

Plagiarism: A Question of Trust

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What is Plagiarism?

•Plagiarism is “The use of any outside source without proper acknowledgment.”

•“Outside source” means any work, published or unpublished, by any person other than the student.

•<http://www.princeton.edu/pr/pub/rrr/06/57.htm>

UNC Honor Code

.It shall be the responsibility of every student enrolled at the University of North Carolina to support the principles of academic integrity and to refrain from all forms of academic dishonesty, including but not limited to, the following:

.1. **Plagiarism** in the form of deliberate or reckless representation of another's words, thoughts, or ideas as one's own without attribution in connection with submission of academic work, whether graded or otherwise.

.2. Falsification, fabrication, or misrepresentation of data, other information, or citations in connection with an academic assignment, whether graded or otherwise.

<http://instrument.unc.edu/instrument.text.html#generalresponsibilities>

Plagiarism in the Context of Legal Scholarship

- The rules change with the context.
- In this context, what is good about footnotes?

Ten Rules for How to Avoid Plagiarism

- .1. Think about distinguishing your words and ideas from other voices.
- .2. In your research, if you cut content from an electronic source and paste it somewhere else, put the content in quotation marks immediately, and note the source.
- .3. Put all borrowed content in quotation marks or an indented block, and cite your source.
- .4. Use quotations marks around any new or unusual term, and cite the source.
- .5. When you paraphrase, change the words, change the sentence structure, and cite your source after every sentence.
- .6. Provide the source for all ideas and definitions that are not common knowledge.
- .7. Do not present fiction as fact.
- .8. If you are not sure whether a reference needs a site, use one.
- .9. Keep the blue book with you when you write.
- .10. Take your time.

Rule 4: Use Citations for Terms of Art

Incorrect example:

.The Copy Left believes that creative rights are being smothered by corporate control of digital content through copyright protection.

Correct example:

.The “Copy Left” believes that creative rights are being smothered by corporate control of digital content through copyright protection. Robert S. Boynton, *The Tyranny of Copyright?*, N.Y. TIMES, Jan. 25, 2004, at 42.

Rule 5: Paraphrasing Example 1

Original Quotation: “Few areas at the intersection of constitutional law and politics generate more controversy or opinions than the federal appointments process. It has become like the weather: almost all commentators and many participants gripe about it, but no one seems able (or at least willing or prepared) to do anything about it.” MICHAEL J. GERHARDT, *THE FEDERAL APPOINTMENTS PROCESS* 1 (2000).

Correct Paraphrasing: The process of appointing federal officials provokes unusually intense partisan controversy. MICHAEL J. GERHARDT, *THE FEDERAL APPOINTMENTS PROCESS* 1 (2000). Yet, few in government or academia offer real solutions. *Id.*

Explanation: Both the words and the sentence structure are different from the original quotation. The borrowed idea is set forth in the student’s words, yet the citation makes it clear that this idea originated from Professor Michael J. Gerhardt, not with the student.

Rule 5: Paraphrasing Example 2

Original Quotation: “Few areas at the intersection of constitutional law and politics generate more controversy or opinions than the federal appointments process. It has become like the weather: almost all commentators and many participants gripe about it, but no one seems able (or at least willing or prepared) to do anything about it.” MICHAEL J. GERHARDT, *THE FEDERAL APPOINTMENTS PROCESS* 1 (2000).

Improper Paraphrasing: Few areas at the meeting point of constitutional law and politics generate more controversy or opinions than the appointments of federal judges. The complaints have become as inevitable as those about the weather: people complain, but no one is able to do anything.

Explanation: This is an example of improper paraphrasing because some words are changed, but not the sentence structure. Also, the citation is missing.

Rule 5: Paraphrasing Example 3

Original Quotation: “Few areas at the intersection of constitutional law and politics generate more controversy or opinions than the federal appointments process. It has become like the weather: almost all commentators and many participants gripe about it, but no one seems able (or at least willing or prepared) to do anything about it.” MICHAEL J. GERHARDT, *THE FEDERAL APPOINTMENTS PROCESS* 1 (2000)

Improper Paraphrasing: The federal appointments process has become like the weather: almost all commentators and many participants gripe about it, but no one seems able, willing or prepared to do anything about it. Few areas at the intersection of constitutional law and politics provoke more controversy. MICHAEL J. GERHARDT, *THE FEDERAL APPOINTMENTS PROCESS* 1 (2000).

Explanation: Identical words are used but do not appear in quotation marks. A citation is missing after the first sentence. **In legal scholarship, using another’s words without putting them in quotation marks or an indented block is plagiarism, even if they are followed by a correct citation!**

Rule 5: How Not to Summarize a Case

Example of an Incorrect Case Summary:

.In *Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569 (1994), the United States Supreme Court examined whether 2 Live Crew infringed Roy Orbison's copyright in "Oh, Pretty Woman" by creating a rap parody of the song. The Court explained that each fair use case must be decided on its own facts, and that no bright line rules apply. Congress listed four factors in an effort to reflect how courts apply the fair use defense. It held that Sixth Circuit erred by isolating the fourth factor and concluding that the fair use defense was virtually barred based on the fact that 2 Live Crew sold their song commercially. Instead, all four factors should be weighed, in view of the purposes of copyright law.

Rule 5: A Correct Case Summary

Example of a Correct Case Summary:

In *Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569 (1994), the United States Supreme Court examined whether 2 Live Crew infringed Roy Orbison's copyright in "Oh, Pretty Woman" by creating a rap parody of the song. In 17 U.S.C. section 107, Congress listed four factors in an effort to reflect how courts apply the fair use defense. *Id.* at 577. The Court explained that each fair use case must be decided on its own facts, and that no bright line rules apply. *Id.* It held that the Sixth Circuit erred by isolating the fourth factor and concluding that the fair use defense was virtually barred based on the fact that 2 Live Crew sold their song commercially. *Id.* at 583-4. Instead, all four factors "are to be explored, and the results weighed together, in light of the purposes of copyright." *Id.* at 578 (citations omitted).

What is Legal Scholarship?

What is our place in it?