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Law School Plagiarism: A Measured Solution for an Unmeasured Problem

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INTRODUCTION

It is ironic indeed for a profession that relies so heavily on precedent and repetition to punish its students for employing those very traits. While creativity and originality are typical academic virtues, it is safe to say that both are disfavored by real-world courts, all of which revere familiar redundant, replicated language. Even when praised by the judiciary, originality rarely succeeds.

Under the "precedent" umbrella, language that is copied from generation-to-generation wins cases. In fact, getting creative or taking literary liberties with the precise words of cited authority may even lead to severe ethical consequences and costly sanctions. Innovative arguments and superior writing have value; but in the last analysis, courts are required to honor precedent, not originality. A practitioner-realist

* Professor of Law. I especially want to thank Dean Kevin Marshall and Zachary Simpson, in addition to Josh Effron for the intelligence, efforts and research regarding relevant plagiarism policies for the ABA approved law schools.

would say that creativity is for talent shows, not legal presentations. Stated differently, in the real world, copying too often makes perfect sense.[1]

In the transactional arena, the story is relatively the same. The perpetuation of boilerplate language is standard. For lengthy documents and contracts, in particular, creativity is the last thing that busy lawyers are expected to anticipate. In fact, departures from common terminology and language are justifiably viewed with suspicion and scorn.

For the experienced practitioner, contracts, license agreements, wills, trusts, negotiable instruments, and virtually every conceivable legal document, it would seem more appropriate to footnote or otherwise call attention to language that was *not* copied or derived from a form book.[2] There may be some required originality to suit a minority of specific circumstances, but for the most part, tried and true repetitive boilerplate language rules the practitioner's real world. In other words, copying is the expected, valued norm, which seems to imply that a mere utterance of the word "plagiarism" is a hollow, worthless offense for the experienced practitioner. Indeed, the insertion of new or altered language into a lengthy *standard* agreement is more likely to draw ire than praise, particularly from unsuspecting fellow attorneys who might consider the language to be deceptive or even fraudulent.[3]

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1. *See* Peter A. Joy & Kevin C. McMunigal, *The Problems of Plagiarism as an Ethics Offense*, 26 CRIM. JUST. 56, 57 (2011):

> Copying by lawyers in briefs and pleadings from the work of others bears a deceptive superficial similarity to plagiarism. It is thus tempting for ethics authorities to label and denounce such copying as plagiarism without examining whether such labeling and classification make sense. Our view is that the better practice is to avoid labeling and treating copying by attorneys in the context of litigation filings as plagiarism. It is also preferable not to treat such copying, even if not openly acknowledged, as an ethics violation in and of itself. Rather, the primary focus should be on (1) the legal and factual merits of the positions advanced in the filing; and (2) the competence and diligence of the lawyer who signed the filing.

See also Marilyn V. Yarbrough, *Do As I Say, Not As I Do: Mixed Messages For Law Students*, 100 DICK. L. REV. 677 (1996) (describing a "Widening Gulf" between the way academia and practitioners view plagiarism).

2. Cooper J. Strickland, *The Dark Side of Unattributed Copying and the Ethical Implications in the Legal Profession*, 90 N.C. L. REV. 920, 937 (Mar. 2012) ("In fact, failing to use boilerplate language or form contracts in many transactional settings would unnecessarily forego efficiencies purposefully created by this form of copying, including cost-effective drafting, decreased preparation and review time, development of commonly accepted understandings within practice communities, and case law interpretations of contract language."); Claire A. Hill, *Why Contracts Are Written in "Legalese"*, 77 CHI.-KENT L. REV. 59, 70–71 (2001).

3. K.K. DuVivier, *Nothing New under the Sun—Plagiarism in Practice*, 32 COLO. L. 53, 54 (2003):

> The legal profession was built on borrowing, and to the extent it forwards the goals of the court and saves clients money, there is no reason to discourage it. Shakespeare gained fame by borrowing, but his primary goal was to entertain. Similarly, attorneys may

Throughout many years of practicing law, after having stepped into countless courtrooms, I have yet to see an attorney criticized for the verbatim repetition of *any* legal, principle, thought, or idea. By contrast, those arguments labeled by the judge as "unique," "different," and even "colorful," by no means signaled victory. On the contrary, they always seemed to appear in the dissent portion of a reported case.

As law schools continue to shift emphasis from abstract academic concepts to real-world practice (i.e., experiential learning), the line between plagiarism and best practice becomes less precise.[4] Always compounding the problem is the lack of precise definitions for plagiaristic misconduct. And, superimposed on that problem is the notion that all types of plagiarism are equally culpable and should, therefore, be punished similarly. Such a system seems to offend all manner of fair play and substantial justice.[5]

Some more fatalistic educators suggest that every writer plagiarizes. They claim that the presence of borrowed work is always a matter of degree.[6] This thesis does not pragmatically buy into that philosophy even though it has a degree of truth. To totally abolish punishment for academic plagiarism, because of the pain inflicted upon unsuspecting students, should be as unacceptable as those rules that broadly punish all forms of copying by grinding them into a single undefined crucible. Even if academia had the power to immunize copying within its borders, it could not abolish federal copyright laws and their own plagiaristic prohibitions.

To be clear, despite the harm caused by overzealous professors with overzealous software,[7] this Article does not advocate eliminating punishment for plagiarism in law school. Even though such a position may have some merit for the practitioner, the *study* of law is another matter. Moreover, no educator of whom I am aware has ever advocated

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borrow when their primary goals are to develop thoughtful and comprehensive arguments. If sharing ideas is for the gain of the legal profession, rather than for personal gain, borrowing can promote not deceit, but enlightenment.

4. *See generally* Yarbrough, *supra* note 1.

5. "Fair play and substantial justice" was proudly *stolen* from *International Shoe*, which, in turn, stole the very same phrase from *Milliken*. *See* Int'l Shoe v. Washington, 326 U.S. 310, 316 (1945); Milliken v. Meyer, 311 U.S. 457, 463 (1940).

6. *See e.g.*, RALPH WALDO EMERSON, LETTERS AND SOCIAL AIMS 130 (1883) ("Our debt to tradition through reading and conversation is so massive, our protest or private addition so rare and insignificant, and this commonly on the ground of other reading or hearing, that, in a large sense, one would say there is no pure originality. All minds quote.").

7. Regarding Turnitin Software, *see* Carl Straumsheim, *What Is Detected?*, INSIDE HIGHER ED. (July 14, 2015), https://www.insidehighered.com/news/2015/07/14/turnitin-faces-new-questions-about-efficacy-plagiarism-detection-software [https://perma.cc/4TT4-DQJF94B3-EGN3] ("Plagiarism detection software from vendors such as Turnitin is often criticized for labeling clumsy student writing as plagiarism. Now a set of new tests suggests the software lets too many students get away with it.").

the position that learning best occurs by way of repetitious copying from other students or writers.

Students admittedly overstep their bounds; they are not all saints. Without sanctions, there are those who would copy material for every assignment, from the web or other students. But more numerous are those students legitimately confused and justifiably uncertain about their obligations, and with good cause. Plagiarism rules among law schools are varied, inconsistent, and unacceptably vague. Like poorly drafted laws, they should be clarified, not abolished.

This thesis proposes that, like homicide or any other complex misconduct, plagiarism must be better defined, and should entail varying degrees of guilt and culpability ranging from benign to severe, and even justifiable. Moreover, the need to better define plagiarism seems to apply to all of academia, but the failure to do so with respect to law schools is made more unacceptable by the legal profession's constant use of copied precedent and boilerplate language.

As we proceed, the reader should always bear in mind that we are discussing an offense that often involves more than a mere failing grade.[8] Indeed, it can be career-ending.[9] And, unlike a student's criminal misconduct that can often be expunged, a charge of plagiarism could conceivably follow one for a lifetime. Notably, unlike law students, other undergraduates can steer clear of topics that might place them in harm's ill-defined way. A law student, however, has no such option unless he or she happens to be authoring a new kingdom of fictitious, hypothetical laws.

I. PLAGIARISM'S PROBLEMS

The lack of a standard definition for plagiarism is particularly egregious and potentially very stressful for law students. The undefined offense, with its arbitrary range of punishment, cannot help but create fear, uncertainty, a chilling of speech, and ironically, restraint for the same originality that rules against plagiarism pretend to foster.

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8. Based upon an examination of rules from the various law schools (many of which are referenced and cited herein), in addition to a failing grade, we might add: suspension, notations on the student's records (temporary or permanent), public or private reprimand, denial of a certificate of moral fitness, and denial of the right to sit for the bar examination. In addition, we might append humiliation and the specter of criminal culpability. *See generally* Audrey Wolfson Latourette, *Plagiarism: Legal and Ethical Implications for the University*, 37 J.C. & U.L. 1 (2010).

9. *See* Roger Billings, *Plagiarism in Academia and Beyond: What is the Role of the Courts?*, 38 U.S.F. L. REV. 391 (2004) ("Careers are ruined because plagiarism is fiercely policed in universities as if it is one of the seven deadly sins. Reacting to the dishonest nature of plagiarism, university administrators drum both student and teacher plagiarizers out of the academy."). Billings notes that not only are lawyers and judges the biggest plagiarizers, but they exceed all others in footnoting. *Id.* at 396–97.

A. Lack of Definition and Precision

Plagiarism is admittedly difficult to define.[10] The descriptions are as varied as the number of entities that punish their existence. Adding to the confusion and disparities is the manner in which punishment is determined by individual instructors.[11] Most of the anti-plagiarism rules are quite *big* with respect to menacing language, but *short* on specificity and guidance. Plagiarism has been labeled unethical,[12] tortious,[13] infringing,[14] and even criminal.[15] Enough to scare any conscientious student.

For Black's Law Dictionary, it is: "The act of appropriating the literary composition of another, or parts or passages of his writings, or the ideas or language of the same, and passing them off as the product of one's own mind."[16] More concise, but equally scarce in guidance, the Legal Writing Institute defines "Law School Plagiarism" as: "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."[17]

Under certain circumstances, uncertainty in exchange for simplicity is legislatively and pragmatically justifiable. The Sherman Anti-Trust Act, for example, provides simplicity and generality while carrying severe punitive sanctions.[18] The Act's simplicity, however, is arguably justified

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10. See Appendix A, consisting of a wide variety of different plagiarism policies for ABA-approved laws schools. Few, if any of the schools' plagiarism policies are identical or similar to others. For an understated assessment, see David E. Sorkin, *Practicing Plagiarism*, 81 ILL. B.J. 487, 487 (Sept. 1993) (illustrating that, for the author, plagiarism was not "*easy*" to define). For the many law schools in the United States, it would be difficult to find two identical definitions.

11. Ralph D. Mawdsley, *Plagiarism Problems in Higher Education*, 13 J.C. & U.L. 65 (1985):
> The college or university may have a central plagiarism statement and handle infractions solely as institutional disciplinary or academic violations, or both. On the other hand, there may be an institutional policy but enforcement is left to individual faculty through the academic process. As a further variation, a student who has plagiarized may face both institutional and faculty penalties. Finally, the creation, interpretation and enforcement of plagiarism policies may be left solely to each faculty member with the potential for a variety of policies equal to the number of faculty members.

12. Strickland, *supra* note 2, at 922.

13. Billings, *supra* note 9, at 393 (considering plagiarism tantamount to the "tort of misappropriation").

14. *See generally* 17 U.S.C. § 101, *et. seq.*

15. NEW YORK UNIVERSITY SCHOOL OF LAW, PLEDGE OF ACADEMIC HONESTY 26–27 (2018), http://www.law.nyu.edu/academicservices/pledge [https://perma.cc/7QNE-UEFZ] (hereinafter NYU PLEDGE OF ACADEMIC HONESTY).

16. *Plagiarism*, BLACK'S LAW DICTIONARY (9th ed. 2009).

17. LEGAL WRITING INSTITUTE AT MERCER UNIVERSITY SCHOOL OF LAW, LAW SCHOOL PLAGIARISM V. PROPER ATTRIBUTION, http://law.tamu.edu/docs/default-source/registrar-documents/plagiarism.pdf [https://perma.cc/WPR3-5KPG].

18. *See* 15 U.S.C. § 1 ("Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal.").

because greater specificity would generate loopholes and circumvention. Schools seek similar simplicity regarding plagiarism. Unfortunately, there is a large distinction between a rule that provides thousands of federal cases for guidance, and one that, instead, gives us hundreds of law professors shooting from unfamiliar hips. In other words, simplicity without guidance and uniformity will not yield consistency or fairness.

While cheating and dishonesty should indeed raise the threat of dire consequences for students, by contrast, an academic institution should never curtail nor restrain creative written expression through ambiguous, undefined offenses. Moreover, preachers of due process and legal precision should tread carefully when imposing career-ending sanctions for offenses bathed in ambiguity.

Without greater clarity, we will never be certain about the number of legitimate, original ideas that are regularly suppressed due to fear on the part of students–legitimate fear, to be sure—that their original ideas may have been mentioned or alluded to in some obscure writing.[19] The punishment for a simple miscalculation can include expulsion, condemnation, or permanent branding. Adding to this egregious suppression is the knowledge that students may be wrongfully charged.

To better guide the student, it should be stated that there is nothing per se wrong with brevity or simplicity as long as some form of clarification is available. The definition of plagiarism by the Legal Writing Institute,[20] is not atypical in its brevity. Likewise, consider the plagiarism policy of Louisiana State University (LSU): "Plagiarism is the unacknowledged incorporation of another person's work in one's own work submitted for credit or publication (such material need not be copyrighted)."[21]

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19. Terri LeClercq, *Failure to Teach: Due Process and Law School Plagiarism*, 49 J. LEGAL EDUC. 236, 236 (1999):

> Law schools do not explicitly teach their students what plagiarism is and how to avoid it. Instead, most schools simply offer up a blanket prohibition buried in an honor code distributed on—and forgotten after—the first day of class. They justify this perfunctory treatment on the basis of two assumptions: first, that students arrive at law school understanding the rules of scholarship and plagiarism, and second, that there is very little actual plagiarism by law students. Both these assumptions are fundamentally flawed. Students have not been given consistent instructions on how to avoid plagiarism, and as a result they often stumble into accidental plagiarism that may jeopardize their academic and professional careers.

20. *See* LEGAL WRITING INSTITUTE AT MERCER UNIVERSITY SCHOOL OF LAW, *supra* note 17.

21. LOUISIANA STATE UNIVERSITY SCHOOL OF LAW, CODE OF STUDENT PROFESSIONAL RESPONSIBILITY 2 (2020), https://law.lsu.edu/academics/files/2020/08/Code-of-Student-Professional-Responsibility-Title-IX-updated-August-2020.pdf [https://perma.cc/3UA2-G4L2]. Ironically, this very policy appears, almost verbatim, in the policies of other institutions. *See* THE UNIVERSITY OF TEXAS AT ARLINGTON COLLEGE OF ENGINEERING, STATEMENT ON ETHICS, PROFESSIONALISM, AND CONDUCT FOR ENGINEERING STUDENTS, https://crystal.uta.edu/~cse6339/Others/EthicsStmt.pdf [https://perma.cc/7MQP-MMBZ] ("Plagiarism is the unacknowledged incorporation of another person's work into work which the

The LSU policy is relatively simple. The failure to include any mention of intent or scienter should nevertheless be disconcerting to students of due process. Its brevity seems similar to the previously mentioned Sherman Antitrust Act, which effectively relegates the real issues and questions to the seemingly endless litigation processes for those who can most afford it. At least the definition of the Legal Writing Institute employs verbs whose roots ("take" and "pass")[22] provide an active tense, which in turn arguably seems to imply the existence of an intentional act; less so with regard to LSU's use of the word "incorporation."

The failure to distinguish intentional misconduct from negligence or inadvertence should be per se questionable in nearly every academic setting, but in the due process laden environment of the law school, such a failure is particularly egregious. This failure is compounded that much more by the extraordinarily vague range of punishment available for the infraction.[23]

Harvard's methodology is interesting, commencing with a ubiquitous truism about its expectations.[24] Harvard basically states some things we

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student offers for credit."); *see also* UNIVERSITY OF ARKANSAS COLLEGE OF ENGINEERING, CIVIL ENGINEERING UNDER-GRADUATE STUDENT HANDBOOK 3 (2015–16), https://civil-engineering.uark.edu/_resources/2014-2015undergrdhandbook.pdf [https://perma.cc/S2T4-HTZL] ("EXAMPLES OF UNETHICAL CONDUCT . . . Plagiarism—that is, the unacknowledged incorporation of another person's work, either verbatim or in substance, in work submitted for credit."). Notwithstanding the almost identical language appearing elsewhere, however, there does not seem to be any acknowledgement of this in these institutions' plagiarism policies, nor a citation to the original writer of this wording, something that, if done by a student at one of these institutions, would have likely resulted in that student being charged with, and potentially expelled for, plagiarism.

22. *See generally* LEGAL WRITING INSTITUTE AT MERCER UNIVERSITY SCHOOL OF LAW, *supra* note 17.

23. *Id*.

24. HARVARD LAW SCHOOL, HANDBOOK ON ACADEMIC POLICIES § V(B) (2022–23), https://hls.harvard.edu/wp-content/uploads/2022/07/HLS_HAP.pdf [https://perma.cc/9NF7-8QPE]:

> Preparation of Papers and Other Work—Plagiarism and Collaboration:
> All work submitted by a student for any academic or nonacademic exercise is expected to be the student's own work. In the preparation of their work, students should always take great care to distinguish their own ideas and knowledge from information derived from sources. The term "sources" includes not only published or computer-accessed primary and secondary material, but also information and opinions gained directly from other people. The responsibility for learning the proper forms of citation lies with the individual student. Quotations must be properly placed within quotation marks and must be fully cited. In addition, all paraphrased material must be completely acknowledged. Whenever ideas or facts are derived from a student's reading and research, the sources must be indicated. In order to understand the requirement of and process for acknowledging all sources, students should familiarize themselves with the information in the Harvard Guide to Using Sources. The amount of collaboration with others that is permitted in the completion of work can vary, depending upon the policy set by the

already know, but as for avoiding trouble, it directs students to a different book—*The Harvard Guide to Using Sources*.[25]

This methodology is not atypical. Forgivable as most of Harvard's policy may be, this sentence is not: "Students who submit work without clear attribution of all sources, *even if inadvertently*, will be subject to disciplinary action."[26] To equate an inadvertent lack of attribution with intentional misconduct seems to offend common sense. Perhaps, the only sure way to avoid punishment involves footnoting every clause of every sentence. But if you do that, Harvard would deem you guilty of *Assembly Plagiarism*.[27]

Extreme care and perfect typing (so as to comply with "clear attribution") could never guarantee compliance. Students who submit legitimate work without "clear" attribution of "all" sources, even if inadvertently, would be subject to disciplinary action at Harvard. And, according to Harvard's handbook, which provides no distinctions whatsoever for severity among the various types of plagiarism, students who accidentally drop a footnote are likely to share a cell with hardcore cheaters.[28] Clearly, this isn't right. Moreover, students should not, as one author put it, be left "to puzzle over a statement in a handbook."[29] It is almost as if Harvard washes its hands of any legitimate attempts to

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> instructor or the supervisor of a particular exercise. Students should assume that collaboration in the completion of work is prohibited, unless explicitly permitted, and students should acknowledge any collaboration and its extent in all submitted work. Students who are in any doubt about the preparation of their work should consult the appropriate instructor, supervisor, or administrator before it is prepared or submitted. Students who submit work without clear attribution of all sources, even if inadvertently, will be subject to disciplinary action.

25. *Id.*

26. *Id.* (emphasis added).

27. *See* Kim D. Chanbonpin, *Legal Writing, the Remix: Plagiarism and Hip Hop Ethics*, 63 MERCER L. REV. 597, 601 (2012) (listing three types of plagiarism: "(1) plagiarism outright, (2) failure to properly attribute source materials, and (3) cut-and-paste plagiarism").

28. HANDBOOK ON ACADEMIC POLICIES, *supra* note 24, at 65–66.

29. James Mawdsley, *Plagiarism, Perception, and Practice*, 252 ED. LAW REP. 16 (2011) (footnotes omitted):

> (1) All educational institutions should have a clear and understandable policy on plagiarism, shared across all relevant departments. (2) Administrators should consider whether, and to what degree, intent will be a necessary element of plagiarism. (3) Faculty should be aware of the definition of plagiarism used by their school or college, and should be willing to report offenses. Administrators should take special care to ensure that part–time faculty are aware of the policy, as at least one study has shown part–time faculty and graduate students are less likely than full–time faculty to view plagiarism as a serious academic offense and consequently less likely to report it. (4) Most importantly, students should be instructed on the policy by their professors, rather than simply being left to puzzle over a statement in a handbook, if indeed they read the handbook at all. While such measures may not reduce instances of plagiarism, they may serve to close the gap between what teachers will permit and what students believe they are allowed to do.

make punishment fit its ill-defined offenses.

Labeling all instances of copying as equally blameworthy is no less antiquated than treating all forms of homicide as "murder." A "one size fits all" mentality would seem to encourage potential injustice for every offense. Ruin a potential career or ignore the offense; neither should be an attractive alternative for a responsible professor. Lack of a middle ground also impedes effective regulation. The vague definitions and *confessions of helplessness* on display throughout academia's websites currently suggest a collection of standards and sanctions ranging from inadequate to admittedly unenforceable.

If an offense is going to carry with it the stigma and consequences of a criminal prosecution, then the punishment should provide reasonable procedural notice and basic safeguards. A departure from an absolute liability standard would seem like a good place to start. Harvard is not alone in its obliteration of the intent requirement for establishing plagiarism. Another leading institution, the Loyola University Chicago School of Law not only eliminates "intent," but does so boldly and underlined.[30]

Other law schools are less statutorily inclined and perhaps more conversational. For St. John's University School of Law, the language dealing with plagiarism casually commences with labels of theft and misappropriation, after which details are set forth concerning the student's obligations. At least collaboration permitted by an instructor is acknowledged as a potential mitigating circumstance.[31]

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30. LOYOLA UNIVERSITY CHICAGO SCHOOL OF LAW, PLAGIARISM POLICY, https://www.luc.edu/media/lucedu/law/pdfs/PLAGIARISM%20POLICY%20GENERAL.pdf, [https://perma.cc/4ZMB-ELCZ]:

> Plagiarism is prohibited conduct under Section I(B)(1) of the *Loyola University Chicago School of Law Code of Student Conduct*. Students are expected to know the principles of plagiarism and the correct rules for citing sources. When a law student submits any written project such as an assignment to a professor, a submission to a student publication, an application for a scholarship or award contest, or writing samples for interviews, the student represents that he or she has complied with this plagiarism policy. Lack of intent is not a defense to a charge of plagiarism. Plagiarism is the use of words or ideas from another source without proper attribution to the original source. Lawyers and law students often reference other sources. However, it is critical, from the standpoint of both integrity and style, to appropriately identify and credit any excerpts, quotations, or paraphrasing of concepts drawn from any other source. Avoiding plagiarism requires appropriate use of citations. Every sentence that is not an original thought must be cited. The use of citations identifies for the reader when material is drawn from another source, as opposed to reflecting original thought. Though it may be accepted in other academic or professional programs, citing intermittently (for example at the end of paragraphs or sections) is insufficient in any of the written projects covered by this plagiarism policy.

31. ST. JOHN'S UNIVERSITY COLLEGE OF LAW, STUDENT HANDBOOK 53–54 (2022–23), https://www.stjohns.edu/sites/default/files/2022-07/2022%20-

Most rules and policies regarding law school plagiarism are so vague that they even fail to distinguish between written assignments calling for doctrinal analysis and those involving practice-related matters such as pleadings, complaints, or briefs.[32] In the world of real lawyers, virtually everything is borrowed.[33] Any lawyer who has actually practiced knows that there is little room for originality in the construction of pleadings. Most courts dictate every aspect of their paperwork, including type size, line numbering, fonts, upper versus lower case, etc. So, too, is the content determined by well-recognized forms and applicable rules.

To suggest that students should do anything *but* copy accepted language sometimes makes little sense and may be logically counterproductive. The rules of Michigan State University Law School seem to possess a unique appreciation for the problem. Students may be asked to draft forms, such as a will, a complaint, a contract, etc., as part of their work. Unless the instructor indicates otherwise, students are not expected to invent new forms. They may use another source, such as a form book or law office document bank, and make only the modifications called for by the problem presented. Citation to the source is not required unless so stated by the instructor. However, students may not use the work product of another student which was prepared concurrently or previously and submitted for credit in the same or in a different course at the law school unless expressly authorized by the instructor.[34]

LSU's policy regarding cheating, offering less guidance, considers the

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%202023%20Student%20Handbook%20%28Final%29.pdf [https://perma.cc/T2LT-R2HM]:

> Plagiarism is the misappropriation or theft of another's work and ideas. Students seeking admission to the legal profession must always take great care to distinguish their own ideas and knowledge from information, thoughts and ideas appropriated from other sources and to avoid even the appearance of impropriety in their oral or written submissions. Except as specifically authorized by the professor or person in charge of the course or activity, all work submitted in law school, whether produced as part of academic or extra-curricular activities, must be the work of the individual student. Each student has the responsibility to credit and cite appropriately any material prepared by others, or ideas obtained from others, contained in the student's written or oral presentations. A student must not submit work that is not the student's own without clear attribution for all sources. The professor or supervisor of each individual course or activity shall determine the amount of collaboration that is permitted in the completion of work. Students must assume that collaboration in the completion of work is prohibited unless explicitly permitted, and students must acknowledge any collaboration and its extent in all submitted work. Students who are in any doubt about the preparation of their work must consult the appropriate professor or person in charge of the course or activity before the work product is submitted.

32. As this Article demonstrates, there is a problematic variance between academic originality and the real world.

33. DuVivier, *supra* note 3.

34. MICHIGAN STATE UNIVERSITY COLLEGE OF LAW, PLAGIARISM POLICY, https://www.law.msu.edu/studentaffairs/handbook/plagiarism.html [https://perma.cc/6YE9-HZVY].

following to be a violation of its policies: "Consulting any attorney regarding the specifics of any written or oral presentation, unless authorized by the instructor."[35]

There may be some merit in requiring students to reinvent language that has been around for centuries; arguably it forces them to think through a problem and better understand the reason for the language's existence. But tying this potentially difficult drafting exercise to matters involving plagiarism adds nothing.

B. Lack of Proportional Punishment

The lack of predictable punishment results, in part, from a lack of proper definitions. The disparity of punishment for plagiarism is extreme and inconsistent, ranging from the mere lowering of a grade to suspension, expulsion, revocation-of-degree, or worse.

There is no justification for dispensing the same punishment to a student who clearly copies an entire work, and one who carelessly omits a footnote. Admittedly, a simple footnote, in certain instances, might be the only factor that separates plagiarism from proper attribution; after all, the lines were never that clear. But the inability to construct perfect definitions and absolute lines of delineation does not justify the current lazy "off with their heads" treatment for all manner of copying, nor does it justify the lack of a more measured system of sanctions.

Expulsion or suspension from law school constitutes severe punishment, entailing consequences that are often more permanent and detrimental than the fines or brief periods of imprisonment mandated by many misdemeanors. As law school professors tend to profess, the quality and precision of their rules and standards should exceed, not merely parrot, those of the legislative marketplace. Arguably, therefore, no student should be prosecuted under a rule that is, on its face, vague or ambiguous.

New York University Law School (NYU) labels plagiarism an "academic crime."[36] To its credit, the NYU Pledge of Academic Honesty

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35. LOUISIANA STATE UNIVERSITY SCHOOL OF LAW, *supra* note 21.

36. NYU PLEDGE OF ACADEMIC HONESTY, *supra* note 15:

> Cheating, plagiarism, forgery of academic documents, or multiple submissions of substantially the same work for duplicate credits, with intent to defraud. Plagiarism is an academic crime and a serious breach of Law School rules. Faculty and students are obligated to report cases of plagiarism to the Vice Dean for appropriate action. Among the possible sanctions for plagiarism are expulsion, suspension, grade reduction (including a grade of "FX" indicating a failure for plagiarism), and a statement of censure placed in the student's file. All disciplinary code violations will be made available to bar admission committees and others on proper waiver of confidentiality. A student's submission of work (including journal submissions) under the student's name constitutes a representation that the research, analysis, and articulation of the work is exclusively

requires specific culpability for a charge of plagiarism.[37] NYU also differentiates, by way of examples, conduct that better clarifies and helps define the subject matter.[38] But unlike the more-detailed proposal of this thesis,[39] NYU presents only a partial patchwork consisting of examples with varying degrees of what it labels "plagiarism." On the plus side, however, NYU makes clear the need for a more detailed differential diagnosis.[40]

II. PROPOSAL: CLARIFICATION AND MEASURED PUNISHMENT

Scientists learn about particles by breaking them apart. As lawyers, we similarly understand the meaning of theft or homicide by breaking them apart into their constituent components. Doing so permits measured justice, but significantly, it also permits a better understanding of the concepts. Axiomatically speaking, it is safe to state that punishment should always fit the crime. However, without differential analysis, attempts to do so would be futile.

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that of the student, except as expressly attributed to another in the work, and that it has been prepared exclusively for the particular course, seminar, or use entitling the student to credit. Plagiarism occurs when one, either intentionally or through gross negligence, passes off someone else's words as one's own, or presents an idea or product copied or paraphrased from an existing source without giving credit to that source. Although not within the definition of plagiarism, it is also forbidden, without permission of the instructor, to submit the same work or a portion of the same work for academic credit in more than one setting, whether the work was previously submitted at this school or elsewhere.

37. *Id.*

38. *Id.* The pledge of academic honesty provides examples of plagiarism:
Example 1: A student submits work in which portions are copied verbatim from another text without quotation marks and a citation.
Example 2: A student rearranges or paraphrases portions of the copied material, but still fails to put verbatim language in quotations or to cite the source for material that has been paraphrased.
Example 3: A student uses part of a paper previously submitted in another course, without the permission of the instructor to whom the student is submitting the paper.
Example 4: A student relies on the discussion of Source A that is contained in Source B but fails to cite Source B.
Example 5: A student takes notes from various sources onto notecards or a computer; the notes include both verbatim quotes and the student's own thoughts. The student transfers information from the note cards or computer without preserving quotation marks. Even if the student was pressed for time, or wrote the paper hurriedly, plagiarism has occurred.
Example 6: A student downloads work from the Internet and modifies it in important respects to conform to a specific topic without acknowledging the original source.
Students are advised to steer clear of the border line. It is never a problem to recognize that ideas and arguments were derived from another source or to use quotation marks for words or phrases borrowed from someone else's work. Where doubts exist, students should seek advice from their instructor.

39. *See infra* Part II.

40. *Id.*

There will always be those who claim that, just as *wrong* is wrong, *plagiarism* is plagiarism, and there should be no differential punishment; after all, as they say, "there is no such thing as being a little bit pregnant."[41] But those same people might, with equally questionable validity, claim that there should be no distinction between self-defense homicide and premeditated murder; after all, both involve the taking of a human life, and either way, the victim is equally dead. Such views, however, are not entirely rational.

Treating every type of plagiarism as an absolute liability offense makes no sense. Yet, that is precisely what several leading law schools do; and they do so boldly. In truth, a failure to distinguish intentional misconduct from inadvertent negligence is lazy and barbaric. The absolute liability concept, which ignores scienter, may work well for those who manufacture explosives and deal in dangerous products, but when applied to students exercising First Amendment rights, it does not. Moreover, the idea that plagiarism can be divided into varying degrees on the basis of culpability is not novel, rigorous, or lacking imagination.[42]

A. Definitional Structure

Differential diagnosis is admittedly difficult. But an inability to perfectly distinguish between proper attribution and plagiarism is not an excuse for lumping everything into one prohibited pile and lazily treating it all the same.[43] An imperfect attempt at differentiation is better than no attempt at all.

The failure to provide measured discipline is exacerbated by the failure to provide reasonable definitions. The following attempt at differentiation may not be perfect, but it is certainly better than painting all forms of plagiarism with the same brush.

Intent, often difficult to measure, is indispensable to fairness. Without it, punishment is easy to dispense by those who would casually impose a standard of absolute liability in all cases. That is clearly unfair. Yet, there are those rules that nonsensically enforce such results. Magnitude,

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41. While the genesis of this phrase is not entirely clear, 1960s activist H. Rap Brown is believed to have stated, "There's no such thing as second-class citizenship. That's like telling me you can be a little bit pregnant." *See, e.g.*, RICHARD W. LEEMAN, TO REACH THE NATION'S EAR: A HISTORY OF AFRICAN AMERICAN PUBLIC SPEAKING 152 (2023). In addition, in the 1987 film *Wall Street*, the character Lou Mannheim stated, "You can't get a little bit pregnant" (a statement ironically made to a *man*, Charlie Sheen's character Bud Fox).

42. *See* Chanbonpin, *supra* note 27.

43. Mawdsley, *supra* note 11, at 65 ("Instruction to students concerning the meaning of plagiarism and protection of the academic reputation of a higher education institution should mandate formation of rules identifying unacceptable conduct and explaining possible penalties for violations of acceptable conduct. Institutional approaches to [] plagiarism are varied and confusing."); *see generally* Napolitano v. Princeton Univ. Trustees, 453 A.2d 263 (N.J. Super. Ct. 1982) (involving a student at Princeton University found guilty of plagiarism).

grudgingly, is also a factor. Few jurists want to admit that stealing $500.00 worth of merchandise is less offensive than the theft of a million dollars, but it certainly is in our criminal justice system. Likewise, some will argue that forgetting a footnote should be punished just as if an entire paper were copied; that is nonsense.

Certain distinguishing predicates required for a differential diagnosis should require no debate. Consider, for example, the difference between intentional and inadvertent misconduct. Failing to draw that distinction is nothing less than medieval. Yet, even though law professors have no problem with that distinction when teaching criminal law and torts, quite mysteriously, the concept eludes them when authoring their plagiarism policies.

Other related and unrelated distinctions have significant justification for being factored into the creation of any intelligent plagiarism policy. Instead of providing detailed philosophical descriptions, it might be best to merely state the proposed policies in the form of varying degrees of culpability:

1st Degree: Grand Plagiarism (Gross Plagiarism)

First Degree Plagiarism is a fraudulent misrepresentation as to the originality of an entire written assignment, examination, or work. Minor changes or alterations tending to conceal or disguise origination shall not change the nature or severity of this Plagiarism Degree.[44]

2nd Degree: General Plagiarism

Second Degree Plagiarism is a willful misrepresentation as to the originality of a substantial portion of a written assignment, examination, or work.[45] This Plagiarism Degree includes, but is not limited to, improper collaboration and student-from-student copying where no collaborative effort is expressly permitted by the instructor.[46]

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44. The matters placed in the 1st Degree Category evidence a very high probability of fraudulent intent. For that reason, their separation from the degrees that follow is more a matter of expedience and practicality rather than true philosophical distinctions.

45. *See Plagiarism*, BLACK'S LAW DICTIONARY (11th ed. 2019). Our 2nd Degree is appropriately labeled "*General Plagiarism*" since it is closest to the language employed by educational institutions that (for purposes of convenience or otherwise) utilize a single definition to crunch together all manners, forms, and degrees of plagiarism, into a single provision. The use of the word "*willful*" (as opposed to "*fraudulent*") was designed to convey a slightly lesser degree of culpability; both terms clearly imply a level of conscious misrepresentation.

46. *See* NYU PLEDGE OF ACADEMIC HONESTY *supra*, note 36. Notice that the preceding two Degrees provide greater specificity than the single scenario posed in NYU's Example 1: "A student submits work in which portions are copied verbatim from another text without quotation marks and a citation." In particular, the word "portions" is quite indefinite. *See also supra* Section II.B.

3rd Degree: Misattribution

Third Degree Plagiarism is significantly using or paraphrasing the words or ideas of another without proper attribution or acknowledgment. This includes, but is not limited to, questionable paraphrasing or an omission of quotation marks where reasonably required.[47]

4th Degree: Inadvertent Non-Attribution

Fourth Degree Plagiarism is a negligent failure to properly cite, footnote, or otherwise credit the source of a relatively limited portion of a student's written work, where the subject matter of the source may reasonably be construed as either common knowledge or in the public domain.[48]

5th Degree: Malfeasance

Fifth Degree Plagiarism consists of practices that ignore or seek to circumvent the purpose and intent of the written assignment, examination, or work. The use of the label "*plagiarism*" for this particular level may arguably be unwarranted. The offenses include:

(a) **Inadequate Research**. Excessively using or quoting secondary sources without examining the primary sources referred to within the secondary materials,

(b) **Failure To Credit Self**. (Commonly referred to as "Self-Plagiarism") Failing to credit one's own self where multiple submissions of a student's work are submitted,

(c) **Assembled Sources**. (Commonly referred to as "Assembled Plagiarism") The willful cutting and pasting or otherwise assembling of portions of several properly attributed sources, without adding any significant original content, and

(d) **Disregarded Directions**. Willful violations of the instructor's written directions or assignments.[49]

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47. *See, e.g.*, Bright Tunes Music Corp. v. Harrisongs Music, LTD, 420 F. Supp. 177 (S.D.N.Y. 1976) (finding infringement even where it was done inadvertently). The distinction between the 2nd Degree and 3rd Degrees squarely confronts the unsettling notion that it is entirely possible for an infringement to occur innocently. Moreover, it seems somewhat arrogant to suppose that there as many original ideas in the field of law as there are law-related articles. Stated differently, it seems presumptuous that every non-plagiaristic law article is entirely original. Thus, the definition of 3rd Degree Misattribution should be intertwined with the notion of potential innocence. Yet, among many of our most renown legal-educational institutions, there is a presumption of guilt as opposed to innocence.

48. The Fourth Degree seems to highlight the injustice of punishing negligence with the same degree of severity as a crime or intentional injustice. Yet, failing to recognize the varying degrees of plagiarism seems to do just that. Arguably, this particular category would cover so-called "unintended plagiarism."

49. Hopefully, by the time we arrive at the Fifth Degree of culpability, the injustice of the "one

B. Punishment to Fit the Offense

"Zero tolerance" is a nice sounding, popular solution when applied to certain well-defined forms of misconduct that can be easily and fairly identified. However, it has no place in this discussion.[50] Plagiarism may be a bad thing, but its borders will always be unclear, thereby injecting a fear factor. Nor is the fear factor necessarily evil; it, too, serves a purpose. But in the realm of plagiarism, such fear may very well lead to unintended negative results and restraints.

In determining degrees of punishment, the state of mind of the accused should always be relevant.[51] Without degrees of culpability, everyone not engaging in Grand Plagiarism runs the risk of being overcharged.

Another relevant factor involves a clear distinction between an academic and non-academic setting. Offenses that warrant severe punishment beyond a mere failing grade are quite severe. For offenses strictly intra-academic, a reduction in grade or a failing grade provides an expansive range. Setting the appropriate punishment is partially an institutional prerogative.

III. PROPOSED DEFENSES

As is the case with most offenses, there normally exists a set of defenses that should either excuse or mitigate punishment for the subject misconduct. The following defenses shall, depending upon the circumstances of each given case, serve to either mitigate or excuse a violation of any of the preceding offenses:

(A) **Standard Legal Language Defense:** For assignments that require

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size fits all" mentality would have become obvious. Many might justifiably refer to our label of "*Academic Malfeasance*" as an overstatement for a simple failure to follow the teacher's directions. But regardless of the label, it makes no sense to punish the listed offenses in the same manner as the First or Second Degree plagiarism offenses described above. In fact, the "plagiarism" has intentionally been removed from the title the offense. *See* NYU PLEDGE OF ACADEMIC HONESTY, *supra* note 36; *supra* Part II.B.

50. *See, e.g.*, David Thomas, *How Educators Can More Effectively Understand and Combat the Plagiarism Epidemic*, B.Y.U. EDUC. & L.J. 421, 429 (2004) ("It is unlikely that educational institutions and individual educators can implement a zero-tolerance policy, because literal enforcement of such policies will almost always lead to inconsistency and excessive harshness in some individual applications.").

51. *Id.*:

> Once plagiarism and its extent have been identified, teachers and administrators often struggle with issues of appropriate sanctions. Here, the student's state of mind is relevant. True accidents in the technical search processes, inadvertent copying, and simple neglect seem to merit lighter sanctions. At the other end of the plagiarism scale, massive and deliberate copying and non-attribution, rising to fraud, might merit more severe penalties. . . . However meted out, the following sanctions are the most common in the academic setting: (1) grade reduction (2) rejection of paper or exam; failing grade for assignment or course (3) reprimand (4) temporary or permanent disqualification from employment or academic program (5) suspension,(6) expulsion or dismissal.

students to draft legal documents or instruments, other than briefs, no student shall be chargeable with any of the offenses listed above solely because that student employed generic or common language typically found in legal forms, or often referred to as "standard language" or "boilerplate."[52]

(B) **Thoughts or Ideas Defense:** No student shall be chargeable with any of the offenses listed above, unless the alleged material from which the student is alleged to have copied was in written or published form at the time of the alleged violation.[53]

(C) **Common Knowledge Defense:** No student shall be chargeable with any of the offenses listed above for failing to cite or credit information that can reasonably be construed as common knowledge or information that the reader might be presumed to have previously known.[54] (

D) **Assignment Ambiguity:** No student shall be chargeable with any of the offenses listed above, which arose from an instructor's unclear directions permitting limited attribution or collaboration. In the absence of other ambiguous language, however, the instructor's simple designation of an assignment as "original" shall be deemed sufficient notice that neither collaboration nor misattribution shall be permitted.[55]

(E) **Self-plagiarism:** No student shall be chargeable with any act of self-plagiarism (failure to cite or credit one's own prior work) unless the clear and unambiguous purpose of such self-plagiarism was to avoid additional required work.[56]

CONCLUSION

Plagiarism is serious. Too often, however, identifying and punishing this vaguely defined offense is a difficult and rocky academic road. Historically and presently, there has been a lack of proper definition, a lack of uniformity, and a failure to provide properly measured sanctions. Keeping plagiarism under a cloud of uncertainty will admittedly discourage potential offenders, but it will also impede academic freedom and expression.

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52. It would make no sense for someone to be charged with plagiarism for merely perpetuating recognized legal language that has been handed down for decades or even centuries.

53. This particular defense is more a matter of common sense than rigorous analysis.

54. In any evidentiary setting, terms such as "obvious" and "judicial notice" come to mind. Worry over the obligation to footnote such matters leads students to extreme measures, especially when they are instructed by their teachers to "just footnote everything." Ironically, however, footnoting everything will lead the student to violate Subsection "C" of the 5th Degree. *See supra* Part II.A.

55. Expressly permitting students to work together or otherwise collaborate under specified conditions is a particularly fertile area for problems involving unintended plagiarism. *See* ST. JOHN'S UNIVERSITY COLLEGE OF LAW, *supra* note 31.

56. Many students are not even aware that punishment exists for failing to cite oneself.

APPENDIX A*

ABA-APPROVED LAW SCHOOL (PLAGIARISM POLICIES)

	Law School	Detail	Proportional	Defense Boilerplate	Defense Ideas	Defense Known to All	Defense Ambiguity	Defense Self-Plagiarism
1	U of Arizona	9	7	0	0	0	0	0
2	Arizona State U	9	7	0	0	0	0	9*
3	Arizona Summit Law School	9	7	0	0	0	0	7**
4	U of Arkansas	9	8	0	0	0	0	9*
5	U of Arkansas Little Rock	9	7	0	0	0	0	7**

* Column 1: Law School: Listed are ABA-approved law schools in the United States.
Column 2: Degree of detail for the school's plagiarism policy ranges from 0 (No policy) to 9
Column 3: Is there proportional punishment, and if so, to what degree? (0 = No; Maximum = 8)
Column 4: Defense. Common legal language a/k/a boilerplate is exempt.
Column 5: Defense. Unwritten thoughts and ideas are exempt.
Column 6: Defense. Information commonly known or in the public domain is exempt.
Column 7: Defense. Ambiguity, vagueness, or a lack of clarity by the instructor creates an exemption.
Column 8: Defense. There is no punishment for self-plagiarism.

6	California Western	7	5	0	0	0	2***	7**
7	Chapman	7	8	0	0	0	0	9*
8	Golden Gate	7	8	0	0	0	0	7**
9	Loyola of California	7	8	0	0	0	2***	9*
10	Pepperdine	6	8	0	0	0	0	0
11	Santa Clara U	7	8	0	0	0	0	7**
12	South-western	6	6	0	0	0	0	9*
13	Stanford	0****	6	0	0	0	0	9*
14	Thomas Jefferson	6	4	0	0	0	0	9*

15	U of California Berkeley	4	8	0	0	0	0	9*
16	U of California Davis	4	7	0	0	0	0	9*
17	U of California Irvine	7	8	0	0	0	2***	9*
18	UCLA	7	8	0	0	0	0	7**
19	U of California Hastings	6	5	0	0	0	0	7**
20	U of La Verne	7	8	0	0	0	0	9*
21	U of San Diego	6	7	0	0	0	0	9*
22	U of San Francisco	6	6	0	0	0	0	7**
23	USC	4	4	0	0	0	0	9*****

24	McGeorge	4	4	0	0	0	0	9*****
25	Western State U	1	3	0	0	0	0	9*****
26	Whittier	6	8	0	0	0	0	7**
27	U of Colorado	4****	2	0	0	0	0	7**
28	U of Denver	9****	8	0	0	0	2***	7**
29	U of Connecticut	8	8	0	0	0	0	7**
30	Quinnipiac U	8	8*******	0	0	0	0	7**
31	Yale	4	3	0	0	0	0	7**
32	Widener	5	8	0	0	0	2***	9*

33	Washington College of Law	7	8	0	0	0	0	7**
34	Columbus School of Law	7	8	0	0	0	2***	7**
35	U of DC	7	8	0	0	0	0	9*
36	Georgetown	6	8	0	0	0	0	9*
37	Howard U	7	7	8	0	0	0	9*
38	George Washington	9	6	0	0	0	8	7**
39	Ave Maria	8	6	0	0	9	0	7**
40	Barry U	7	7	0	0	0	0	9*
41	Florida A&M	6	8	0	0	0	0	7**

42	Florida Coastal	9	8	0	0	0	0	7**
43	U of Florida	9	6	0	0	0	0	7**
44	Florida Internatio nal	7	8	0	0	0	0	9*
45	Florida State U	7	6	0	0	0	8	9*
46	U of Miami	7	8	0	0	0	0	9*
47	Nova South-eastern	7	8	0	0	0	0	9*
48	St. Thomas U	9	8	0	0	0	0	7**
49	Stetson	9	8	0	0	0	0	7**
50	Thomas M. Cooley	9	8	0	0	0	2***	9*

51	John Marshall	6	4	0	0	0	0	9*
52	Savannah	6	8	0	0	0	0	9*
53	Emory	6	7	0	0	0	0	9*
54	U of Georgia	6	7	0	0	0	0	9*
55	Georgia State U	8	6	0	0	0	2** *	7**
56	Mercer	8	7	0	0	0	0	9*
57	U of Hawaii	6	6	0	0	0	0	7**
58	U of Idaho	9	8	0	0	0	0	7**
59	U of Chicago	6	7	0	0	0	0	9*

60	Chicago Kent	6	6	0	0	0	0	9*
61	DePaul	6	7	0	0	0	0	7**
62	U of Illinois	8	8	0	0	0	0	7**
63	John Marshall	7	8	0	0	0	0	9*
64	Loyola U Chicago	7	8	0	0	0	0	9*
65	Northern Illinois	9	4	0	0	0	0	9*
66	Indiana U Maurer	8	7	0	0	9	0	7**
67	Indiana U McKinney	8	7	0	0	9	0	7**
68	Notre Dame	8	6	0	0	9	0	7**

69	Valparaiso	8	8	0	0	0	0	9*
70	Drake	7	8	0	0	0	0	9*
71	U of Iowa	8	6	0	0	0	2***	7**
72	U of Kansas	7	8	0	0	0	0	9*
73	Washburn U	8	8	0	0	0	0	7**
74	U of Kentucky	8	6	0	0	7	2***	9*
75	Brandeis	9	6	0	0	0	2***	9*
76	Northern Kentucky	9	8	0	0	0	0	9*
77	LSU	9	6	0	0	0	0	7**

78	Loyola U	8	6	0	0	0	0	7**
79	Southern U Law Center	8	8	0	0	0	0	9*
80	Tulane	9	7	0	0	0	2***	0
81	U of Maine	6	8	0	0	0	0	9*
75	U of Baltimore	7	8	0	0	0	0	9*
82	U of Maryland	7	7	0	0	0	0	9*
83	Boston College	6	6	0	0	0	0	7**
84	Boston U	8	7	0	0	0	0	7**
85	Harvard	2	0	0	0	0	0	7**

86	New England Law	7	7	0	0	0	0	9*
87	North-eastern U	7	7	0	0	0	0	9*
88	Suffolk U	4	3	0	0	0	0	0
89	Western New England U	7	8	0	0	0	0	7**
90	U of Detroit Mercy	8	8	0	0	0	0	7**
91	U of M	7	8	0	0	0	0	7**
92	MSU	6	6	9	0	0	0	9*
93	Thomas M Cooley Lansing	8	8	0	0	0	0	7**
94	Wayne State U	6	6	0	0	0	0	9*

95	Hamline U	2	6	0	0	0	0	(Unclear from Policy)
96	U of Minnesota	6	8	0	0	0	0	7**
97	U of St. Thomas	8	8	0	0	0	0	7**
98	William Mitchell	7	7	0	0	9	0	9*
99	U of Mississippi	7	7	9	0	9	0	9*
100	Mississippi College of Law	7	8	0	0	0	2***	7**
101	U of Missouri	7	8	0	0	0	0	9*
102	U of Missouri Kansas City	7	8	0	0	0	2***	9*
103	St. Louis U	7	8	0	0	0	0	7**

104	Washington U	7	8	0	0	0	2***	9*
105	U of Montana	7	8	0	0	0	0	0
106	Creighton U	4	2	0	0	0	0	0
107	U of Nebraska	2	8	0	0	0	2***	(Unclear from Policy)
108	U of New Hampshire	2	7	0	0	0	0	7**
109	Rutgers Camden	6	7	0	0	0	0	7**
110	Rutgers Newark	6	7	0	0	0	0	7**
111	Seton Hall	7	7	0	0	0	2***	7**
112	U of New Mexico	6	7	0	0	0	0	7**

113	Albany Law School							
114	Brooklyn Law School	6	7	0	0	0	0	7**
115	Cardozo	6	6	0	0	0	0	7**
116	City U of NY	7	6	0	0	0	0	7**
117	Columbia	7	7	0	0	0	0	7**
118	Cornell	7	7	0	0	0	0	7**
119	Fordham	8	6	0	0	0	0	7**
120	Hofstra	7	2	0	0	0	0	7**
121	New York Law School	7	7	0	0	0	0	7**

122	NYU	7	7	0	0	0	0	7**
123	Pace	7	8	0	0	0	0	7**
124	St. John's	7	7	0	0	0	0	7**
125	SUNY Buffalo	7	8	0	0	0	0	0
126	Syracuse	7	6	0	0	0	0	7**
127	Touro	7	7	0	0	0	0	9*
128	UNLV	8	8	0	0	0	0	7**
129	Campbell	7	6	0	0	0	0	9*
130	Charlotte School of Law	**SCHOOL CLOSED**						

131	Duke	2	7	0	0	0	0	7**
132	Elon U	7	7	0	0	9	0	9*
133	U of North Carolina	7	7	0	0	0	0	9*
134	North Carolina Central	7	8	0	0	0	0	0
135	Wake Forest	7	8	0	0	0	0	9*
136	U of North Dakota	7	7	0	0	0	0	9*
137	U of Akron	8	8	0	0	0	0	7**
138	Capital U Law School	7	8	0	0	3	0	7**
139	Case Western Reserve	8	7	0	0	0	0	7**

140	U of Cincinnati	6	6	0	0	0	0	9*
141	Cleveland State U	6	6	0	0	0	0	9*
142	U of Dayton	7	8	0	0	0	0	7**
143	Ohio Northern U	7	8	0	0	0	0	0
144	Ohio State Moritz	8	8	0	0	0	2***	9*
145	U of Toledo	7	6	0	0	0	0	0
146	U of Oklahoma	7	8	0	0	0	2***	7**
147	Oklahoma City U	6	6	0	0	0	0	9*
148	U of Tulsa	7	7	0	0	9	0	9*

149	Lewis & Clark	7	7	0	0	0	0	7**
150	U of Oregon	7	8	0	0	0	0	9*
151	Willamette U	6	8	0	0	0	0	9*
152	Duquesne	6	8	0	0	0	0	7**
153	Earl Mack Drexel	6	7	0	0	0	0	0
154	Penn State Dickinson	6	8	0	0	0	0	7**
155	U of Pittsburgh	6	7	0	0	0	0	9*
156	Temple	6	8	0	0	0	0	7**
157	Villanova	6	7	0	0	0	0	9*

158	Widener	8	8	0	0	0	0	9*
159	Roger Williams	2	4	0	0	0	0	(Unclear from Policy)
160	Charleston	7	4	0	0	0	0	9*
161	U of South Carolina	3	4	0	0	0	0	9*
162	U of Memphis	5	7	0	0	0	0	9*
163	U of Tennessee	2	7	0	0	0	2***	9*
164	Vanderbilt	4	7	0	0	0	2***	9*
165	Baylor	8	5	0	0	0	0	7**
166	U of Houston	8	8	0	0	0	0	9*

167	St. Mary's U	4	5	0	0	0	0	7**
168	U of SMU Dedman	4	8	0	0	0	0	7**
169	South Texas College of Law	8	8	0	0	0	0	7**
170	U of Texas	6	8	0	0	0	0	9*
171	Thurgood Marshall	7	8	0	0	0	0	7**
172	Texas Tech U	6	7	0	0	0	0	9*
173	Texas Wesleyan	4	8	0	0	0	0	9*
174	BYU	4	6	0	0	0	2***	7**
175	U of Utah	3	3	0	0	0	0	7**

176	Vermont Law School	7	7	0	0	0	2***	7**
177	Appalachian	4	7	0	0	0	0	7**
178	George Mason	7	7	0	0	0	0	0
179	Liberty U	7	4	0	0	0	2***	9*
180	Regent U	6	7	0	0	0	2***	7**
181	U of Richmond	5	7	0	0	0	2***	7**
182	U of Virginia	4	4	0	0	0	0	0
183	William & Mary	4	2	0	0	0	2***	7**
184	Gonzaga	7	7	0	0	0	0	9

185	Seattle U	7	7	0	0	0	0	7**
186	West Virginia U	7	7	0	0	0	0	9*
187	Marquette U	4	4	0	0	0	0	7**
188	U of Wisconsin	6	8	0	0	0	0	7**
189	U of Wyoming	6	8	0	0	0	0	7**

*The definition of plagiarism (or similar academic violations) used by these schools only mentions using the work of *others* without citation. It has thus been inferred that use of one's own work does not fall within the schools' definition of plagiarism (or similar academic violations).

***Prior* to submission of a work that one has already prepared for a different course (or has been prepared in the scope of one's employment), a student can obtain permission from the school/professor to re-submit this work.

***The school acknowledges that there *may* be a defense for unintentional plagiarism.

****The school employs an "honor code," by which students essentially police themselves.

*****The definition of plagiarism (or similar academic violations) used by these schools is unclear. It has thus been inferred that use of one's own work does not fall within the schools' definition of plagiarism (or similar academic violations), as the *common* understanding of the term "plagiarism" does not include self-plagiarism.

******The school allows for first-time violators to be involved—along with the appropriate disciplinary authorities—in the crafting of the appropriate sanction(s).