

Appendix A

University of Houston Law Center Plagiarism Policy

I. Introduction

This Policy is intended to provide general ethical guidance to you for writing papers in law school, other than in-class examinations, by explaining what constitutes plagiarism in violation of the University of Houston Law Center's Honor Code. This Plagiarism Policy is incorporated by reference into and made part of the University of Houston Law Center's Honor Code. Papers covered by this policy can be broadly categorized into six distinct types: (1) take-home or other out-of-class papers or examinations, (2) instrument drafting, (3) reports, (4) briefs, (5) seminar or other research papers, and (6) law journal notes and comments.

It is extremely important that you be aware of what this policy requires of you. Here's why:

- A failure to review and familiarize yourself with these guidelines and how they apply to the assignment you have *before* turning in *even a draft* of a covered paper constitutes a violation of the University of Houston Law Center Honor Code, *and that is so even if the paper ends up not violating this policy*. In other words, *there is no acceptable excuse for preparing a paper covered by this policy without having first reviewed this policy carefully and determining how it applies to the project in which you are engaged*.
- If you turn in *even a draft* of a paper covered by this policy that violates this policy, and your conduct in doing so is found to be negligent, reckless, knowing, or intentional, your behavior constitutes a violation of the University of Houston Law Center Honor Code.
- If it appears that you used plagiarized material in your paper to a significant extent, as defined in Section 3.04A of the Honor Code, and your decision to plagiarize the material was done knowingly or intentionally, the *minimum* sanctions that will be imposed will include
 - Loss of credit in the course involved;
 - A grade of "F" recorded on your transcript;
 - Suspension from the Law Center for at least one semester; and
 - Inclusion of your violation in your permanent student file, as a result of which it will be made available to every bar admission authority to which you apply.
- Moreover, in determining whether you acted knowingly or intentionally, the issue will *not* be whether you knowingly or intentionally intended to commit the offense of *plagiarism*. Rather the issue will be whether you knowingly or intentionally engaged in acts or omissions that violate *this policy*. In other words, a defense like "I didn't cite to [a given authority] because I didn't know I had to," when this policy makes it clear that you *did* have to cite to that authority, is a knowing or intentional violation, even if, at the time you committed it, you did not intend in your own mind to "cheat."

- Finally, in determining whether you acted intentionally or knowingly, an Honor Board hearing panel will be influenced primarily by objective evidence of the writing itself, rather than by the statement of the writer as to his subjective intent in preparing that writing. Thus, for example, if the allegedly plagiarized paper contains extensive material taken substantially verbatim from a source that is not cited to in that paper, there will be a presumption that the reason the failure to cite occurred was to conceal the source involved from the person grading the paper—a presumption that will be difficult, if not impossible, to overcome.

II. Minimum Ethical Standards

Two basic precepts determine the minimum standards applicable to the preparation of all papers covered by this policy: (1) compliance with ethical standards of honesty, and (2) compliance with academic standards of individual analysis and original thought. Compliance with minimum ethical standards and penalties for failure to do so are the subject of this policy.

A. Overview.

Violations of minimum academic standards are not punishable as plagiarism under this policy, but are punishable pursuant to the rules and instructions of the individual teacher who assigned the covered writing. Academic standards of individual analysis and original thought pertain to all works covered by this policy. Of course, a writing that does not meet minimal ethical standards is also unacceptable academically, even though such writing may contain acceptable ingredients of academic work.

To avoid the problem of insufficient individual analysis and original thought in your paper, when addressing the ideas of others, you should explore, analyze, and provide your own opinions concerning the strengths and weaknesses of those others' ideas. You need to infuse your review of others' work with your own words and thoughts, so that your paper is not merely a patchwork of other peoples' ideas.

Whether the product of ethically acceptable collaboration or consultation is academically acceptable will be determined by the degree of individual effort that is indicated by the teacher as expected in the particular writing assignment.

B. The basic Standard: Misappropriation of Another's Language or Ideas Without Giving Due Credit to the Source

Implicit in the determination of minimal ethical standards is the policy that a writer may not appropriate in his writing either the language or the ideas of another without giving due credit to the source of such language or ideas, except as otherwise specifically provided herein.

- Unless informed to the contrary by your professor, this obligation applies not only to the final version of the paper involved but also to any submitted draft of that paper. When submitting a draft, the student does not commit plagiarism if the borrowed material is clearly marked as being borrowed, even if attribution to the original source is omitted

in the draft. In the final version of the paper, proper attribution must be included, and the borrowed material must be identified “in a way that clearly indicates the nature and extent of the source’s contribution to the student’s work.”

- The “other source” from which you may not take language or ideas without proper attribution includes both published and unpublished works. Thus, it is as wrong to turn in a paper laced with unattributed quotes or ideas taken from a fellow student’s unpublished seminar paper as it is to include unattributed quotes or ideas from a published law journal piece.

C. What Constitutes “Giving Due Credit to the Source”

What constitutes giving credit to the source of borrowed language or ideas “in a way that clearly indicates the nature and extent of the source’s contribution to the student’s work” varies according to the circumstances, but here are some useful rules of thumb:

- A significant phrase, a term or phrase coined by the author of the source, a sentence, or a longer passage in a writing, taken verbatim from another’s writing, *must be* identified by quotation marks and citation as coming from that other source to avoid the imputation of an intent to misappropriate.
- Where a passage or significant number of sentences or phrases in a writing closely resembles, with only slight variations in language, those of another source and no identification of the other source is made in the writing by quotation marks and citation to that other source, an imputation of intent to misappropriate will be made. *Mere change of a few random words does not constitute acceptable paraphrasing.*
- Even footnoting a part of another’s writing that you have used in your paper may not be sufficient to avoid plagiarism. You must give credit to the source of borrowed language or ideas “in a way that clearly indicates the nature and extent of the source’s contribution to the student’s work.” To give that credit, you must put in quotation marks any significant phrase, term or phrase coined by the author of the source, sentence, or longer passage that you have incorporated verbatim into your paper from another’s writing. For example, suppose you incorporate four sentences verbatim from a law journal article into your paper, and you put a footnote crediting the law journal article at the end of each of those sentences, but you do not put the sentences in quotes. You have not “clearly indicated the extent to which” the law journal article contributed to your paper, which violates this policy. If you either (1) put quotation marks around each sentence and footnote each sentence, or (2) put the sentences in a block quote with a footnote after the last quoted sentence, you properly are indicating you borrowed both the language and the ideas of the law journal article. If you acceptably paraphrase each sentence or the four sentences together, you do not need quotes around the sentences; you just need to put a footnote after each sentence. That way you properly are indicating you borrowed the ideas, but not the language, of the law journal article. Acceptable paraphrasing is described below.
- Likewise, citing through to the sources cited by a paper from which you are taking material does not prevent the unacknowledged use of that paper from constituting plagiarism. For example, suppose you incorporate four sentences from a seminar paper of a friend into your paper, and you do not give your friend’s paper credit for the sentences. Also, after each of those sentences, your friend has a footnote citing to primary

sources from which your friend got the language or ideas for the sentence, and you use those same footnotes in your paper, again without citing to your friend's paper. You have plagiarized from two different parts of your friend's paper: his sentences and his footnotes. Your use of those four sentences from your friend's paper in your own paper constitutes plagiarism, *even though you cited to the same sources that your friend used*, because the underlying sentences are those of your friend, not you. Using your friend's sentences without crediting his paper is plagiarism even if it would normally not be proper to cite to secondary sources (like your friend's paper) rather than to the primary sources your friend cited in the footnotes. The only way to avoid the problem if you are not permitted to cite to secondary sources is to examine all of the original sources and prepare your own discussion of them without regard or reference to the thoughts expressed in your friend's paper. Even if you rewrite your friend's sentences so your sentences bear little resemblance to your friend's, you have borrowed your friend's ideas and have simply paraphrased them; so you still have to give credit to your friend's paper.

D. What Constitutes "Acceptable Paraphrasing"

It is possible to use the words or thoughts of another in your paper without using quotation marks to set them off if you have paraphrased those words or thoughts in an acceptable manner. What then constitutes an "acceptable paraphrasing" of another's work? Acceptable paraphrasing consists of a restatement by the writer *in his or her own words* of another writer's ideas.

- To constitute such an acceptable paraphrasing, however, your words and sentence structure, and even sentence order, cannot closely resemble those used by the other source. Rather, someone reading your paper and comparing it with the original should be able to readily conclude that you have materially supplemented the other's words and ideas with your own.
- While an acceptable paraphrasing does away with the need to put the other writer's words or thoughts in quotes, it does *not* dispense with the requirement that your paper include due reference(s) to the other work as the source of your ideas.
- In that regard, your citation(s) to that other writing must be made with sufficient accompanying explanation to enable the reader to determine what portion of your work is intended as a paraphrase of the other. For example, if your citations and explanations strongly suggest that much less of your work has been drawn from another source than is in fact the case, it is possible that you will be found to have intended to conceal the extent of that other work's contribution to your own. The likelihood of that happening increases as the extensiveness of the paraphrasing and the lack of clarity of your citations and explanations increases.

E. Ethical Limitations on Consulting Other Persons or Sources

Except in the case of take-home or other out-of-class examinations, your consultation with another person for purposes of obtaining ideas to be used in a covered writing is ethically acceptable, unless the teacher for whom the writing is being prepared expressly provides otherwise. However, collaboration in the actual writing of a paper to any extent is ethically unacceptable on the part of all collaborators, unless the teacher otherwise expressly provides.

- For example, your use of any writing, dictation, or other form of communication

prepared for you or for anyone else by another and presented by you as your own work is unethical and violates this plagiarism policy.

- Likewise, except as provided in section III.B below, your use of any writing or other form of communication taken from the Internet or some other source and presented by you as your own work is unethical and violates this plagiarism policy.
- Moreover even when consultation or collaboration with others is ethically permissible, disclosure of those whom you consulted or collaborated with and the extent that their ideas contributed to your work is ethically required, if your writing is based on ideas suggested by such source to any substantial extent.

F. Citation to Sources

Finally, a word about citation to sources. A citation is meant to be more than an empty gesture. Rather, a citation by you to a source in a writing covered by this policy means that you have actually read that source (or, at a minimum, that portion of it that you have cited, together with any other portions needed to place the cited portion in proper context), unless you explicitly indicate to the contrary.

- Thus, citation to any source that you have not actually read, without such a disclaimer, is unethical and violates this plagiarism policy. For example:
 - o *Freedman V. Briarcroft Prop. Owners*, 776 S.W.2d 212, 218 (Tex. App.—Houston [14th Dist.] 1989) (citing *Jay-Lor Textiles v. Pacific Compress Warehouse*, 547 S.W.2d 738 (Tex. Civ. App.—Corpus Christi 1977)). This citation indicates you have read *Freedman*, but not necessarily *Jay-Lor*.
 - o *Jay-Lor Textiles v. Pacific Compress Warehouse*, 547 S.W.2d 738, 739 (Tex. Civ. App.—Corpus Christi 1977), *cited in* *Freedman V. Briarcroft Prop. Owners*, 776 S.W.2d 212, 218 (Tex. App.—Houston [14th Dist.] 1989). This citation indicates you have read both *Jay-Lor* and *Freedman*.
- On occasion, it may be infeasible or impractical to read a primary source that is referred to in a secondary source—such as where the primary source is not available. In such cases, you must make it clear that you read the secondary source only, by citing, or quoting from and citing, the secondary source citing the primary source, as illustrated in the first citation example above, or by citing, or quoting from and citing, the secondary source only.

III. Application of Standards

This section of the policy applies the precepts set out in section II to particular types of writing assignments that you are apt to encounter in law school.

A. Take-Home or Other Out-of-Class Papers or Examinations¹

In the case of take-home or other out-of-class papers or examinations, only sources specified by the teacher may be used. Your answers must be prepared in conformity with all of the minimal ethical standards for covered writings set out above in section II, unless your teacher otherwise specifies.

The inclusion of any materials in your answer derived from unapproved sources or discussion with other persons are ethically unacceptable, unless your teacher otherwise specifies.

B. Instrument Drafting

The drafting of instruments, such as pleadings, wills, trusts, contracts, statutes, and the like, may be done by use of relevant forms or drafting products prepared by others. Such use is permissible and is generally desirable unless the teacher expressly indicates otherwise. Thus, no ethical question is involved except in the case of unauthorized reference or use. The extent to which you must identify the sources that you used will vary, depending on what your particular teacher instructs you to do.

However, the use of forms and other drafting products will in all instances require individual adaptation to meet the needs of the particular situation. Frequently, other additions will be desirable as well. The extent to which such adaptation and additions are desirable will depend on the circumstances of the particular situation. Thus, the adoption in full of a single form or other product with only the addition or substitution of identifying names is academically unacceptable unless expressly authorized by the teacher. The preceding sentence shall not apply to routine nonsubstantive documents that do not require research or analysis, such as affidavits of service, returns of service, verifications, signature blocks, notices of deposition, and the like.

1 Traditional final examinations, while not covered by this policy, are subject to their own academic honesty standards, as set out in section 3.01 of the Honor Code.

C. Reports

Reports, such as book reviews and similar critiques, by nature consist to a substantial extent of a summary of a primary source or sources. Extensive paraphrasing of such sources is ethically permissible without specific reference to the source, although specific identification is academically desirable for purposes of clarity. Whenever verbatim quotations are made from a primary source, appropriate identification of the source as described in section II, is required, and failure to provide the appropriate identification is a violation of this policy.

In addition, in preparing your report, some analysis and evaluation of relevant primary source(s) usually will be academically required. That analysis and evaluation should contain your own substantial contribution, and may contain the thoughts of other sources that you reviewed as well. In the event that others' thoughts are used, they must be appropriately identified as provided in section II.

D. Briefs

Briefs are summaries of the law on particular issues. Accordingly, it is academically desirable to provide in a brief as thorough a summary as is practical. The entire brief must be the product of your own efforts, along with those of any other persons with whom you are allowed to collaborate by your teacher, and all primary and secondary sources used in preparing it must be documented in accordance with the ethical standards set out in section II above. However, to the extent that a research digest is used merely for purposes of finding citations to primary or

secondary sources, reference to this digest is not ethically required. In the event that a research digest is relied upon for purposes other than obtaining references to primary sources, due reference to such digest is ethically required by appropriate quotation from or paraphrase of the relevant portion, and by citation thereto.

An academically acceptable brief should also contain elements of analysis, organization, policy, and persuasive argument. Any of these elements may be derived from other sources, to the extent permitted by your teacher. In the event that you use such sources, due reference to them in accordance with the ethical standards set out in section II above is ethically required.²

² Briefs can also be ethically or academically unacceptable for reasons other than those set out in this policy. For example, false or misleading references (1) to the record in the matter, (2) to authorities that you cite, or (3) to arguments or authorities advanced by your opponent are all both ethically and academically unacceptable.

E. Seminar or Other Research Papers

Seminar or other research papers are the most advanced and sophisticated legal writing that most of you will be called on to produce in law school. Such papers generally differ from briefs in a number of respects, including the greater emphasis they place on open-ended legal and policy issues, the greater demands they place on your ability to develop and articulate creative solutions to those issues unconstrained by precedent, and the greater quantitative and qualitative research demands they make on you. Because of the extensive demands such papers make on students, they are the most common source of instances of plagiarism, but because they are the most valued form of writing by the faculty, they are the most rigorously prosecuted violations as well. You need to scrupulously comply with all of the ethical standards and academic requirements set out in section II in preparing such papers.

F. Law Journal Notes and Comments

Law journal notes and comments, like seminar or other research papers, require the highest degree of compliance with the ethical and academic standards set out in section II above. Because such works are so carefully reviewed, instances of plagiarism in connection with them very likely will be detected. However, if the plagiarism is not discovered until after publication of the note or comment involved, the reputations of both the author and the Law Center will be damaged. This possibility leads the Law Center to be especially rigorous in prosecuting alleged instances of plagiarism involving law journal notes and comments, and counsels special vigilance on the part of students preparing such works to assure you understand and comply with all aspects of the Law Center's plagiarism policy.

IV. Conclusion

This policy statement is designed to address the major issues that have arisen at the Law Center concerning what constitutes plagiarism, both from an ethical perspective and from one focusing on academic acceptability. Because the standards of ethical acceptability have been articulated

at such length and are reasonably certain in their application, it is expected that henceforth a plea of ignorance or mistake as to their requirements on your part will rarely, if ever, be acceptable.

The purpose of this policy—as well as how it will operate in practice—is to provide clear standards as to what constitutes plagiarism to obviate a plea of ignorance of the wrongfulness of particular conduct in all but the most rare and extreme situations. If you are confronted with a situation that you cannot reasonably resolve by reference to this policy, you should seek any needed clarification from the teacher who gave you the writing assignment *before turning in any draft or final paper required by that teacher in connection with the assignment*. Although teachers should endeavor to be clear as to their requirements, ultimately the burden is on *you* to (1) carefully review this policy *before* beginning any assignment to which it applies; (2) consult it *regularly and repeatedly* as you prepare your assignment to make sure that you are acting in conformity with it; and (3) if you have any doubts on that score, resolve them with your teacher *before* turning in the assignment.