

Chicago-Kent College of Law

MEMORANDUM

To: All Students in Chicago-Kent Legal Writing Courses (including Legal Writing 1, 2, 3, and 4, and Seminars)

From: The Chicago-Kent Legal Writing Program

Re: Ethics Guidelines for Chicago-Kent Legal Writing Courses
2021-2022

Introduction

During Orientation Week of your first year of law school, you were told where to find the [Chicago-Kent Student Handbook](#), which contains the Law School's [Code of Conduct](#).

We understand that it is not always easy for students to apply the general provisions of the Code of Conduct to specific situations. In addition, a number of questions arise in the context of law school writing classes that are not specifically addressed in the Code. For this reason, we are supplementing the general provisions of the Code with comments and illustrations about some of the situations that may develop in your law school writing classes. Obviously, we cannot anticipate every circumstance, but we hope that these Guidelines will help to resolve some of the questions you may have. If you are not certain whether particular conduct is permissible, you are responsible for seeking clarification from your professor.

Serious sanctions may be imposed for the violation of any of the rules or policies contained in the Code of Conduct or the Legal Writing Ethics Guidelines; these sanctions may include receiving a failing grade for the course, suspension from law school, a notation of an ethics violation on your law school transcript, or dismissal from the law school.

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Academic Misconduct—Plagiarism

§ 2.1 of the Code of Conduct defines "academic misconduct" and provides as follows:

It shall be a violation of this Code for a matriculated or non-matriculated student, whether or not currently enrolled in the College, to engage in or attempt to engage in any of the following conduct, which, unless otherwise stated, must be done knowingly, recklessly, or negligently (emphasis added):

(a) representing, expressly or impliedly, the work of another to be one's own;

Commentary: This is the section of the Code of Conduct that applies to charges of plagiarism. Section 2.1 applies to all law school classes, including but not limited to Legal Writing 1, 2, 3, and 4, and Seminars. The majority of Code of Conduct violations involve plagiarism. Particularly in academic settings, plagiarism is a form of theft—the theft of another's ideas. Plagiarism is also an attempt to gain an unfair advantage over other students by misrepresenting written work as one's own, rather than that of another. Further, plagiarism defeats the pedagogical goals of law school writing classes. In order to become an excellent writer, you must do your own writing and receive critique on your own work.

Your professor will use the following definition, based on Louis Sirico's *A Primer on Plagiarism*, in determining what constitutes plagiarism:

Plagiarism

There are four ways in which students may engage in plagiarism, on either a draft or a final paper:

(1) Quoting the words of another without attribution.

When using a quotation, cite the source, and use ellipses, brackets, and quotation marks scrupulously to indicate which words are your own and which are the words of another. (See ALWD Citation Manual, Rules 38-40). Changing one or two words within a sentence does not eliminate the need to use quotation marks. If one or two words are inserted or omitted, use quotation marks, even if you have cited the source, and indicate the addition or omission with brackets or ellipses. Even very brief quotations, such as the key words of a statute, should be placed in quotation marks when they are legally significant.

(2) Paraphrasing the words of another without attribution.

When rewriting the words of another, cite to the source. This requirement is particularly important when you are relying on the work of scholars in law review articles or treatises. When paraphrasing language from a case, proper attribution will emphasize the weight and importance of the idea. “Paraphrasing” means more than changing one or two words; a proper paraphrase reproduces the idea in substantially your own words and, again, always requires a citation.

The only exception to this rule may occur in a class where a student is using a legal form that is intended to be copied without attribution. Such forms are often used as a starting point in drafting a wide range of instruments, from litigation documents such as complaints or interrogatories through commercial instruments and estate planning documents. In such a case, the use of the form will not constitute plagiarism, although professors generally will ask students to identify what forms have been used in order to determine whether a student has used an appropriate form and effectively adapted it for use in the assignment.

(3) Using the ideas of another without attribution.

When using the ideas of a source, provide an acknowledgment of the contribution made by that source to your own work. Likewise, adopting the same structure or analytical framework as a prior source will require attribution. When the structure or substance of another's work may be considered a part of general legal knowledge, however, it is debatable whether attribution is required. A good practice is to trace an idea to its original source and credit that source, while explaining how the idea has evolved since the original author expressed it. The general rule is always to err on the side of giving credit.

(4) Taking the work of another student.

Students may not take the work of another student, either a current classmate or a student who took the class in the past, and present it as their own.

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Unauthorized Collaboration

§ 2.1 of the Code of Conduct further provides that "academic misconduct" includes the following:

- (b) giving, obtaining, or soliciting unauthorized assistance or using unauthorized material in the preparation of material to be submitted or presented in a class, law review assignment or competition, moot court assignment or competition, client counseling competition, essay contest that the student is able to enter by virtue of being a law student, or similar activity;

Commentary: This section relates to unauthorized collaboration. Depending on the professor's instructions, it may be appropriate to exchange ideas or "collaborate" with other class members. Indeed, students in some courses, including legal writing courses, may be assigned to work together on certain projects. Students are often encouraged by their professors, for example, to collaborate on legal research exercises and to develop effective techniques for collaborating and communicating about the law. Accordingly, Chicago-Kent has adopted the following rule designed to promote exchanges of ideas, while at the same time mandating independent research and writing. Note that the rules applicable to non-class materials, such as law review assignments or competition materials, may differ significantly from an individual professor's rules.

Collaboration

A. Unless otherwise instructed by their professor, all students in all legal writing classes are permitted to:

- (1) discuss any aspect of an assignment with the professor, the Writing Specialist (Professor Young), or the class's teaching assistant;
- (2) discuss research strategies, legal concepts, problems, and potential arguments related to any assignment with other students in their legal writing section or in a section working on the same problem; and
- (3) discuss research strategies with law school library staff.

B. Students in all legal writing classes are prohibited from:

- (1) discussing any aspect of a graded individual writing assignment with anyone other than the professor, the Writing Specialist, the class's teaching assistant, law

school library staff, or other students in their section or in a section working on the same problem until after the assignment has been handed in;

(2) collaborating with other students on the writing process of a graded assignment other than as directed by the professor; this prohibition includes outlining assignments together or simultaneously transcribing the orally expressed ideas of another for the purpose of including the expression of the ideas in one's own paper; or

(3) asking to see or gain access to another student's written work or show or give another student access to their written work on any graded assignment until it has been submitted. Where an assignment involves both a first draft and a rewrite, students may not exchange their work product until the rewrite is handed in.

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Interference with Library Materials

§ 2.1 of the Code of Conduct further provides that "academic misconduct" includes the following:

(c) knowingly or recklessly hiding or stealing library material, or withdrawing books or materials from the library without properly charging them out, or defacing books or materials;

Commentary: This rule is generally self-explanatory. Students who engage in this type of conduct are deliberately interfering with the work and the careers of others. The term "library materials" includes both print and online materials.

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Violations of Instructor's Rules

§ 2.1 of the Code of Conduct further provides that "academic misconduct" includes the following:

(d) violating any rule imposed by the instructor or exam proctor;

Commentary: From time to time, your professors may impose additional rules. For example, professors generally encourage students to use every means of research available, just as lawyers do in practice. On some occasions, however, additional limits may be appropriate; for example, a professor may instruct students who are writing a brief on a pending case not to consult either the briefs or the attorneys of

record in that case. To do so would constitute a violation of the Code of Conduct. When in doubt, clarify the rules with your professor.

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Unfair Advantage

§ 2.1 of the Code of Conduct further provides that "academic misconduct" includes the following:

(k) otherwise seeking to gain an unfair advantage over another student.

Commentary: Any of the conduct described in the preceding provisions will also violate this "catchall" provision. There are, however, a number of respects in which other conduct in a writing course might violate this specific provision.

First, professors are very specific as to assignment due dates. Law is a profession governed by strict deadlines. In practice, failure to comply with a court filing deadline can have very serious effects on a client's legal rights or a lawyer's professional status. Accordingly, if a paper is handed in after the time specified, without an extension, it will be penalized.

Second, some professors will grade some or all of the papers anonymously. If your professor has asked that papers be submitted anonymously, any attempt at either direct or indirect identification constitutes an attempt to gain an unfair advantage.

Third, in some upper-level writing courses, such as seminars and certain sections of Legal Writing 4, students may choose their own topics for assignments. In completing these assignments, students should submit original work for each course. It is a violation of the Code of Conduct to submit the same paper for credit in different courses.

Fourth, attempting to harass or intimidate a professor into changing a grade may be viewed as an attempt to gain an unfair advantage.

We hope this memorandum clarifies some of the questions you may have about how the Code of Conduct will apply in your writing class. If you have any other questions, please ask your professor, Elizabeth De Armond (Director of Legal Research and Writing), or Laurie Silvestri (Director Upper Level Legal Writing Program).

CERTIFICATION AND DECLARATION OF UNDERSTANDING

I, _____, have received
(print your name here)

the six-page document entitled *Ethics Guidelines for Chicago-Kent Legal Writing Courses*. I understand that as a student in a Chicago-Kent Writing course (including Legal Writing 1, 2, 3, 4, and seminars), I am subject to the *Ethics Guidelines for Chicago-Kent Legal Writing Courses*, as well as Chicago-Kent's Code of Conduct. I understand the following:

- ◆ that the *Ethics Guidelines* define plagiarism and describe the proper techniques for paraphrasing and quoting others' words and ideas;
- ◆ that despite a lack of intent to plagiarize, I will be guilty of plagiarism if I do not correctly attribute another's authorship of any material I include in my work, whether I have taken direct language, paraphrased ideas, or used an analytical framework;
- ◆ that the *Ethics Guidelines* contain the rules and policies on collaboration for Legal Research and Writing classes; and
- ◆ that serious sanctions may be imposed for the violation of any of the rules or policies contained in the Code of Conduct or *Ethics Guidelines* and that these sanctions may include receiving a failing grade for the course, suspension from law school, a notation of an ethics violation on my law school transcript, or dismissal from the law school.

Finally, I understand that I am responsible for knowing what is in the *Ethics Guidelines* and the Code of Conduct, and that if I am unsure of the meaning of any of the provisions, or if I receive instructions that seem to contradict the provisions, I am responsible for seeking clarification from my professor, from the Director of the Legal Research and Writing Program, from the Director of the Upper Level Legal Writing Program, or from the Writing Specialist.

Signature

Date