4) **paraphrasing plagiarism:** changing some of the other writer's words, "but not enough, a type of plagiarism considered more serious when the original source is not cited;"<sup>13</sup>
- (5) **piecemeal plagiarism,** copying or paraphrasing from two or more works by others without attribution;<sup>14</sup>
- (6) **plagiarism with attribution,** copying or paraphrasing large portions of another's work, with insufficient attribution to the entirety of the other work;<sup>15</sup>

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<sup>9</sup>Brian Martin, Plagiarism: A Misplaced Emphasis, 3(2) J. Info. Ethics 36-47 (1994), and in a slightly different form at the author's [website](#).

<sup>10</sup>Brigham Young Univ. Law Sch., [Policies and Procedures](#) I(K)(A).

<sup>11</sup>Brian Martin, Plagiarism, supra note 9. See also, Am. Univ. Coll. of Law, [Student Handbook](#), Honor Code; Ariz. State Univ., [Student Policy Manual](#) § XIII(C)(3); Boston Univ. Sch. of Law, [Disciplinary Regulations](#); Brigham Young Univ. Law Sch., [Policies and Procedures](#), I(K)(A); Brooklyn Law School, Student Handbook, [Code of Academic Responsibility](#), I(B); Univ. Cal. at Berkeley Campus, [Code of Student Conduct](#), Pt. V.

<sup>12</sup>An example of the plagiarism of ideas may be found at U. of S. Cal. Office for Student Conduct, [Guide to Avoiding Plagiarism](#), Ex. 3. See also Julie M. Cheslik, "[Plagiarism Policy and Guidelines: Writing to Avoid Plagiarism](#)," Univ. of Missouri – Kansas City Sch. of Law Legal Writing Program (1990); Pace Univ. Sch. of Law, [Honor Code](#); Wash. Univ. Sch. of Law, [Honor Code](#), subch. 2-200.

<sup>13</sup>Brian Martin, Plagiarism, supra note 9; Brigham Young Univ. Law Sch., [Policies and Procedures](#), supra note 10.

<sup>14</sup>Univ. of B.C., Faculty of Arts, [Plagiarism Avoided: Taking Responsibility for Your Work, Pt. I](#), Pt. I (April 1999). This type of plagiarism is also referred to as "plagiarism mosaic," defined as the "borrowing of words, ideas, or data from an original source and blending this original material with one's own without acknowledging the source." Brigham Young Univ. Law Sch., [Policies and Procedures](#), I(K)(A).

<sup>15</sup>See Univ. of Akron Sch. of Law, [Student Handbook](#), Appendix A, § 1(c) ("A single citation which fails to indicate clearly that large portions of the work are used verbatim or even in modified form does not discharge the student's responsibility"); Brigham Young Univ. Law Sch., [Policies and Procedures](#), I(K)(A) ("Attribution (or the lack thereof) is materially misleading if it could cause a reasonable reader to be mistaken as to the source of the words, ideas, or data in a way that could benefit the author submitting the work."); and So. Ill. Univ. Sch. of Law, [Honor Code](#), § III(II)(D)(1)(c) (A student is guilty of academic misconduct who "[s]ubmits any work in which the references are so presented as to purposefully misrepresent the true author, even though the true author is cited and referred to within the work"); Wayne State Univ. Law Sch., Academic Regulations, App. C, § A, [Policies and Procedures in Cases of Plagiarism and Other Cheating](#) ("Perhaps less serious is the case where, although citation is made in one part of the student's work, paraphrase or even quotations are not acknowledged thereafter."); Case West.

- (7) **plagiarism of secondary source:** giving "references to original sources, and perhaps quoting them, but never looking them up, having obtained both from a secondary source-which is not cited...Often, this can be detected through minor errors in punctuation or citation which are copied from the secondary source."<sup>16</sup>
- (8) **footnote plagiarism,** using footnotes from another's work as one's own footnotes;<sup>17</sup> or using ideas or phrasing from another's work and citing the footnotes in that work, but failing to cite to the work itself.<sup>18</sup>
- (9) **editorial plagiarism,** employing or allowing another person to alter or revise the work which a student submits as his/her own.<sup>19</sup>

### Plagiarism of Ideas

- (1) **plagiarism of ideas:** using "an original thought from another without any dependence on the words or form of the source",<sup>20</sup>
- (2) **plagiarism of the form of a source:** using "the structure of the argument in a source

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Reserve Univ., Law School Code of Conduct, Commentary on Plagiarism, § 5 ("...it is not a defense to a charge of plagiarism that the written academic work contains some reference to the material that is copied or paraphrased. Whatever citation form is employed must be sufficient to clearly alert the reader that the words are copied or paraphrased or that the idea is appropriated from another's work.") See also Matthew A. Ritter, APPENDIX A: Plagiarism, California Western School of Law, Student Acknowledgment, who describes this as "research plagiarism" and Julie M. Cheslik, supra note 12.

Copying large portions of another's work without quotation marks or paraphrasing large portions of another's work with meticulous attribution is discussed below as a different form of academic misconduct.

<sup>16</sup>Brian Martin, Plagiarism, supra note 9, citing Joseph Bensman, "Professional Ethics in Academic Practice," 1 Int'l. J. Pol., Culture, & Soc'y 443, 456-457 (1988). Matthew A. Ritter, supra note 15, describes this as "research plagiarism." See also Pace Univ. Sch. of Law, Honor Code, Pt. II(A)(2)(d)(i).

<sup>17</sup>Helpful examples of these forms of plagiarism may be found at the web sites mentioned in fn. 4 and in Northwestern University, Academic Integrity at Northwestern, "How to Avoid Plagiarism." See also Julie M. Cheslik, supra note 12.

<sup>18</sup>Univ. of S. Cal. Law Sch., Student Handbook, § 6.18.

<sup>19</sup>Univ. of Ky. Sch. of Law, Honor Code; U. of So. Cal., Student Conduct Code and Sanctions, § 11.11(B) ("Plagiarism...The submission of material subjected to editorial revision by another person that results in substantial changes in content or major alteration of writing style").

<sup>20</sup>Brian Martin, Plagiarism, supra note 9. For an example, see U. of S. Cal. Office for Student Conduct, Guide to Avoiding Plagiarism, Ex. 2. See also Univ. of Baltimore Sch. of Law, Honor Code § III(1); Brigham Young Univ. Law Sch., Policies and Procedures, I(K)(A); Univ. Cal. at Berkeley Campus, Code of Student Conduct § II(B); Ind. Univ. at Indianapolis Sch. of Law, Student Handbook § II(A)(3)(c); New England Sch. of Law, Rules and Regulations, Student Handbook 2007-2008, § E.3; Pace Univ. Sch. of Law, Honor Code, §A(2)(v); Univ. of Pittsburgh Sch. of Law, Student Handbook 2006-2007; St. Mary's Univ., Student Conduct Code; Univ. of S. Cal. Law Sch., Student Handbook, § 6.18; Wash. Univ. Sch. of Law, University Handbook, Policy for Addressing Allegations of Scholarly and Scientific Misconduct, v. IV, Pt. 9, Ch. 1, Executive Order #61; Wayne State Univ. Law Sch., Academic Regulations, App. C, § A, supra note 15; Univ. of Dayton Sch. of Law, Student Handbook, Art. 1.

without due acknowledgment of the source, including cases in which the plagiarizer does look up the primary sources but does not acknowledge a systematic dependence on the citations in the secondary source."<sup>21</sup>

Fajans and Falk<sup>22</sup> distinguish between "overt" plagiarism, which "usurps" a work's thesis without acknowledgment, and "covert" plagiarism, which may involve (1) citing a source which the student has not read; (2) citing a source on which the plagiarized writer relied, without giving credit to the plagiarized writer; or (3) citing quoted material to give the erroneous impression that the material quoted is the only material borrowed from the cited work.

A few law schools define plagiarism as the use of a fixed number of words without the use of quotations and attribution, usually, but not always, in conjunction with other definitions of the term.<sup>23</sup>

**B. Presenting or Submitting any Academic Work in a Manner that Impairs the Instructor's Ability to Assess the Student's Academic Performance.** Three types of misconduct which do not fall under the Law School's plagiarism policy -- submitting non-original, completely attributed work as one's own, submitting the same work more than once, and submitting insufficiently footnoted drafts -- may violate provisions of the University Academic Honor Code which prohibits the presentation or submission of academic work in a manner that impairs the instructor's ability to assess the student's academic performance. Many other law schools consider that some or all of these constitute academic misconduct.

**1. Presenting non-Original Work.** Some institutions consider that the submission of completely attributed, non-original, work is a form of plagiarism.<sup>24</sup> Other institutions consider that completely plagiarized works are another form of academic misconduct that can never be made the student's own.<sup>25</sup> Cheslik,<sup>26</sup> for example, states:

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<sup>21</sup>Brian Martin, [Plagiarism](#), supra note 9. Univ. of Baltimore Sch. of Law, Honor Code, § III(1), supra note 20; Univ. of Ga., [A Culture of Honesty: Policy on Academic Honesty and the University of Georgia](#); Suffolk Univ. Law Sch., [Policies and Procedures, Rules and Regulations](#), § II(F)(4) ("A general citation of a source, without quotation, is not sufficient to acknowledge the borrowing of the words or intellectual structure of another's work. Such citations indicate that the source supports the idea in the citing text, not that the words or structure of the cited work are used."); [Univ. of Utah, University Code, Policy 8-10 Rev 5](#). Code of Student Rights and Responsibilities ("Plagiarism includes...representing as one's own, without attribution, any other person's...sequence of ideas...").

<sup>22</sup>Fajans & Falk, [Scholarly Writing for Law Students](#), 3d ed. (Thomson West, 2005).

<sup>23</sup>Northwestern Univ. Law Sch., [Honor Code](#), § 2(e) ("A violation occurs when a student knowingly... plagiarizes; which includes, but is not limited to, failing to attribute language or ideas to their original source or failing to indicate by quotation marks a passage from another source of more than (5) consecutive words"; Seton Hall Univ. Law Sch., [Code of Student Conduct](#), § 3.01(c) ("the term, 'plagiarized work,' shall mean any use of fifteen (15) or more consecutive words without the use of quotations and a citation to the source of such material").

<sup>24</sup>See supra, note 14.

<sup>25</sup>See, University of British Columbia, Faculty of Arts, [Plagiarism Avoided: Taking Responsibility for Your Work](#) and Univ. of Mo. at Columbia, [Student Handbook](#), "Plagiarism – A Comment" ("It is not a defense to a charge of plagiarism that the student has cited the source from which the material was copied. Even extensive citations to the source do not justify the copying.")

Our experience as educators tells us that students often are afraid that they have no original ideas to contribute or they perceive that their original ideas are somehow of no moment. (footnote omitted) As a result, a student writing a paper will collect, read, and take notes on all existing articles, books, and other sources on a topic and then simply recompile, rearrange or restate the existing scholarship. Not only does this procedure invite plagiarism because one inevitably will neglect to attribute every single idea in his paper; its result is merely a rephrasing or reorganization of others' ideas and work. As such, it contributes little or nothing to the overall scholarship in the field and fails to present any original thought or critique.

Just as you would not mindlessly repeat something just stated in an oral conversation and represent it as your original thought or work, you should not restate or merely rearrange other written work and present it as the product of your independent research, work, and thought. (footnote omitted) To do so is to steal ideas.

A paper that consists entirely of copied or paraphrased material but is correctly attributed to all source(s) would not fall within the Law School's definition of plagiarism, although the paper would lack "original thought" and warrant a failing grade.<sup>27</sup> However, such a paper could be considered academic work that impairs a faculty member's ability to assess the student's academic performance.

**2. Double-dipping.**<sup>28</sup> Submitting the same or slightly-reworked version of a paper in two courses also prevents the faculty member from assessing the student's academic performance in the current class, and is prohibited by the rules of many law schools and universities.<sup>29</sup> Some

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<sup>26</sup>Cheslik, *supra*, note 12.

<sup>27</sup>See Creighton Univ. Sch. of Law, [Academic Rules, Law School Notice on Plagiarism](#).

<sup>28</sup>The University of British Columbia refers to this practice as "dovetailing." See note 5.

<sup>29</sup>See Am. Univ. Coll. of Law, [Student Handbook](#), Honor Code; Ariz. State Univ., [Statement of Student Policies](#), § XIII, Honor Code; Baylor Univ., [Student Catalog, Honor Code](#) § II(C)(3); Boston Coll. Law Sch., Academic Policies and Procedures, [Code of Academic Conduct](#); Brooklyn Law Sch., [Code of Academic Responsibility](#) § I(B); Univ. of Cal.–Davis, [Code of Academic Conduct](#); Univ. of Cal. at Hastings, Student Conduct Code § 52.00; Univ. of Cal.–Los Angeles, [Student Guide to Academic Integrity](#), Office of the Dean of Students; Cal. W. Sch. of Law, [Policies and Procedures for Students](#) § 2.08; Case West. Reserve Univ. General Bulletin 2004-2006, [Academic Integrity Policy](#); Catholic Univ. of Am., [University Policies and Procedures: Academic Honesty](#), Art. I(B); Univ. of Cincinnati Coll. of Law, [Honor Code and Honor System](#), Rule 50-81-17, § 2.01(4); Cleveland State Univ. Cleveland-Marshall Sch. of Law, [Honor Code](#) § II; Univ. of Conn School of Law [Policy on Academic Misconduct](#); Cornell Univ. [Code of Academic Integrity](#), § I(C)(2); DePaul Coll. of Law, [Student Handbook](#), Honor Code, [Academic Integrity Policy](#); Univ. of Detroit Mercy Sch. of Law, [Student Handbook](#), § III(C)(3); Fordham Univ. Sch. of Law, [Code of Academic Responsibility](#) Art. II, § 9 and Art. III, § 1; Univ. of Ga. Law School [Honor Code Constitution](#) Art. III § 3(d); Ga. State Univ. Coll. Of Law [Honor Code](#), § 7; Univ. of Ill. at Urbana-Champaign, [Code of Policies and Regulations Applying to All Students](#), § 1-402; Ind. Univ. at Indianapolis Sch. of Law, [Student Handbook](#) § II(A)(1)(g); Lewis and Clark Coll., Northwestern Sch. of Law, [What's What Student Handbook](#) 55; La. State Univ., [Code of Student Prof'l Responsibility](#), § 5(k); Loyola Univ. at New Orleans Sch. of Law, [Honor Code](#) § IV(G); Univ. of Mont. Sch. of Law, [Student Handbook](#), Honor Code, Ch. 2, § 2-201(c); N.Y. Univ. Sch. of Law, [Student Handbook 2006-2007](#) § II(A)(6) at 53; Nova Southeastern [Code of Student Conduct and Academic Responsibility](#); Ohio N. Univ. Coll. of Law, [Student Code of Conduct](#), Art. I(3)(B)(4); Pace Univ. Sch. of Law, [Honor Code](#), Pt. II(B)(3); Univ. of Pa., [Code of Academic Integrity](#); Pepperdine Univ. Sch. of Law, [Honor Code](#) Ch. 3, § 3.01(10); St. John's Univ. Sch. of Law, [Student Handbook, Code of Student Responsibility](#), Pt. V; Univ. of So. Cal., [Student](#)

law schools allow submission of such a paper, if it is "of sufficiently greater scope or depth."<sup>31</sup>

**3. Insufficiently Footnoted Drafts.** If students are required to submit footnotes with a draft paper, failure to do so also impairs the faculty member's ability to assess a student's work.<sup>32</sup>

### III. Other Issues

**Mental State.** Not all law school policies specify the mental state required for a finding of plagiarism or another form of academic misconduct. Of those which do, the mental states specified include: intent,<sup>33</sup> knowledge,<sup>34</sup> recklessness,<sup>35</sup> negligence,<sup>36</sup> or some combination

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[Conduct Code](#), § 11.16; So. Ill. Univ. Sch. of Law, Honor Code, [Ethics Procedures](#) § (II)(B)(1)(d); So. Methodist Univ. Sch. of Law, [Student Code of Professional Responsibility](#) § IV(B)(9); Suffolk Univ. Law Sch., Policies and Procedures, [Rules and Regulations](#), § II(F)(5); Seton Hall Univ. Law Sch., Honor Code, [Code of Student Conduct](#), § 3.01(c); Univ. of Texas at Austin, [Institutional Rules on Student Services and Activities](#), § 11-802(b); Univ. of Wash. Sch. of Law, [Honor Code](#), § 2-203; West. State Univ. Coll. of Law, Student Handbook, § 11.5(A)(12); Whittier Coll., [General Policy on Academic Honesty](#), § 5; Yeshiva Univ. Benjamin N. Cardozo Sch. of Law, [Student Handbook 2005-2006](#), Art. I(B)(3).

<sup>31</sup>See, e.g., Harvard Law Sch., [Rules Relating to Law School Study](#).

<sup>32</sup>See Univ. of So. Cal., [SCampus, University Student Conduct Code](#), § 11.11 ("Note: Culpability is not diminished when plagiarism occurs in drafts which are not the final version").

<sup>33</sup>Univ. of Ky. Sch. of Law, [Honor Code](#); Univ. of Nebraska – Lincoln Sch. of Law, [Honor Code](#), § 1.020(2)(B) (requires ID and password) ("intentionally"); N.Y. Univ. Sch. of Law, [Student Handbook 2006-2007](#) ("with intent to defraud"); Univ. of Richmond Sch. of Law, [Honor Code](#), § 2(1) ("with intent to deceive"); Seton Hall Univ. Law Sch., [Honor Code](#), § 3.01, ("fraudulent or deceitful intent"); Univ. of Tenn. Coll. of Law, [Code of Academic Conduct](#) ("intentionally"); Univ. of Va., Honor Committee, [Explanation of the Honor System](#) ("intentional").

<sup>34</sup>Brigham Young Univ. Law Sch., Honor Code ("knowingly"); Brooklyn Law Sch., Student Handbook and Regulations 2006-2007, Appendix A, [Code of Academic Responsibility](#); Univ. of Colorado Sch. of Law, <http://www.colorado.edu/Law/about/honorcode/> § 2-1 ("knowingly or recklessly"); Cornell Univ. [Code of Academic Integrity](#), § I(C) ("knowingly"); Univ. of Kan., [University Senate Rules and Regulations, Academic Misconduct](#), Art. 2, § 6 ("knowingly"); Univ. of Miami Sch. of Law, [Honor Code](#) § 1.03(b) ("knowingly"); Univ. of Mont. Sch. of Law, [Student Handbook](#), Honor Code, § 1-401 ("with knowledge"); Boston Univ. Sch. of Law, [Disciplinary Regulations](#), § II(2)(e) ("knowing use"); Univ. of N.M. Sch. of Law, [Student Code of Conduct](#) § III(B)(2) ("knowing use"); Ohio N. Univ. Coll. of Law, [Student Code of Conduct](#) ("knowingly"); Ohio State Univ. Coll. of Law, [Honor Code](#), Art. IV ("knowingly"); Santa Clara Univ. Sch. of Law, [Student Handbook, Code of Professional Conduct](#), Rule 2 ("knowingly").

<sup>35</sup>The N.Y. Univ. Sch. of Law, [Student Handbook 2006-2007, Disciplinary Procedures](#) § II(A)(4) ("intentionally or through gross negligence"); Villanova Univ. Sch. of Law [Code of Conduct](#) § 2.4 (act or omission must be "voluntary and either intentional or reckless").

<sup>36</sup>See Ariz. State Univ., [Statement of Student Policies](#), § XIII(C) ("Unless otherwise specified, a negligent act or omission constitutes a violation of the Honor Code."); Franklin Pierce Law Ctr., [Student Academic Rules and Regulations](#), Rule 13(b)(2), at XIII-34, ("Unless a stricter mental state is specified as an element of a particular violation, a person may be found in violation of this Code if their failure to act in accord with it was merely negligent. Negligence in this respect means ordinary (as opposed to criminal) negligence and includes failure to act with the care and attention of a reasonable person similarly situated and informed, acting in good faith."); Univ. of Missouri--Columbia, [Student Handbook](#), "Plagiarism – A Comment," ("It is not a defense to a charge of plagiarism that the act was done negligently or without intent").

thereof.<sup>37</sup>

A few schools who use the phrase "recklessly, knowingly or purposefully" refer specifically to the definitions of those terms in the Model Penal Code.<sup>38</sup> Many schools do not define the mental state required for plagiarism to constitute academic misconduct, which may suggest that intent is irrelevant to the offense. A few schools specifically exclude an intent requirement: two include work submitted without clear attribution "inadvertently,"<sup>39</sup> another states that it "...is not a defense to a charge of plagiarism that there was no intent to deceive, to misrepresent, or to gain any unfair advantage by the conduct;"<sup>40</sup> and a third states that plagiarism occurs whether the improper use is made "intentionally or not."<sup>41</sup> Some schools consider a student's intent only in determining the appropriate penalty for an offense.<sup>42</sup>

**Defenses.** Under the FSU College of Law statement regarding plagiarism, a student may prove by a preponderance of the evidence "that the misrepresentation of work resulted from mistake or inadvertence as a complete defense." No similar defense appears in the FSU Academic Honor Code or in the plagiarism statements of other law schools.<sup>43</sup> It may be a

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<sup>37</sup>George Washington Univ., [Academic Integrity Code 2006-2007](#) § 5.2.2 ("intentionally or knowingly"); Fla. Coastal Sch. of Law, [Honor Code](#), § III ("knowingly or recklessly"); Univ. of Denver Sch. of Law, [Code of Academic Conduct](#), § III(a), ("knowingly or negligently"); Chicago-Kent Sch. of Law, [Student Handbook](#), ("knowingly, recklessly, or negligently"); Julie M. Cheslik, University of Missouri—Kansas city, *supra*, note 12, ("intentional, knowing, or reckless use"); Mercer Univ. Sch. of Law, [Student Handbook 2006-2007](#), at 30 ("recklessly, knowingly or purposefully"); Santa Clara Univ. Sch. of Law, [Student Handbook](#), Definitions, "Plagiarism," ("intentionally or knowingly"); Wake Forest Univ. Sch. of Law, [Honor Code](#), § III(2)(e) ("intentional, negligent, or careless"); Wash. Univ. Sch. of Law [Honor Code](#), Art. I(E), ("(1) intentionally or (2) without taking reasonable care to comply with the rules of proper attribution"); Coll. of William and Mary [Honor System](#), § 2(2) ("with intent to deceive or with reckless disregard for proper scholarly procedures ...").

<sup>38</sup>See Franklin Pierce Law Ctr., [Student Academic Rules and Regulations](#), Rule 13-1(B)(2).

<sup>39</sup>Harvard Law Sch., [Rules Relating to Law School Study](#). The Brigham Young Univ. Law School, [Policies and Procedures](#) (inadvertent plagiarism constitutes academic misconduct for which sanctions may be imposed by the Law School, but is not a violation of the University Honor Code).

<sup>40</sup>Univ. of Missouri--Columbia, [Student Handbook](#), Honor Code § II(E).

<sup>41</sup>Emory Univ. Sch. of Law, [Professional Conduct Code](#), § 5(A)(3).

<sup>42</sup>Cleveland State Univ. Cleveland-Marshall Sch. of Law, Honor Code, [Honor Council Procedures](#), § IV; Franklin Pierce Law Ctr., [Student Academic Rules and Regulations](#), Rule 13-1(K)(1)(b), at XIII-38; Univ. of Missouri--Columbia, [Student Handbook](#), Honor Code, "Plagiarism – A Comment"; Suffolk Univ. Law Sch., [Policies and Procedures, Rules and Regulations](#), § II(F)(2) (use of another's work without proper attribution is plagiarism "whether or not the writer acts with an intent to mislead or deceive. However, such intent, or the lack of it, may be considered in determining the proper sanction if a violation is established."); Western State Univ. Coll. of Law, [Student Handbook](#) ("Regardless of intent, the failure to provide proper acknowledgment of the use of another's work constitutes plagiarism.")

<sup>43</sup>See, e.g., the statement in Harvard Law School's [Rules Relating to Law School Study](#) that "students who submit work that is not their own without clear attribution of all sources, *even if inadvertently*, will be subject to disciplinary action." (emphasis added)

defense that the ideas in the paper "are so generally and freely circulated as to be a part of the public domain."<sup>44</sup> A few schools permit the defense that the faculty member permitted or authorized the violation.<sup>45</sup> Some schools specifically state that lack of familiarity with the Code is not a defense to a charge of a violation.<sup>46</sup>

**Statutes of Limitation.** A few schools state the length of time after graduation during which the law school will prosecute a student believed to have committed plagiarism.<sup>47</sup>

### III. Helpful Websites

Some universities have posted information to help students avoid plagiarism.<sup>48</sup> Examples of bad outcomes for people found to have plagiarized may be found at the web site of the Office of General Counsel, University of Akron.<sup>49</sup>

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<sup>44</sup>Univ. of Ky. [Senate Rule](#) 6.3.1.

<sup>45</sup>Samford Univ., Cumberland Sch. of Law, [Honor Code](#), § 4.3.

<sup>46</sup>Temple Univ. Sch. of Law, [Code of Student Conduct](#), § I(D), (“Ignorance of the Code provisions shall not constitute a defense in any proceeding against a student.”)

<sup>47</sup> So. Methodist Univ. Sch. of Law, [Student Code of Professional Responsibility](#), § III, (“The [Honor] Council may not exercise jurisdiction over student conduct unless a complaint is filed within one year of graduation, withdrawal, or dismissal of the student from the Law school however, this limitation shall not apply to conduct involving either serious academic misconduct, such as plagiarism or cheating, or serious misrepresentation with respect to the student’s application for enrollment in the Law School.”); Washburn Univ. Sch. of Law, [Honor Code](#), Pt. I(A)(1), (“If a law student commits academic improprieties which are not discovered until after graduation, the student’s graduation will not prevent prosecution for those improprieties. If, as a result of imposition of sanctions, the student no longer meets the requirements for graduation, the student’s law degree will be withdrawn, as will any certifications to bar authorities.”); Univ. of Baltimore Sch. of Law, [Honor Code](#) § IX(C) (six months after graduation).

<sup>48</sup> See, e.g., Purdue University, [The Owl at Purdue](#); The University of Maryland School of Law, [The Legal Writing Center](#); The University of British Columbia, [Plagiarism Resource Center](#).

<sup>49</sup> University of Akron, Office of General Counsel, [Guidelines for AFriday, September 28, 2007voiding Plagiarism](#). 10/4/2007

## Examples

### Example 1: Repeating Another's Words Without Acknowledgment

#### Original Source

(From Neil Postman. *Amusing Ourselves to Death*. New York: Penguin, 1985. 127-128.)

The television commercial is the most peculiar and pervasive form of communication to issue forth from the electric plug....The move away from the use of propositions in commercial advertising began at the end of the nineteenth century. But it was not until the 1950's that the television commercial made linguistic discourse obsolete as the basis for product decisions. By substituting images for claims, the pictorial commercial made emotional appeal, not tests of truth, the basis of consumer decisions.

#### Plagiarized Version

(essentially verbatim)

Television commercials have made language obsolete as a basis for making decisions about products. The pictorial commercial has substituted images for claims and thereby made emotional appeal, rather than tests of truth, the basis of consumer decisions.

Although the writer has changed, rearranged, and deleted words in the version above, the text is essentially the same as the original source. In paraphrasing, you take the writer's ideas and put them in your own words. It is not a process of substituting synonyms or rearranging the order of words. Even if the version above gave credit to Postman for his ideas, the passage would be considered plagiarized.

#### Correctly Paraphrased and Documented Version

Postman argues that television commercials do not use language or "test of truth" to help viewers decide whether to buy a product. Instead, they rely on images to create an emotional appeal that influences consumers' decisions (127-128).

In the correctly paraphrased and documented version above, most of the ideas have been paraphrased or restated in the writer's own words. Quotation marks have been placed around a key phrase that is taken directly from the original source. In addition, the name of the author refers readers to a corresponding entry in the Works Cited page, and the page number indicates the location of the information in the source cited.

Source: University of Southern California, [Guide to Avoiding Plagiarism](#).

## **Example 2: Presenting Another Writer's Argument or Point of View Without Acknowledgment**

Original Source: (From Arlene Skolnick. *Embattled Paradise*. New York: Basic Books, 1991. 11.)

The changes in larger society, as well as their reverberations in the family, call into question basic assumptions about the nature of American society, its family arrangements, and Americans themselves. A "Cultural struggle" ensues as people debate the meaning of change. One of these periods of cultural upheaval occurred in the early decades of the nineteenth century; a second occurred in the decades just before and after the turn of the twentieth century. For the last thirty years, we have been living through another such wave of social change.

Three related structural changes seem to have set the current cycle of family change in motion: first, the shift into a "postindustrial" information and service economy; second, a demographic revolution that not only created mass longevity but reshaped the individual and family life course, creating life stages and circumstances unknown to earlier generations; third, a process I call "psychological gentrification," which involves an introspective approach to experience, a greater sense of one's own individuality and subjectivity, a concern with self-fulfillment and self-development. This is the change misdiagnosed as narcissism.

### **Plagiarized Version**

Three periods of cultural upheaval in the nineteenth and twentieth centuries have caused major changes in American society. The first occurred during the beginning of the nineteenth century, the second during the decades before and after 1900, and the third has been underway for the last thirty years. Three structural changes occurring during the current upheaval are primarily responsible for changes in American families. These include the development of a postindustrial information and service economy, demographics changes (including longer life spans that have created new and different life stages), and an increased sense of individuality including a desire for self-fulfillment and self development.

The writer of the passage above correctly paraphrases Skolnick's ideas but does not give her credit for her ideas or line of argument. The version below eliminates the plagiarism by attributing the ideas to Skolnick.

### **Correctly Documented Version**

According to Skolnick, three periods of cultural upheaval in the nineteenth and twentieth centuries have caused major changes in American society. The first occurred during the beginning of the nineteenth century, the second during the decades before and after 1900, and the third has been underway for the last thirty years. Three structural changes occurring during the current upheaval are primarily responsible for changes in American families. These include the development of a postindustrial information and service economy, demographics changes (including longer life spans that have created new and different life stages), and an increased sense of individuality including a desire for self-fulfillment and self development (11).

In the version above, a reader would be able to locate the source by finding the title of Skolnick's book in the Works Cited page and looking on page 11, the number indicated at the end of the paragraph.

Source: University of Southern California, [Guide to Avoiding Plagiarism](#).

### **Example 3: Repeating Another Writer's Particularly Apt Phrase or Term Without Acknowledgment**

Original Source: (From Arlene Skolnick. *Embattled Paradise*. New York: Basic Books, 1991. 11.)

Three related structural changes seem to have set the current cycle of family change in motion: first, the shift into a "postindustrial" information and service economy; second, a demographic revolution that not only created mass longevity but reshaped the individual and family life course, creating life stages and circumstances unknown to early generations; third, a process I call "psychological gentrification," which involves an introspective approach to experience, a greater sense of one's own individuality and subjectivity, a concern with self-fulfillment and self-development. This is the change misdiagnosed as narcissism.

#### Plagiarized Version

The large number of "self-help" books published each year attest to Americans' concern with self-improvement and achieving more fulfilling lives. This process might be described as "psychological gentrification."

#### Correctly Documented Version

The large number of self-help books published each year attest to Americans' concern with self-improvement and their desire to have a more fulfilling life. Skolnick labels this process as "psychological gentrification" (11).

As the example above illustrates, putting quotation marks around a borrowed word or phrase is not sufficient documentation. You must also acknowledge the author and give the page numbers so a reader would be able to consult the original source and locate the word or phrase. In the original source, Skolnick takes credit ("a process I call") for coining the term "psychological gentrification." Quotation marks in the original appear to be used for emphasis. Phrases in quotations should be cited unless they have become common usage (e.g., "postindustrial" in the original source above).

Source: University of Southern California, [Guide to Avoiding Plagiarism](#).

**Example 4: Complete plagiarism and reckless plagiarism (in the form of paraphrasing).**

**ORIGINAL:**

From Sharon Venne's journal article "Understanding Treaty 6: An Indigenous Perspective", in Aboriginal and Treaty Rights in Canada: Essays on Law, Equity, and Respect for Difference, Ed. Michael Ash, Vancouver: UBC Press, 1997.

For an understanding of the relationship between the Treaty Peoples and the Crown of Great Britain and later Canada, one must consider a number of factors beyond the treaty's written text. First, the written text expresses only the government of Canada's view of the treaty relationship: it does not embody the negotiated agreement. Even the written versions of treaties have been subject to considerable interpretation, and they may be scantily supported by reports or other information about the treaty negotiations.

**PLAGIARIZED VERSION:**

In order to understand the relationship between First Nations Peoples and the government of Canada, one must look beyond the written text of the treaties. First, the written text expresses only the government of Canada's view of the treaty relationship: it does not embody the negotiated agreement. Even the written versions of treaties have been subject to considerable interpretation, and they may be scantily supported by reports or other information about the treaty negotiations.

**ACCEPTABLE VERSION:**

Sharon Venne believes that written treaties are insufficient in developing an understanding of the issues between the First Nations Peoples and the government:

The written text expresses only the government of Canada's view of the treaty relationship: it does not embody the negotiated agreement. Even the written versions of treaties have been subject to considerable interpretation, and they may be scantily supported by reports or other information about the treaty negotiations. (173)

This viewpoint, however, has often made researchers disregard the treaties, a dangerous tactic when discussing the issues mentioned above.

The acceptable version credits the original author for the initial idea, and indicates, by indentation, the words that are taken directly from the original text. Information regarding the original text is offered so that readers can find the quotation for themselves. The quotation is followed by the student's evaluative comment and the quoted text is integrated into the essay in

an original line of thought.

Source: University of British Columbia, Faculty of Arts, [Plagiarism Avoided: Taking Responsibility for Your Work](#).

### **Example 5: Close paraphrasing as a form of plagiarism.**

#### **ORIGINAL:**

From Lawrence Levine's book *Highbrow, Lowbrow: The Emergence of a Cultural Hierarchy in America*, Cambridge, 1986.

Shortly after the two rogues, who pass themselves off as a duke and a king, invade the raft of Huck and Jim, they decide to raise funds by performing scenes from Shakespeare's *Romeo and Juliet* and *Richard III*. That the presentation of Shakespeare in small Mississippi towns could be conceived of as potentially lucrative tells us much about the position of Shakespeare in the nineteenth century.

#### **PLAGIARIZED VERSION:**

Soon after the two thieves, who pretend they are a king and a duke, capture Huck and Jim's raft, they try to make money by putting on two Shakespeare plays (*Romeo and Juliet* and *Richard II*). Because the production of Shakespeare in tiny Southern towns is seen as possibly profitable, we learn a lot about the status of Shakespeare before the twentieth century.

#### **ACCEPTABLE VERSION:**

As Lawrence Levine argues, casual references to Shakespeare in popular nineteenth century literature suggest that the identification of "highbrow" theatre is a relatively recent phenomenon.

This last version credits the original author, is set up in an original form, and has quotation marks around a borrowed phrase (from the original book's title). A short description of the reasoning behind Levine's conclusions is placed in a footnote, and the name of the author is given so that readers can refer to the Works Cited page and find the original for themselves. Note that this version does not merely rephrase or repeat the material from the original, it expands upon it and places it in the context of the student's work. Also note an alternative style of referencing. The footnote system is used widely in the humanities, and is a very useful form of documentation. In your assignments, you need to be consistent with the documentation style that you use: if you are using in-text citations, you should not have any footnotes, and vice versa.

Source: University of British Columbia, Faculty of Arts, [Plagiarism Avoided: Taking Responsibility for Your Work](#).

## **Example 6: Complete Plagiarism:**

### **ORIGINAL:**

From: Benjamin Hoff's book *The Tao of Pooh*, published by the MLA, 1995.

According to Lao-Tse, the more man interfered with the natural balance produced and governed by the universal laws, the further away the harmony retreated into the distance. The more forcing, the more trouble. Whether heavy or light, wet or dry, fast or slow, everything had its own nature already within it, which could not be violated without causing difficulties.

### **PLAGIARIZED VERSION:**

Lao-Tse, the author of the famous *Tao Te Ching*, believed that the more man interfered with the natural balance produced and governed by the universal laws, the further away the harmony retreated into the distance. The more forcing, the more trouble. Whether heavy or light, wet or dry, fast or slow, everything had its own nature already within it, which could not be violated without causing difficulties.

### **ACCEPTABLE VERSION:**

According to Benjamin Hoff, Lao-Tse believed that "the more man interfered with the natural balance produced and governed by the universal laws, the further away the harmony retreated into the distance. The more forcing, the more trouble" (4). This is the main tenet of Taoism, from which most of the key beliefs in this philosophy have developed.

In the plagiarised version, although the first sentence is somewhat changed, the body of the paragraph is identical to the original author's, and no credit is given. To remedy this, quotation marks are used to indicate a direct quotation, and the author's name is given so that you can flip to the Works Cited page and find full information about the source.

Source: University of British Columbia, Faculty of Arts, [Plagiarism Avoided: Taking Responsibility for Your Work](#).

### **Example 7: Plagiarism in footnotes:**

#### **ORIGINAL:**

From Alisa Harrison's article "Canada's Acceptance of Refugee American Blacks 1793-1863: Major Player or Major Myth Maker?" in *The Seed*, published by the Canadian Studies Students' Association of UBC, 1998.

One major area in which racism against blacks was manifested in Canada was in access to education. In 1850 the government of Canada West passed the Common School Act. This legislation ensured that Upper Canadian schools would be segregated, ostensibly to protect blacks from white hostility. In fact, this was frank racism thinly veiled by paternalism. This Act made it legal to establish separate black schools: any group of five (later amended to 12) black families could ask their school board for a separate school. This was later altered to allow school boards to 'grant' blacks separate schools even when no request had been made, and to make attendance at these schools compulsory (Bramble 77). These were often called "Select Schools" - "the white children were selected in, and the black were selected out" (Drew 342).

#### **PLAGIARIZED VERSION:**

There were huge problems of racism within the school system in 19th century Canada. The Common School Act was passed in 1850, which stated that black children could have a separate school, and which was later amended to state that attendance was mandatory at "Select Schools" in which "the white children were selected in, and the black children were selected out" (Drew 342).

#### **ACCEPTABLE VERSION:**

There were huge problems of racism within the school system in 19th century Canada. The Common School Act was passed in 1850, which stated that black children could have a separate school, and which was later amended to state that attendance was mandatory (Bramble 77 qtd. in Harrison 14) at "Select Schools" in which "the white children were selected in, and the black children were selected out" (Drew 342 qtd. in Harrison 14).

There are a lot of problems with the plagiarised version of this example. The most obvious one is that the original author (Harrison) is not credited. As well, the quotation in the plagiarised work is taken from Harrison's work, rather than from the source that Harrison used. The author of the plagiarised version should have done his/her own research rather than relying on someone else's. Finally, there is a reference missing in the plagiarised work: the original drew on Linda Bramble's work as well as Benjamin Drew's, yet the author of the plagiarised work fails to note this. To correct the plagiarised version, the author would have to do his/her own research (although using "qtd. in" is also acceptable) as well as document properly.

University of British Columbia, Faculty of Arts, [Plagiarism Avoided: Taking Responsibility for Your Work](#).