

# LAW STUDENT PLAGIARISM

You can't afford it!

plagi•arism, *n.* Taking the literary property of another, passing it off as one's own without appropriate attribution, and reaping from its use any benefit from an academic institution.

## I. PLAGIARISM: FAULTY ATTRIBUTION

To help you avoid plagiarism and learn appropriate attribution, consider the examples based on the following law review excerpt:<sup>1</sup>

A “handicap” could be defined by listing certain traditionally recognized handicapping conditions, or a legislature may choose to provide a more comprehensive list of the types of disabilities that will be considered “handicapping conditions” in that state. These approaches are problematic, however, because they can lead to legislation that does not include certain groups of handicapped people simply because the legislature was not aware of a particular handicap.

Maureen O'Connor, Note, *Defining “Handicap” for Purposes of Employment Discrimination*, 30 ARIZ. L. REV. 633, 636 (1988).

**Rule 1:** You must acknowledge direct use of someone else's words. Example: *The term “handicap” may be defined in general terms, or a legislature may choose to provide a more comprehensive list of the types of disabilities that will be considered “handicapping conditions” in that state.* ★

To avoid plagiarism, you need quotation marks around the words printed in bold, and a citation at the star. When you **quote or copy words directly** from the source, you must use quotation marks and give a citation.

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<sup>1</sup> Excerpt and Examples used by permission of Wake Forest University School of law.

**Rule 2:** You must acknowledge any words you paraphrase from any source. Example: *It is problematic to define a handicap by providing a list of the types of disabilities that will be covered because certain groups of handicapped people might be excluded.*★ *The legislature might simply be unaware of certain handicaps.*★

To avoid plagiarism, you need citations at the stars. Even if you change a few words and mix up the order of the source sentence, you must give a citation. It is permissible to **paraphrase** only if you give proper attribution.

**Rule 3:** You must acknowledge your direct use of someone else's idea. Example: *The term "handicap" is difficult to define in a statute. Any attempt to provide a complete list of covered disabilities, however, will be inadequate; some conditions will inevitably be omitted.*★

To avoid plagiarism, you need a citation at the star because it **expresses the same idea** as the source article. Unlike the first two examples, comparing the two statements side by side might not yield conclusive proof of plagiarism. But if you borrowed this idea from the source, you must include a citation. If you are ever in doubt, you should err on the side of giving credit; remember that a citation increases persuasiveness.

**Electronic databases:** Material obtained through **any source** must be attributed, including material obtained from electronic databases such as LEXIS®–NEXIS®, Westlaw®, and the Internet, etc. Bluebook Rule 18.

## II. CAREFUL LEGAL SCHOLARSHIP

**1. You should acknowledge your source when your own analysis or conclusion builds on that source.** Example: *When defining statutory terms, legislators should not attempt to draft a complete list specifying everything the statute is intended to cover. Such lists will inevitably be incomplete; someone will later make a claim that the legislators did not anticipate. Further, the statutory list may quickly become outdated.*★

To be a careful legal scholar, you should cite the source at the star, preceded by the signal "See" (pursuant to Bluebook Rule 1.2). Legal writers often **build on other sources** to arrive at their own analysis or conclusion. Sometimes a source may trigger a related idea. In these instances, even when there is no inference of plagiarism, citation to the original source, with an appropriate signal, should be included.

**2. You should acknowledge your source when your idea about a case came from a source other than the case itself.** Assume, for example, that the law review excerpt above led you to the following idea about the *Arline* case. Example: *Arline illustrates that it is possible for the statutory definition included in section 504 of the Rehabilitation Act to be construed in such a way as to bring many handicapped individuals within its reach.*★ *School Board v. Arline*, 480 U.S. 273 (1987).

To be a careful legal scholar, you should cite not only to the case but also to O'Connor's law review note, including the page number where she discusses *Arline*, even though you definitely would have gone on to read *Arline*. The question of what to do when you cite a case mentioned in another source is complex; you'll discuss that question in legal writing class.

### III. PLAGIARISM: UNAUTHORIZED COLLABORATION

**Collaboration:** Students may share work products only up to the point that their professor authorizes team work. Without the professor's authority, use of another student's written work is plagiarism.

**Law school's unique feature:** Students are expected to use direct quotations and paraphrases because referring to cases and articles both enhances an argument's authority and provides appropriate credit. Even matters considered "common knowledge" are generally expected to be attributed.

**After law school:** Practicing lawyers, like law students, depend on legal citation to add authority and credibility to their arguments. However, attorneys frequently collaborate and borrow language from state bar forms and firm file banks without documentation because their goal is a specific result, rather than individual credit. When lawyers write law-review articles or CLE materials, they must adjust to expectations concerning careful source attribution.

### IV. PLAGIARISM: POSSIBLE SANCTIONS

Sanctions for plagiarism may be academic or disciplinary or both. Specific sanctions may include:

- Failing grade
- Permanent notation on student record
- Temporary notation on student record
- Public reprimand
- Private reprimand
- Denial of certification for moral fitness for the bar
- Suspension
- Expulsion
- Combinations of the above

[Source: The Legal Writing Institute, 950 Broadway Plaza, Tacoma, Washington 98402-2235. Adapted with permission.]