



WHAT YOU NEED TO KNOW ABOUT

PLAGIARISM

THIRD EDITION



A New Jersey State Bar Foundation Publication

Steven M. Richman, a commercial lawyer whose practice includes aspects of copyright and international law, provided the legal information contained in this brochure. The New Jersey State Bar Foundation thanks Mr. Richman for his time and diligence in the production of *What You Need to Know About Plagiarism*. For more information about plagiarism, copyright and fair use, please consult the website links listed on page 16 of *What You Need to Know About Plagiarism*.

This pamphlet is made possible by funding from the IOLTA Fund of the Bar of New Jersey. It is issued as a public education service and does not constitute legal advice, which should only be given by your attorney.

WHAT YOU NEED TO KNOW ABOUT PLAGIARISM

What is plagiarism?

Generally speaking, plagiarism is the taking of someone else's ideas or means of expression and passing them off as your own work. In some cases, educational institutions define plagiarism in faculty or student handbooks.

Is plagiarism a crime?

There is a fair amount of misunderstanding about this. For an act to be criminal and punishable by law, legislation would need to be passed by either a state legislature or the U.S. Congress. Some sources refer to plagiarism as an "academic crime," but that should not be confused with state or federal law. If a state were to pass a criminal law that described behavior understood to be plagiarism, that behavior would be a crime under that particular state's statute. As a matter of federal law, while there is no national crime of plagiarism, there is criminal liability for certain copyright infringement. (See "What You Need to Know About Copyright" on page 10)

Is plagiarism fraud?

Plagiarism could be considered a form of "fraud" because you are misrepresenting as your own someone else's ideas or work product, with the intention that others rely on it. Whether or not it is actionable and can subject you to liability would depend upon the rules and regulations of your academic institution or the laws of the state in which the act occurs. It may also be deemed "misappropriation," which may also be actionable.

Is plagiarism cheating?

The online version of *Merriam-Webster Dictionary* lists one definition of "cheat" as "to practice fraud or trickery." Since you are acting dishonestly or fraudulently when you plagiarize, it could be considered cheating. Whether it subjects you to punishment in an academic context would depend on your school's rules and

regulations. Some academic institutions may deem it a “breach of contract” based on an expressed or implied contract between student and school.

Is it considered plagiarism if someone takes parts of an old research paper turned in last year and uses it for a current assignment?

Some teachers will look upon plagiarism in its broad sense as representing that you have done work that you really have not done, and may view you as plagiarizing yourself to the extent you try to pass off a paper in one class as new and original, when you previously submitted it in another class. Some may not view this technically as plagiarism since you are not taking someone else’s work product. However, if you do not reference that it is a prior paper, then some may consider it a different form of cheating. Even if you are expanding on a prior paper, it is better to cite your own prior work rather than simply recycle it as a “new” paper. If you are using certain information from your prior paper in an entirely new way it may not need to be referenced, but it is probably better to err on the side of caution and cite it.

How can someone avoid plagiarism when doing research? How can information be rewritten without using some of the original writer’s words?

Many academic institutions offer advice on their websites on how to avoid plagiarism. Your teachers may have their own ideas as well. In general terms, you should: (1) take careful notes and citations; (2) put quotation marks around

A CASE OF PLAGIARISM AT PRINCETON UNIVERSITY

Princeton University’s Faculty-Student Committee on Discipline defined plagiarism as “the deliberate use of any outside source without proper acknowledgment. ‘Outside source’ means any work, published or unpublished, by any person other than the student.”

In January 1982, a Princeton University senior handed in a term paper for her course on the Spanish American novel. In the 12-page paper, written in Spanish, the student wrote about family relationships in a book by Gabriel Garcia Marquez. The professor for the course had recommended that the student read a book by Josefina Ludmer, which also addressed this topic. The student used the Ludmer book as her main source for the paper. As was required at Princeton University, according to its student handbook, the student wrote at the end of her paper, “This paper represents my own work in accordance with University regulations,” and signed her name.

After reading the first page, the professor knew immediately that the student had not written the material. The Committee on Discipline set a hearing date on charges of plagiarism and the student was given an “incomplete” for the course. The committee found that she had plagiarized and decided to withhold her college degree

any direct quotations; (3) identify specific citation information when you paraphrase; (4) indicate in your notes where you have injected original thoughts or comments.

Because plagiarism can occur even when it is not intentional, you need to be thorough not only in your note taking but in how you reference your sources. Direct quotations, paraphrases, reference to another's ideas or theories, and use of another's charts or graphs, for example, must be acknowledged. Common facts do not have to be cited, such as the fact that Abraham Lincoln was assassinated on April 14, 1865. There is probably no one definitive statement as to what is common knowledge; if in doubt, consult your teacher. Even when you use attribution, if you overdo it, and have very little of your own work, it may be considered inappropriate, if not actually plagiarism.

What is the distinction between summarizing and paraphrasing?

When you summarize, you are condensing the main points or ideas from someone else. When you paraphrase, you are restating the way someone else expressed something in your own words.

If information is summarized or paraphrased, must the source still be cited?

Yes, unless you are summarizing or paraphrasing common facts.

for one year. The student then sued in New Jersey Superior Court, Chancery Division, where the penalty was upheld. She appealed the decision to the New Jersey Superior Court, Appellate Division, which affirmed the lower court's decision. According to court documents, the plaintiff (in this case the student) maintained a grade point average of 3.7 in her years at Princeton University and was "regarded...as a somewhat gifted if not an unusual student of high achievement" by professors and students who knew her. Yet she wrote a paper that "consisted almost exclusively of a literal or slightly paraphrased rendering of various portions of the one secondary source she used without proper attribution, except in occasional instances." The committee and court agreed that she deliberately intended to pass the work off as her own.

The opinion delivered by Presiding Judge Robert A. Matthews also concluded that as a private educational institution, Princeton University had the independence and authority to impose a penalty for violating its rules and regulations. Judge Matthews wrote in his opinion, "We believe that the infraction for which plaintiff was penalized constituted an academic offense under University regulations and therefore must be considered...an academic disciplinary action on the part of the University authorities."

—Phyllis Raybin Emert

CONJURING COPYRIGHT INFRINGEMENT

In the fictional world of Harry Potter, copying someone else's work at the Hogwarts School of Witchcraft and Wizardry could get you transformed into a ferret and bounced around the room. Of course in real life, as J.K. Rowling, the woman who wrote all seven *Harry Potter* novels, discovered the punishment for plagiarism is far less dramatic.

In September 2008, Rowling won a lawsuit against RDR Books and received \$6,750 in damages and a guarantee that the New York publisher would not release a book called *The Harry Potter Lexicon*. The 400-page book was a detailed encyclopedia of words, places, people and events from the seven-volume *Harry Potter* series, and included lengthy excerpts copied directly from Rowling's novels. According to Rowling, 2,034 of the 2,477 entries in the book came directly from her novels.

"I believe this book constitutes wholesale theft of 17 years of my hard work," Rowling told a New York court in April 2008. "What particularly galls me is the lack of quotation marks. If Mr. Vander Ark had put quotation marks around everything he had lifted, most of the lexicon would have been in quotation marks."

The volume's author, Steven Vander Ark, a major *Harry Potter* fan who claims he read the series nearly 50 times and spent seven years writing his book, never disputed that he was using many of Rowling's words. Instead, his attorney argued that he had a legal right to reproduce excerpts from her novels because as a reference guide it needed to rely on her work.

"Regardless of the lexicon author's argument, when you look at the *Harry Potter* lawsuit it is pretty much a clear case of copyright infringement," said attorney Marc S. Friedman, who is the chairman of the New Jersey State Bar Association's Intellectual Property Law Section. "Some cases of infringement, or plagiarism, can be difficult to determine, but not this one. When you look at how the book was put together and how much of the material was copied, there was no question that it was copyright infringement."

IT ALL COMES DOWN TO OWNERSHIP

Whenever someone creates a literary, musical or artistic work—for example a painting, poem or song—their work is automatically protected under the Copyright Act, and cannot be reproduced or used by someone else without the creator's permission. This protection is guaranteed in the U.S. Constitution under Article I, Section 8. Copyright protection for works created since 1978 are usually protected for the life of the creator, plus 70 years unless it is "work for hire," where it is longer. For works created before 1978, the length of protection varies.

"The framers of the Constitution believed that in order to encourage inventors and artists to create great things, they needed to be protected on some level, which is where the Copyright Act came from," said Friedman. "If you are a writer and spend your time, money and effort writing a book, or a poem, or a play, someone else should not be able to just come along and rip you off by copying it and making money from it. If there weren't protections in place, why would you spend the time and energy

creating something?"

Copying someone's creative work without permission is called copyright infringement, a legal term for plagiarism. But while the concept of copyright protection seems simple, proving infringement can be difficult.

"It's something that can be challenging to prove because, most likely, no one saw you copy," said Friedman. "Also, there is a possibility that you just happened to come up with the same idea and the same words as someone else, just by chance. The courts have found a way to determine whether something was most likely copied by considering two things: whether the works are substantially similar and whether the person who produced the second work had access to the original work. If a book is in my local library and I create a book that is very similar to it, I most likely infringed on the copyright by trying to pass it off as an original work."

In the case of *The Harry Potter Lexicon*, however, the book's author was not claiming the work was totally original. Instead, he and his lawyer argued he had a right to reprint portions of the *Harry Potter* text under an exception to the Copyright Act known as the Fair Use Doctrine.

Fair use gives someone the right, in some cases, to reproduce portions of a copyright-protected work for certain purposes, for example as part of a research project, news report or literary criticism. To determine if something should fall under the Fair Use Doctrine, a four-step test is used, focusing on whether the use is for profit, how the copied material is being used, how much material is being copied and what effect the use would have on the value of the original work.

"The judge in the *Harry Potter* case found that the amount of material that was copied from the original books was substantial, and that the *Lexicon* was being published as a money-making venture and could harm the sales of Rowling's own books, including two *Harry Potter* companion books she wrote that were already in print," said Friedman. "If the author went back and produced a different version of his book, without so many excerpts, or using quotes in a different way, it very well could be allowed to be published."

In fact, in February 2009, RDR Books published a stripped-down version of Vander Ark's book, eliminating all material that the court ruled infringed on Rowling's copyright. In addition, Rowling has said she plans to someday publish her own *Harry Potter* encyclopedia and donate the profits to charity.

—Cheryl Baisden

Originally published in the fall 2009 edition of *The Legal Eagle* (Note: fair use has changed since this was published)

Is an author's permission needed to use long passages from his or her book or article in a report?

The Copyright Act permits you to use appropriately cited material from someone else's work as "fair use," if the use is for "purposes such as criticism, comment, news reporting, teaching...scholarship, or research..." However, whether you need permission from an author is not simply a function of the length of a particular passage; it would depend upon the "purpose and character of the

use,” the “nature” of the other work, the amount and substantiality of the passages used in relation to the other work as a whole, and the effect of the use on the market or value of the other work. Different journals and academic institutions themselves may have rules of thumb as to how substantial the passage must be in order to require permission. When in doubt, consult your teacher.

What source material needs to be cited in a report to avoid a charge of plagiarism?

Different teachers will have different requirements. There are certain reference works, such as *The MLA Handbook for Writers of Research Papers*, (MLA), *The Chicago Manual of Style*, (CMS), or *A Manual for Writers of Term Papers, Theses, and Dissertations*, (Turabian). These books will tell you what information you'll need for your bibliography and your footnotes or endnotes, and how citations are used internally and in bibliographies, and in different subject areas. For example, you will generally need to cite in a bibliography the author, title of the work, publisher, city of publication and year of publication.

If parents help to write a paper, is that cheating?

Your paper must be your own work product. Most would probably agree that if you write a 20-page paper and ask your father or mother to read it and they say, “It was interesting, but I suggest you rewrite these paragraphs since they are not clear, and you have some spelling errors,” this would not be cheating.

PROMINENT PLAGIARISTS

Joseph Biden, a six-time senator from Delaware, and current vice president of the United States, ran for president back in 1987. His campaign fell apart when it was discovered that he had plagiarized a paragraph from British politician Neil Kinnock during an Iowa primary debate.

Here's what Kinnock said:

“Why am I the first Kinnock in a thousand generations to be able to get to university?...Was it because our predecessors were thick?...Was it because they were weak, those people who could work eight hours underground and then come up and play football, weak? It was because there was no platform upon which they could stand.”

Here's what Biden said:

“Why is it that Joe Biden is the first in his family ever to go to a university?... Is it because our fathers and mothers were not bright?...Is it because they didn't work hard, my ancestors who worked in the coal mines in Northeast Pennsylvania and would come up after 12 hours and play football for four hours?...It's because they didn't have a platform upon which to stand.”

However, to the extent your parents actually write part of the paper for you, or give more than the kind of suggestion a teacher might, you are probably crossing the line. Because of the vagueness of the term “help,” there is no hard and fast rule, other than the work must be your own.

What does it mean when someone says to “use your own voice?”

You should try to interpret things in your own words and bring your own independent thinking to the subject.

Does writing about personal experiences or thoughts ever require citations?

Generally not, unless you are referring to an earlier published or submitted work of your own.

Can you plagiarize facts?

Generally you cannot plagiarize commonly known facts or items of common knowledge, but if the fact itself is someone else’s work product, then failure to cite it appropriately could be considered plagiarism. The University of Pennsylvania calls common knowledge “information that the average, educated reader would accept as reliable without having to look it up.” (See: www.upenn.edu/academicintegrity for more information)

It was later found that Biden had also used the words of Robert Kennedy and President John F. Kennedy in several other speeches without proper credit. His speechwriters received the blame, but Biden lost the trust of the people and abandoned his presidential campaign. The problem was that Biden didn’t attribute the words to Kinnock or to the Kennedys. He gave the impression that they were his own. Author Richard A. Posner wrote in his book *The Little Book of Plagiarism*, “The reaction to Biden’s plagiarism was probably as strong as it was because he had introduced the plagiarized passage by saying he’d just thought of it on the way to give the speech...”

In 2002, it was found that presidential historian and Pulitzer Prize winner, Doris Kearns Goodwin plagiarized paragraphs from another author for her book, *The Fitzgeralds and the Kennedys*. According to Barbara Francis, in her book *Other People’s Words*, “Goodwin claimed this ‘borrowing’ was due to her own disorganized research procedures, including sloppy note taking. However, borrowing without citing sources is plagiarism, even if it is due to disorganized note taking.” Goodwin paid the author an undisclosed settlement. She continues to write best-selling books today, and is probably much more careful in doing her research.—*Phyllis Raybin Emert*

What if something is considered common knowledge and is found in several sources? Must each source be cited to avoid a plagiarism charge?

You should have a bibliography that refers to all the books you consulted. One school of thought is that if identical information is found in five different sources then it is common knowledge and does not need to be cited. If the common fact or knowledge, however, is expressed in a particularly different way and you express it that way, you should cite the source of that expression. Again, if in doubt, consult your teacher.

What is the public domain?

The public domain refers to works that are no longer copyrighted as a matter of law and that are open to use by anyone. For example, all works published in the United States before 1923 are in the public domain as a result of expiration of copyright.

Is citing material in the public domain necessary?

Yes. While you are not subject to copyright infringement issues, if you do not appropriately cite the source, you would be plagiarizing. Consider, in an

A COMPANY THAT DETECTS PLAGIARISM

The vast amount of information on the Internet and its easy accessibility may make it simpler to plagiarize, but advanced technology is allowing teachers and faculty to uncover and expose plagiarists. One company, Turnitin.com, part of iParadigms, LLC was formed in 1996, and according to its website, "serves millions" of people in more than 80 countries.

Turnitin checks student research papers against a vast database that includes "both current and archived internet content...[a] database of millions of previously submitted student papers" and "millions of ...pages from books, newspapers, and journals." Turnitin matches phrases from student papers against the database. They can then discover passages that have been copied word for word from a particular source and a detailed report is then sent to teachers.

In his book *The Little Book of Plagiarism*, Richard Posner notes, "Turnitin does not 'alert' to possible plagiarism unless the match is of strings [of words] long enough to be unlikely to have been hit on independently by two or more writers. Once such an identical passage is found, however, the program will search for shorter strings in the vicinity of the trigger passage. So the plagiarist can't thwart the program merely by changing a few words." The question is, if students know in advance that a teacher uses this type of detection software, will they be deterred from plagiarism? Turnitin's website claims "institutions using our system on a large scale see measurable rates of plagiarism drop to almost zero." —Phyllis Raybin Emert

extreme example, if you are given a creative writing assignment and you turn in Charles Dickens' *A Tale of Two Cities*, passing it off as your own. You would not be liable for copyright infringement in that instance, but you would be plagiarizing, because you have passed off someone else's book as your own.

How do you know if you have "substantially rewritten" information you obtained through research?

This is very fact sensitive. There has to be some level of common sense and good judgment. One way to approach this is to ask yourself whether the average, objective reader would think that you have simply copied the passage. If, for some reason, the issue reached the courts, various technical tests would be used to determine if there was any type of infringement. If you have any doubts you should probably try to rework your writing and/or consult your teacher.

Is copying material from the Internet considered plagiarism?

Copying material from the Internet and passing it off as your own and not appropriately explaining it is plagiarism. The same rules apply in determining whether you have engaged in copyright infringement. The words appearing on a website are someone else's product and should be treated the same as a hard copy source. **There is no difference between copying from the Internet and copying out of a book.** The only thing that matters is whether or not you are passing off someone else's work as your own, and the same tests will apply. The fact that it is easier because you can cut-and-paste does not change the principle.

What is the appropriate use of Internet material?

The same rules apply as for hard copy sources. It's another published source. Consult the style manuals noted above for the particular format of such a citation.

Is it illegal to purchase an entire term paper from the Internet?

If you purchase a term paper and pass it off as your own product, then it is plagiarism. If you wish, however, to purchase the legitimate work product of another for your own reference, you may do so, assuming that work itself is not infringing and the website or company selling the paper is legitimate. For example, you may be able to purchase a student's unpublished thesis that is in the library of a university and use it as another source. *Note: In some states it is illegal to sell term papers to students.*

WHAT YOU NEED TO KNOW ABOUT COPYRIGHT

WHAT IS COPYRIGHT?

Copyright is a federal law. There is no state copyright law. A copyright protects expression in some tangible form (i.e., literary works such as novels and short stories, dramatic works such as plays or musicals, music lyrics, etc.). It is important to understand that copyright does not protect an idea, but the expression. Copyright also does not protect titles of works. A copyright affords the owner what is called a “bundle of rights,” which means that you have the exclusive right to reproduce the work or prepare derivative works, distribute the work and perform it publicly. For example, if somebody wants to take your short story and develop it into a play, that play would be a derivative work of your short story. You have the right to license your work and permit others to use it. As another example, you have the right to be paid if your work is used in a compilation. If you are interested in learning more about copyright, go to www.copyright.gov.

HOW DOES ONE OBTAIN A COPYRIGHT?

You have copyright protection as soon as you make the expression in a tangible format. While use of the copyright notice is not required, it is recommended to use it as it affords certain other legal benefits in the event you need to sue someone for infringement. And while registration is not necessary to obtain copyright protection, it is necessary if you want to sue based on a work of American origin. The registration provides certain other legal benefits as well. You can obtain the necessary forms online, and should consult www.copyright.gov for specific information as to what needs to be sent as part of your package and what fees are involved.

WHAT IS COPYRIGHT INFRINGEMENT?

Generally speaking, copyright infringement occurs when someone copies a copyrighted work without permission and either passes it off as his or her own, or uses substantial portions of the work without permission and without fair use. In order to prove copyright infringement, you need to prove you are the owner of the work and that the work is entitled to copyright protection. This means that your work has the requisite level of originality. If you register and obtain your certificate of copyright within five years of creating the work, then that is “prima facie” or “at first appearance” evidence of the validity of the copyright and what is in the certificate. The second thing you need to prove is that there has been copying. Courts try to determine whether there was access to your work and whether there is “substantial similarity.” In other words, there has to be enough similarity that it is clear that this was copied. It’s important to understand that in order to find copyright infringement you have to prove the person had access to your work and copied it. It is not infringement if someone completely on his or her own came up with the same expression, although obviously the chances of two people writing nearly identical papers, using the same words, is unlikely—and courts will note that. Even if you did not mean to infringe, if you had access and your material is substantially similar, infringement may be made out.

IS COPYRIGHT INFRINGEMENT A CIVIL OR A CRIMINAL ISSUE?

Infringement of copyright may be remedied by a civil lawsuit for money damages (which may be due to loss of stature or lost profits), attorneys fees, injunctive relief, impoundment or seizure of the infringing goods, and, in some cases, even involving the same acts, by criminal prosecution. There are also criminal penalties for fraudulent acts regarding placement or removal of a copyright notice, and making false representations of material facts in the copyright application. "Piracy" is not so much a legal definition as a colloquial way of referring to activities that include copyright infringement.

WHAT IS FAIR USE?

The fair use of copyright is provided by statute and allows you, in various circumstances, to use certain limited and appropriately acknowledged portions of people's copyrighted work under certain specified circumstances. This was discussed to some extent above. As an example, if you're doing a book review and you want to quote a certain limited passage of the book to make a point in the context of your book review, that would generally be fair use, since it is being used in a critical and scholarly way. There are a variety of types of fair use, but not all courts in the U.S. share the same views as far as applicable tests. (For more information about fair use, check out the link listed at the end of this booklet.)

Can a teacher tell if a term paper came from the Internet? If so, how?

In many cases, teachers can tell. (See "A Company that Detects Plagiarism" on page 8.) First, there are software programs that teachers may use to analyze your paper. Another way the teacher can tell is if the writing or quality of work is uncharacteristic of the particular student; for example, if the vocabulary reflects words that the teacher has never heard the student use or the writing style is inconsistent with prior work. In other instances, the teacher may be familiar with the idea or theory being passed off as the student's own.

Can someone be suspended or expelled for purchasing a term paper off the Internet and passing it off as their own?

If your school's disciplinary code indicates that one of the penalties for plagiarism could be suspension, then it doesn't matter from what source you got the paper. What matters is whether you have plagiarized and violated the school's rules. Plagiarizing someone else's work and passing it off as your own can be a suspendable offense, depending upon your school's rules. Other penalties may apply depending upon the teacher's rules or policies, particularly in a high school setting.

FAMOUS EXAMPLES AND ACCUSATIONS OF PLAGIARISM

Sometimes committing an act of plagiarism is deliberate, but occasionally, if a writer is not thorough, it can be unintentional. The famous examples below cited from *New World Encyclopedia* contain intentional and unintentional acts of plagiarism.

- A young Helen Keller was accused in 1892 for plagiarizing "The Frost King," a short story that strongly resembled Margaret T. Canby's story, "The Frost Fairies." She was brought before a tribunal of the Perkins Institute for the Blind, where she was acquitted by a single vote. According to the biography *Her Hands Were a Bridge to the World*, by Walter Kendrick, Keller "remained paranoid about plagiarism ever after."
- The 1922 film *Nosferatu* was an unauthorized adaptation of Bram Stoker's novel *Dracula*. Stoker's widow sued the producers of *Nosferatu* and had many of the film's copies destroyed (although some remain).
- Alex Haley settled a lawsuit with Harold Courlander for \$650,000 in 1978 for a passage in Haley's novel *Roots* that imitated his novel *The African*.
- James A. Mackay, a Scottish historian, was forced to withdraw all copies of his biography of Alexander Graham Bell from circulation in 1998 because he plagiarized the last major work on the subject, a 1973 work. Also accused of plagiarizing material on biographies of Mary Queen of Scots, Andrew Carnegie and Sir William Wallace, he was forced to withdraw his next work on John Paul Jones in 1999 for the same reason.
- Historian Stephen Ambrose has been criticized for incorporating passages from the works of other authors into many of his books. He was first accused in 2002 by two writers for copying portions about World War II bomber pilots from Thomas Childers's *The Wings of Morning* in his book *The Wild Blue*. After admitting to the errors, *The New York Times* found further unattributed passages, and "Mr. Ambrose again acknowledged his errors and promised to correct them in later editions."
- Jayson Blair, then a reporter for *The New York Times*, plagiarized many articles and faked quotes in stories, including the Jessica Lynch and Beltway sniper attack cases. He and several editors from *The Times* resigned in June 2003.
- New Jersey high school student Blair Hornstine had her admission to Harvard University revoked in July 2003 after she was found to have passed off speeches and writings by famous figures, including Bill Clinton, as her own in articles she wrote as a student journalist for a local newspaper.
- Science fiction author Harlan Ellison sued and won in a case against James Cameron, claiming that his film *The Terminator* plagiarized the two episodes he wrote for the television show *The Outer Limits*: "Soldier" and "Demon with a Glass Hand."
- Numerous passages of Robert Mason's 1983 Vietnam War memoir *Chickenhawk*

were copied, almost word-for-word, by Charles Sasser and Ron Alexander in their 2001 book, *Taking Fire*.

- Conservative blogger Ben Domenech, soon after he was hired to write a blog for *The Washington Post* in 2006, was found to have plagiarized a number of columns and articles he'd written for his college newspaper and *National Review Online*, lifting passages from a variety of sources ranging from well-known pundits to amateur film critics. After initially blaming any wrongdoing on past editors, Domenech eventually resigned and apologized.
- Dan Brown, author of *The Da Vinci Code*, has been twice accused of plagiarism resulting in lawsuits, but both suits were ultimately dismissed. Brown was accused of "appropriating the architecture" of the 1978 novel *Holy Blood, Holy Grail* by Michael Baigent and Richard Leigh. A British judge dismissed the copyright infringement claim in April 2006. The publicity brought *Holy Blood, Holy Grail* back to the bestseller list. Additionally, Brown was accused by novelist Lewis Perdue for plagiarizing his novels *The Da Vinci Legacy* (1983) and *Daughter of God* (2000). A U.S. judge dismissed that case in August 2005.

Source: Plagiarism. (2008, August 29). *New World Encyclopedia*.

Is copying information out of the encyclopedia considered plagiarism?

Encyclopedias are treated no differently than any other source. While a fact is a fact and you are entitled to use that fact, you cannot simply copy word for word an entry in an encyclopedia and pass it off as your own.

Is copying information from a sourcebook considered plagiarism?

There are two different issues here. If someone has prepared a table or chart of data, you should cite the source of that chart or data. On the other hand, if you are citing a particular fact that is a common fact, it would probably not be plagiarism. For example, if the sourcebook contains the annual rainfall over 10 years in the Brazilian rainforest, you should not just copy that chart and pass it off as your own. If you wanted to refer to the rainfall in one year, that, too, may not be a commonly known fact, and you probably should cite the source—not only for protection against plagiarism, but to identify the source for other interested persons. If the sourcebook places information in a particular or creative form, that, too, should be acknowledged. On the other hand, if the sourcebook lists the presidents of the United States and their terms of office, that information in and of itself is commonly known and should be able to be utilized without concern. Again, when in doubt consult your teacher or your school's website and plagiarism policies.

How can it be proven that someone did not plagiarize?

The proof is going to be a comparison of the source or sources to what you wrote. You would seek to prove that either you documented the source and that you've given credit, or that you did not need to because you were referring to common facts, or that you have appropriately utilized your own language and thoughts. In essence, you would need to prove that you did not do any of the things that have been discussed in this brochure.

What are the consequences of plagiarism?

It depends on an individual school's policies. Apart from personal embarrassment and damage to reputation, you may be subject to discipline that could include suspension, expulsion or delay in obtaining your degree; or receive a failing or reduced grade on the paper or in the course.

What does "ignorance of the law is not a defense" mean?

What this means is that even if you have inadvertently plagiarized, you may still have a problem. Schools have made clear in their rules and regulations, and on their websites, what is and is not permitted, so it is probably not going to help you to say you did not know, particularly if you have had the opportunity to find out. While it is an oversimplification to say in all instances that ignorance of the law is not a defense, it generally means that you cannot rely on ignorance when you have a responsibility to find out what your obligations are. In some instances where intent is required, ignorance may be a mitigating element.

What if you accidentally plagiarized a passage because you couldn't remember if you copied it from somewhere or rewrote it in your own words? Are you still liable for plagiarism?

Yes, you can be liable for accidental or inadvertent plagiarism. While it might be a mitigating factor, in other words the school may take into account the fact that your plagiarism was accidental, depending upon the school's rules, you might still be subject to disciplinary procedures.

Who is hurt by plagiarism?

You are hurt by plagiarism because you are not learning proper research habits or disciplining yourself in proper research and writing techniques, and you are

not fully thinking through your arguments. The integrity of the academic institution is hurt if this kind of behavior is tolerated. Other students are hurt because they are competing against someone who is taking unfair advantage and otherwise cheating.

If someone is accused of plagiarism, must the accuser prove that he or she plagiarized, or must the accused prove that he or she didn't plagiarize?

In an academic context, the institution needs to show that you plagiarized. If someone accuses you of copyright infringement, they have the burden of proof. However, once they prove ownership and substantial copying, you have the burden of proving your defense, such as fair use.

Is it better to try to turn a paper in on time even if you have to plagiarize, rather than get an "F" on an assignment?

No, because there is no guarantee you will get the "F" if you discuss the situation with your teacher. And, you could receive an "F" anyway for plagiarizing. If it is a true emergency, most teachers will probably work with you. If you have simply waited until the last minute, however, then you have brought the problem on yourself. You cannot justify plagiarism to cure your own lack of planning.

If caught, should the plagiarist be publicly identified, or should the matter be handled privately?

An honor code may provide for a type of private intervention by one student to another as a means of ensuring compliance, and the school's disciplinary proceedings may have confidentiality requirements. Sometimes dealing with a situation privately does more good than publicly embarrassing someone. On the other hand, the particular institution may have different policies on how public or private a particular incident becomes. Certainly, in a civil lawsuit for copyright infringement, the allegations are generally public.

What is an honor code?

An honor code is a set of commitments you make to honor certain principles, whether you're at a company or in an academic environment. In some circumstances it might take on contractual status, which if breached can trigger consequences in accordance with a school's rules and regulations.

Is plagiarism a violation of the honor code?

Most honor codes would make plagiarism a violation, but each school's code would have to be consulted for the particulars. The penalty for plagiarism under an honor code would be for an individual school to decide. An honor code may provide for sequential and increased penalties for subsequent offenses. Offenses can include getting a zero or the equivalent of receiving a failing grade on the particular assignment, withdrawal of school privileges, and suspension or delay in receiving a degree, and may depend upon whether the institution is a public or private school.

A FEW FACTS ABOUT PLAGIARISM

According to the website, plagiarism.org, here are a few facts about cheating and the issue of plagiarism.

- A poll conducted by *US News and World Report* found that 90 percent of students believe that cheaters are either never caught or have never been appropriately disciplined.
- *The State of Americans: This Generation and the Next* (Free Press, July 1996) states that 58.3 percent of high school students let someone else copy their work in 1969, and 97.5 percent did so in 1989.
- A national survey published in *Education Week* found that 54 percent of students admitted to plagiarizing from the Internet; 74 percent of students admitted that at least once during the past school year they had engaged in "serious" cheating; and 47 percent of students believe their teachers sometimes choose to ignore students who are cheating.

In addition to plagiarism.org, check out these websites for more information about plagiarism, copyright, fair use and public domain.

www.indiana.edu/~wts/pamphlets/plagiarism.shtml
www.copyright.gov
www.umuc.edu/library/libhow/copyright.cfm
writingcenter.unc.edu/handouts/plagiarism
fairuse.Stanford.edu/Copyright_and_Fair_Use_Overview/chapter0/0-a.html



ABOUT THE NEW JERSEY STATE BAR FOUNDATION

The New Jersey State Bar Foundation, founded in 1958, is the educational and philanthropic arm of the New Jersey State Bar Association. The Foundation is committed to providing free legal education programming for the public. Programs provided by the Foundation include seminars on such topics as wills, divorce, taxes, retirement planning, disability law and health issues; mock trial programs for students in grades K to 12; and training sessions for teachers on the topics of teasing and bullying prevention, conflict resolution, peer mediation and character education. Publications geared for the public include *Law Points for Senior Citizens (Third Edition)*, *Consumer's Guide to New Jersey Law*, *AIDS and the Law in New Jersey*, *Disability Law: A Legal Primer (Sixth Edition)*, *Domestic Violence: The Law and You (Third Edition)*, *A Basic Guide to Personal Bankruptcy* and *Residential Construction and Renovation: A Legal Guide for New Jersey Homeowners*. School-based publications available through the Bar Foundation include *Bill of Rights Bulletin*, *Constitutionally New Jersey*, *Historical Documents of New Jersey and the United States*, *The Legal Eagle*, *Respect*, a newsletter about tolerance and diversity, and *Students' Rights Handbook*, which is cosponsored with the ACLU-NJ. Some publications are available in Spanish and all are available in alternative formats for the visually impaired.

For more information or copies of program materials, visit the New Jersey State Bar Foundation online at www.njsbf.org or call 1-800 FREE LAW. Please follow the Bar Foundation on Social Media and invite your friends to like and follow us as well. @NJStateBarFdn can be found on Facebook, Instagram and Twitter. The Foundation also has a YouTube Channel.



New Jersey State Bar Foundation
One Constitution Square
New Brunswick, NJ 08901

1 800 FREE-LAW www.njsbf.org

@NJStateBarFdn on Facebook, Twitter and Instagram