

This writing guide is published under the auspices of the Faculty of Law, Stellenbosch University.

All enquiries may be directed to:

Mr Theo Broodryk
Faculty of Law
University of Stellenbosch
Old Main Building
Private Bag XI
Matieland
7602
Tel: 021 808 4853
Email: tbroodryk@sun.ac.za

TABLE OF CONTENT

LEGAL WRITING 6

1 Introduction 6

Part 1: General and indispensable principles of legal writing 7

1 Good academic writing is accurate writing 7

1 1 Metaphorical language 9

1 2 The unchecked use of relative terms (the absence of criteria) 11

1 3 Vague or unnecessary concepts 13

2 Language is imprecise 14

2 1 There always exists a correct answer to a legal question 15

2 2 The quality of your work is assessed on the basis of your conclusions 18

3 Criticism of your work 19

Part 2: How to develop an argument 21

1 Overview: The three stages of an assignment 21

1 1 STEP 1: Collecting information 25

1 2 STEP 2: Assimilating information 28

1 3 STEP 3: Editing 38

LANGUAGE AND STYLE ASPECTS 42

1 Language aid in the Faculty 42

2 General writing principles 42

2 1 Plan your time 42

2 2	Prepare.....	43
2 3	Be (aware and involved) in class.....	43
2 4	In general, read as much as possible	44
2 5	Beware of spelling and typing errors	44
2 6	Use a spell checker and other spelling guides	44
2 7	Maintain user-friendly language	45
2 8	Use concrete words or phrases rather than abstract words or phrases	46
2 9	Maintain the correct register.....	47
2 10	Build healthy sentences	48
2 11	Structure good paragraphs	49
2 12	Use active verbs rather than passive verbs.....	51
2 13	Decoration	52
2 14	Last but not least.....	52
3	Specific language and style issues.....	55
3 1	Punctuation marks	55
3 2	Headings, numbers and bullets.....	66
3 3	Numerals	69
3 4	Prepositions	70
3 5	Verbs	71
3 6	Adjectives	72
3 7	Choose the most suitable word	73
3 8	Spelling.....	75
3 9	General.....	77

THE FACULTY’S REFERENCING GUIDELINES.....79

1	Introduction	79
2	Footnotes.....	79
3	Referencing various sources.....	83
3 1	Books.....	83
3 2	Chapters in edited collections	87
3 3	Loose-leaf publications	89
3 4	Theses.....	91
3 5	Official publications and SA Law Reform Commission publications	92
3 6	Unpublished materials.....	93
3 7	Journal articles.....	94
3 8	Reviews and case comments.....	96
3 9	Articles in printed media.....	97
3 10	Case law	98
3 11	Legislation.....	102
3 12	Internet sources	103
3 13	Bibliography	106

SPECIFIC OUTCOMES.....111

1	Read, understand and answer a question	112
2	Draft proper introductions and conclusions	113
3	Write in plain language.....	114
4	Conduct proper planning and set out a proper structure.	115
5	Ensure a logical flow and coherence.....	116

6	Adhere to the principles of academic legal writing...	117
7	Develop an argument.....	118
8	Reference	120
9	Draft proper emails and faxes	120
	PLAGIARISM.....	123
	What is plagiarism?.....	123
	What is Turnitin and how does it work?	123
	How do I submit a Turnitin assignment in SUNLearn?	124
	Where can I get help and training?.....	124
	SU POLICY ON ACADEMIC INTEGRITY: THE PREVENTION AND HANDLING OF PLAGIARISM	125
	ABBREVIATIONS OF SOUTH AFRICAN LEGAL SOURCES	143
1	South African legal sources.....	143
2	Useful links for finding abbreviation of legal sources	146
3	Books in the library on legal abbreviations	147

LEGAL WRITING¹

1 Introduction

The purpose of this guide is to help you develop your ability to critically assess your work. By continually referring back to the principles contained in the sections below and doing what they suggest, you are assuming an active role in improving the quality of your work. This guide should be used in conjunction with the content of the following website: <http://blogs.sun.ac.za/legalwriting>, which is operated under the auspices of the Law Faculty of Stellenbosch University and is primarily aimed at improving your legal writing skills.

The publication of this guide is motivated by the fact that almost all students consistently make the same "errors". This is evidence of a systemic misunderstanding among students as to what is expected in the completion of assignments, tests and examinations. Although the guide is primarily designed as a step-by-step account of how to approach the former, most of the principles it contains also apply to answering test and examination questions. The guide does not, however, amount to an exhaustive account of principles essential to effective legal writing. Principles pertaining to, for instance, the interpretation of legislation and "relevance" are extensively dealt with in other courses.

¹ This section of the guide was prepared by Reynard Hulme, Dr Karin Cattell & Theo Broodryk.

We encourage you to summarise parts of the guide in a manner that will ensure the effective application in assignments. Misconceptions you may have had about legal writing will become clearer as you read through the guide. Improving your legal writing has more to do with letting go of preconceptions regarding academic writing than with adding more concepts to it. In this sense, effective argumentation is simpler than you think.

This section of the guide is set out in two parts. The sequence of information is not coincidental. It is unlikely that you will be able to effectively formulate your argument (Part 2) before you have gained an understanding of the general principles of legal writing (Part 1). We therefore strongly recommend that you start with Part 1 and make notes as you go along.

Part 1: General and indispensable principles of legal writing

1 Good academic writing is accurate writing

Many students seem to think that using archaic, vague or pompous language is good legal writing. Phrases such as "the most fundamental cornerstone of our democracy" or "an interpretation consistent with basic human justice", seem to add conviction to an argument. The truth is that they do not. Instead of contributing useful insight, these phrases do the

opposite: they simply add another layer of abstraction and tend to add confusion to surrounding ideas. If you are mindful of this tendency within your own work – that is to say, if you catch yourself trying to *sound* academic – you have already taken the first step towards improving the quality of your work.

As will be elaborated on later in the guide, readers of your work may, for example, include (in the context of the Faculty) lecturers and fellow students or (in a professional context) clients and judges. This may necessitate subtle differences in your choice of language. Regardless of the context, however, the aim of legal writing is to communicate content as simply and concisely as possible. It is therefore important that you remain mindful of the fact that the quality of your writing will be largely determined by the extent to which your content can be understood.

The practice of obscuring the content of an argument by using intelligent-sounding language manifests mainly in three ways:

- Metaphorical language;
- The unchecked use of relative terms (the absence of criteria); and
- Vague or unnecessary concepts.

1 1 Metaphorical language

It is not always inaccurate to use metaphors in legal writing. The use of comparisons is, after all, a skill essential to developing legal principles. In other words, a metaphor – which is a comparison – may assist a reader in understanding a new idea by relating it to something with which he or she is familiar.

However, many metaphors are used merely as a linguistic convention. Politicians commonly speak of, for instance, the "war on drugs" or the "fight against poverty". There is of course currently no "war" being waged in our country and one cannot "fight" poverty. Instead of being aimed at accurate description, these metaphors are used to elicit an emotional response. This is not the purpose of legal writing. Effective legal argumentation is achieved by means of careful reasoning. It necessitates accuracy. Exaggeration is detrimental to it.

You may find yourself using certain metaphors habitually.

Ask yourself: does the use of metaphorical language convey the intended meaning more accurate than a simple description?

Consider the following examples:

"Justice is the destination, law is the journey"

The effectiveness of this metaphorical statement may vary depending on the meaning intended by the author. If, for instance, the author intended to assert that the meaning of justice can be known (justice is said to be a "destination", which is generally understood to imply that it is achievable, that it *can* be arrived at), the phrase is vague at best. Similarly, it is unclear what is meant by "journey". Is the author referring to the fact that the law is developed (takes on different forms akin to the contours of a road) in order to achieve justice or that mere adherence to the law will assist in the achievement of justice (that the law *is* the path to justice and that we stay on that path by adhering to it without necessarily having to alter it)? If you find reading these alternative explanations confusing (and there are certainly many more variations), do not worry. That is the point. If the author had merely said "the law is developed to ensure justice" or "adherence to the law results in a more just society", it would be less ambiguous and you would be in a better position to agree or disagree.

"The accused was given a slap on the wrist"

The phrase "slap on the wrist" is a linguistic convention meant to denote inadequate or relatively light punishment. Even if it is clear that the author intended to indicate that a certain punishment was inadequate, the nature of the

inadequacy is – in the absence of an accompanying explanation – unclear. The inadequacy may be relative to certain characteristics of the accused. A R100 000 fine may be considered a slap on the wrist when awarded against a billionaire. The inadequacy may also refer to the relationship between the punishment and a crime, regardless of the characteristics of the accused. Certain animal rights groups may, for instance, regard the punishment associated with animal abuse as a slap on the wrist for what they believe to be inhumane conduct. The point is that using this metaphor is not necessarily wrong, provided that it is explained. By explaining why you regard a certain punishment as a slap on the wrist, you will construct a much more effective argument. The necessity of an accompanying explanation should, however, make you wonder about the effectiveness of using the metaphor in the first place.

1 2 The unchecked use of relative terms (the absence of criteria)

Never use relative terms such as good/bad, right/wrong or positive/negative without defining the criteria for evaluating good/bad, right/wrong or positive/negative. It means nothing otherwise. Instead, it is the criteria – the reasons why you are, for instance, calling something positive/negative – that are of interest. It is essential, however, to resist describing

these relative terms according to needlessly broad criteria. It is absurd, for instance, to describe good as "justice" and bad as "anarchy".

You must relate your criterion to the legal principles applicable to your discussion.

The absence of a criterion makes any critical assessment or analysis impossible. In other words, you cannot "evaluate" or "analyse" without evaluating or analysing in terms of some criterion in the form of a value judgment. A criterion may be very simple. If, for instance, you are of the view that a certain piece of legislation is *too* vague, your criticism may be based on the following criterion: that the intended meaning of legislation should be clear enough to allow for its consistent application. Criteria can be much more complex than this, especially when the relative weight of various elements of a single criterion needs to be explained.

Therefore, whenever you call something good, bad, right, wrong, positive or negative, ask yourself: why exactly am I saying so?

1 3 Vague or unnecessary concepts

Vague language obscures your argument. Unnecessary words, whilst also likely to obscure your argument, are wasteful – particularly if you are subject to a word count. The added requirement of a word count is part of the test that your lecturers set for you in writing an assignment. Its purpose is to see whether you can distinguish between *more* important and *less* important information, rather than whether you can simply fill the allotted pages with relevant information. A poor assignment may well be saturated with observations that are merely relevant in the sense that they have something in common with the topic. **An effective assignment shows the ability to identify the *most* important principles and to explain them (as well as the reasons for their importance) as precisely as possible.**

RECAP: BE SPECIFIC!

- 1 Ask yourself: Does the use of metaphorical language convey the intended meaning more accurate than a simple description?**
- 2 Every critical analysis requires a criterion.**
 - Whenever you call something good, bad, right, wrong, positive or negative, ask yourself: why exactly am I saying so?

3 Delete vague or unnecessary words.

- Retain a vague word (which is sometimes unavoidable) only if you are prepared to explain it.

4 An effective assignment shows the ability to identify the *most* important principles and to explain them (as well as the reasons for their importance) as precisely as possible.

5 Ask yourself: Is what you have written the most accurate way of formulating the legal question, applicable legal principles, argument and conclusion?

2 Language is imprecise

The introduction to this guide referred to "errors" typically made by students. The quotation marks are deliberate. That is because the description of the shortcomings in your work as "errors" carries the potential for great misunderstanding. If you regard an "error" as implying the existence (but absence) of an inherently correct answer, you have succumbed to two fundamental misperceptions regarding the nature of legal writing, namely that:

- there always exists a correct answer to a legal question; and

- the quality of your work is assessed on the basis of your conclusions.

2 1 There always exists a correct answer to a legal question

An example of a factual question may be whether an employer said to an employee: "don't bother coming back to work tomorrow". A witness may testify to having heard it. It may even have been recorded. The employer either said it or did not say it. It is therefore either true or false.

The applicable legal question may be more complex, since it does not necessarily concern verifiable facts. In this example, the legal question may well be whether the employer's words were sufficient to amount to a "dismissal" in terms of the Labour Relations Act 66 of 1995 ("LRA"). Any conclusion in this regard will depend on a selective interpretation of legally relevant language (concepts arising out of legislation and legal precedent). In other words, there exists no answer to this legal question that can be considered as necessarily "true" or "false". Instead, the "correctness" of the conclusion is determined by the extent to which it is shown to conform to an accepted interpretation of legal precedent, or why an alternative interpretation should be preferred. Nothing precludes you from showing that a "dismissal" either did or did not take place. Both

conclusions – despite being contradictory – can be shown to be "correct".

Remember:

There are instances where a legal question has a "correct" answer. For example, if the legal question is "when does a person reach the age of majority", then the "correct" or "true" answer is "18 years". But, in response to the question whether it is preferable that the age of majority is "18 years", there is naturally no right answer.

The correctness of conclusions reached by argumentative processes cannot be determined with absolute certainty for two related reasons:

2 1 1 Words do not have inherent meaning

Unlike facts, the precise meaning of a word cannot be absolutely verified. You can certainly provide a convincing argument for why a certain interpretation should be preferred, but no amount of supporting claims can ever "prove" the meaning of a word beyond dispute. This is because such an absolute meaning does not exist. A word, which signifies a concept, simply refers to other concepts that refer to other concepts, etc. The parameters of these concepts are entirely man-made – they are based on agreement not truth. But no amount of agreement can

define the word completely, since such an agreement is necessarily constituted of more words, more concepts. A dictionary definition of a word is simply a collection of cross-referenced concepts, the meaning of which cannot be known with absolute certainty. In other words, concepts used to explain the meaning of a word merely point to certain *characteristics* associated with the word. The meaning of a word is therefore always deferred.

All you need to accept at this point is that words have no inherent meaning.

2 1 2 The content of laws cannot be determined by logic alone

The word "should" points to a simple truth (note the use of metaphorical language). As with the meaning of words, the justification of any legal principle is subject to selective interpretation. The content (or existence) of any principle has no "correctness" independent of a man-made criterion. The study of law is therefore not only concerned with the meaning of words, but also the establishment of criteria in terms of which agreement regarding the function of the law should take place.

Lawyers argue about what interpretation should be followed and ultimately a judge decides what he/she

believes should be preferred. The judge takes into account variables he/she believes should be considered relevant and decides what relative weight should be attributed to each. Any declaration of how something should be, is called a "value judgment" – a judgment based on what is often called "moral standards". The point is that all moral standards – and consequently all the value judgments taken in the promulgation of laws and their interpretation – are questionable. This is expressed in the famous maxim "reason alone can yield no moral judgment".

This means that the content of law cannot be determined exclusively by the use of logic.

2 2 The quality of your work is assessed on the basis of your conclusions

It is sufficient to realise at this point that your lecturers are rarely concerned with whether you arrived at any particular conclusion. You are also unlikely to impress a judge by merely insisting that your conclusion is indeed the "right" one. **The skill that your lecturers are trying to develop by means of assignments is this: the ability to justify, in terms of legally relevant principles, why your conclusion should be preferred over other possible conclusions.** The number of "correct" conclusions to a given legal question may be vast. Your conclusion can be

"correct" even if it is one that differs from that of the Constitutional Court, provided that you have shown sufficient grounds on which to justify it.

RECAP:

SUBSTANTIATE YOUR INTERPRETATION!

There exists no inherently correct answer to a legal question.

- Words do not have inherent meaning.
- The content of laws cannot be determined by logic alone.

The justification of your conclusion is more important than the content of the conclusion.

- The skill that your lecturers are trying to develop by means of assignments is this: the ability to justify, in terms of legally relevant principles, why your conclusion should be preferred over other possible conclusions.

3 Criticism of your work

The purpose of this guide is to develop your ability to critically analyse your work. Before we explore some helpful advice in this regard, it is appropriate to consider what self-criticism entails.

Let go of the idea that you already know how to write well. In fact, as a new, first-year law student, it is highly unlikely that you already possess the necessary writing skills that will enable you to succeed in your studies at the Faculty. In high school most comprehension tests required you to demonstrate understanding by paraphrasing (rephrasing/rewording) an original text. Many students seem to think that the purpose of legal assignments is to demonstrate understanding by paraphrasing legislation, textbooks and class notes. If you are instructed to complete an assignment at the Faculty, merely paraphrasing the content of the relevant legal sources is wholly insufficient and therefore unacceptable. This guide will help you to understand that there is much more to preparing legal assignments than merely presenting a collection of paraphrased sources.

Criticism of your writing is not criticism of you. If you confuse your writing with your identity, you will almost certainly be unable to look at it objectively, which may result in you being unable to make the necessary changes. You are likely to waste precious energy obsessing about what your writing says about you. You will equate criticism in the form of a lower than expected mark with disappointment, instead of seeing it for what it is: an opportunity to learn something that you clearly do not already know. If work and

identity are one, you are likely to respond with frustration that may take the form of thoughts such as "why do others not understand what I mean, when it is so clear to me?" You are also unlikely to enjoy doing what you do when you believe that your identity is at stake in the outcome. The realisation that criticism of your work is not personal, brings with it opportunity for improvement instead of resistance to change, and enjoyment instead of unnecessary stress.

Furthermore, once you have completed your studies at the Faculty and pursue your legal career, your work will be subject to constant scrutiny. You must be able to see (and utilise) constructive criticism as a tool to improve the quality of your work.

RECAP: USE CRITICISM!

- 1 Let go of the idea that you already know how to write well.**
- 2 Criticism of your writing is not criticism of you.**

Part 2: How to develop an argument

1 Overview: The three stages of an assignment

Unless you are an expert in the field, you are unlikely to have enough prior knowledge to start planning the argument central to your assignment before doing some research. The overarching theme of the research stage is this: **do not limit**

yourself, but only collect information that is relevant to your topic.

(STEP 1: COLLECTION OF INFORMATION). This requires you to **read the instructions contained in your assignment very carefully.** You may, of course, summarise or jot down ideas, but at this point you do not have to concern yourself with what form your paper will take or even with writing coherent sentences. Instead, we suggest that you open a Word document and simply write down all the relevant information and ideas as you become aware of them. In other words, **do not start editing yourself prematurely.** If you have a six-page limit to your assignment, this document containing your information may, for example, be well over fifteen pages long. The more information you have to begin with, the greater the scope for possible nuances in your argument. The first stage is complete when you have in front of you, in no particular order or structure, a collection of information that you feel can be used to adequately elaborate on themes within your topic.

The second stage is **ASSIMILATING THE INFORMATION (STEP 2).** This means that you start **planning the form that your argument will take** and that you **move** the information around to its appropriate place. It is especially important that during this stage you create a

proper framework or structure for your assignment. This does not mean that you should "cut and paste" from the different legal sources. It means that you should at this stage, be able to identify the argument(s) that you intend to make in your assignment, where you intend to make the argument(s) and what information you will be using in support of the argument(s). It may be a slow process, piecing together bits of information. You should find, however, that you are in a much better position to decide where to position specific information than you would have been had you combined this stage with the research stage. In other words, it is best not to decide what you want to say before you have identified the most important themes within the topic. You may even start connecting sentences at this stage, but do not be too concerned with grammar or stylistic requirements as yet.

The final stage of your assignment can be loosely called **EDITING (STEP 3)**. This involves **reading** through your written assignment numerous times (as many times as you can) and **making changes** as you go along. This entails **(re)formulating your sentences as concisely and precisely as possible**, paying attention to **formal requirements** (such as referencing and grammar) and making sure that all the aspects of your **argument** have been sufficiently developed.

It is unlikely that you will notice all the necessary changes to improve your assignment if you attempt to do your assignment in "one go". Every time you read through and edit your paper its precision will increase. You are also likely to arrive at new insights that, if incorporated, may improve the quality of your paper. It is also recommended that you try to spread out these stages of the assignment. Allowing a day or two to pass whilst engaged in the editing stage will most probably allow for a fresh perspective.

Once you have edited your paper thoroughly, you will be left with a document that we may call your **first draft**. The purpose of handing in a first draft is to receive suggestions from your lecturers or tutors regarding possible improvements (note that not all assignments allow you to submit a first draft). The more thorough your first draft is, the more helpful the comments are likely to be. Once the necessary changes have been made, you may have the opportunity to submit a second draft with the same purpose, or you may need to convert your first draft into the final version of your assignment.

Bear in mind that the writing consultants can help you to improve your first and/or second draft before you submit it to your lecturer or tutor.

Always record a brief description of your sources (such

as the name of the author, the year of publication and the page number) immediately whilst collecting information. Failure to do so could lead to a frustrating search when finalising your referencing.

1 1 STEP 1: Collecting information

1 1 1 *What is legally relevant?*

Information can be considered legally relevant for a variety of reasons. If you are analysing a legal question on the basis of specific factual circumstances, case law with similar facts could be relevant. Alternatively, case law that does not necessarily share the same facts, but addresses an applicable legal principle, may also be legally relevant. It may also be that legislation – either expressly or implicitly – indicates which factors are relevant. Legislation may, for example, indicate a closed list of factors or simply provide examples of relevant considerations. Ultimately, "relevance" has its own legal principles (which will be dealt with extensively in the course entitled "Law of Evidence").

A few general remarks are appropriate here:

- i. Whether information is relevant or not will depend on **the nature of the legal principle concerned**. For example, it may be that the personal circumstances of either one or more litigants are relevant if the applicable legal principle involves a "subjective test"

(such as the test for "intent"). In the event of an objective test, these kinds of considerations may not be relevant (such as the test for "negligence"). Note that the words "subjective" and "objective" have a certain meaning in a legal context that differs from the general use of the words to indicate "opinion" and "fact", respectively.

- ii. Regardless of the type of legal questions involved, you must explain **why the information you are presenting is relevant**. Many students simply fill their papers with facts and figures, assuming that the reader will make sense of how these support their argument. You, not the reader, are tasked with relating it to your argument.
- iii. You must also explain what **weight** the information carries. In other words, apart from showing why it is relevant, you have to show how important (relative to other information) it is for the purposes of your argument. The most effective way of doing this is of course by referring to legal precedent. You can find support for the relative importance of information by, for instance, looking carefully at the wording of a particular judgment or legislation.
- iv. Read your instructions carefully. Only if you read your instructions carefully will you know what

precisely it is that your lecturer expects you to do in the assignment. Your understanding of the question will enable you to identify whether the information is relevant or irrelevant for the assignment. The relevance of a particular answer depends on the question that has been asked.

1 1 2 Legal databases

During the library orientation offered at the commencement of your LLB course, you were instructed on how to approach legal research. If you have not yet participated in the orientation you are advised to take it seriously. It is not the purpose of this guide to repeat instructions pertaining to the vast amount of legal resources at your disposal. Assistance in this regard is available at the JS Gericke Library: discuss your queries with the subject librarian for the Faculty.

Due to widespread misunderstanding we would, however, like to briefly repeat one invaluable instruction on how to search for journal articles. It appears that many students are under the impression that South African journal articles are found exclusively on LexisNexis or Juta. This is not the case. In fact, these two databases do not nearly include all the South African legal journals. You are therefore advised to use databases such as the Index of South African Periodicals ("ISAP"), which provides a list of

applicable sources located in additional journals by means of a keyword search. Note that the list of sources generated by ISAP does not include the full text of the article. It will, however, indicate where you can find it. SA ePublications can be used to conduct searches for full-text electronic African journals. If you choose to ignore this advice, you are making your research much more limited (and difficult) than it should be.

1 2 STEP 2: Assimilating information

Once you have collected a substantial amount of relevant information, do **not** start by trying to finalise your introduction or conclusion. Start by planning and putting together your argument.

1 2 1 *The argument*

1 2 1 1 What is an argument?

An argument consists of at least two related premises (supporting statements) that, when combined, result in a conclusion. Note that these three components are the **minimum** formal requirements for an argument, which is typically expressed as:

A = B	Premise 1
B = C	Premise 2

(therefore) $A = C$	Conclusion
---------------------	------------

An argument may involve more than two premises. It may require you to draw multiple conclusions and use them as premises for a grand conclusion. Thinking about your argument in this way will help you to identify contentious issues. In other words, **it will become clear which premises need to be examined more closely or are in need of further justification.** Although an entire course in the Philosophy Department is dedicated to the application of logic ("Practical Logic and Critical Thinking Skills") and arguments are subject to certain typical formal errors, the purpose of this discussion is only to familiarise you with a few basic principles. Consider the following statement:

"Law firm X is the best law firm to work for".

Is this an argument? Not yet. Due to the absence of supporting premises it is merely a statement. In order to elevate it to the level of "argument", we may add the following premises and conclusion:

The law firm that spends the most time training their candidate attorneys is the best law firm to work for.	Premise 1
---	-----------

Law firm X spends the most time training their candidate attorneys.	Premise 2
(therefore) Law firm X is the best law firm to work for.	Conclusion

Now that the sentence has taken the form of an argument, it is open to analysis. Had it merely remained an unsupported statement, a debate would have been meaningless, since the author had not explained what interpretation of the phrase "the best" he/she was advocating. In other words, a critical assessment would not be possible if you merely speculate whether X is in fact the "best" law firm to work for or not. It necessarily requires the deconstruction (breaking down) of one of its premises. One could challenge the argument by challenging either Premise 1 or 2. You could justify why, for instance, the law firm that allows the most holidays is actually the best law firm to work for (a challenge to Premise 1). Alternatively, you can show that law firm Y, not law firm X, spends the most time training its candidate attorneys (a challenge to Premise 2). It is also possible to elaborate on – by means of a separate argument, of course – what constitutes "the most time". The possibilities are endless.

In short, analysis takes three forms:

- 1 Challenging or confirming the validity of a premise.
- 2 Challenging or confirming the deductive process followed in the argument.²
- 3 Expanding (by means of a separate argument) on an aspect of a premise that has not been sufficiently defined. In legal analysis this may be an aspect of a premise that has not been sufficiently related to a legal principle.

1 2 1 2 The two necessary arguments

If your assignment requires you to apply a legal principle to a set of facts, it could be useful to think of the argument central to your paper as a combination of two related arguments. The first is aimed at proving why your suggested interpretation of the applicable legal precedent should be followed. Assigning specific meaning to legal principles is what we call **INTERPRETATION**. For this argument to succeed, you must be mindful of certain general principles

² This is argumentation where the particular is deduced from the general. Deductive thinking departs from the general and proceeds to the particular. Deduction starts with the general principle and then attempts to relate the particular or the individual to it. In a deductively valid argument the relationship between the premises and conclusion is based on only the meaning of words or phrases in the premises and conclusion - the conclusion is implicitly part of the premises of the argument.

of interpretation. These legal principles are dealt with in the course titled "Interpretation of Statutes".

The second argument seeks to establish why the application of this legal principle to the facts yields a certain conclusion. Using your interpretation of the applicable legal principles to motivate how a certain legal conflict should be resolved is called **APPLICATION**. In other words, your conclusion as to the appropriate interpretation of the legal principle becomes a premise in the argument explaining its application to the facts. This involves aligning the facts of the case with the elements present in the specific interpretation that you have established. Omitting either of these stages **will** result in your so-called "conclusion" being arbitrary. More specifically, it will not *be* a conclusion at all.

RECAP: PRINCIPLES OF ARGUMENTATION

- Omitting a premise logically necessary to your argument will result in the collection of information falling short of the formal requirements of an argument. What you may regard as your "conclusion" will in fact, only be a "statement" – that is to say, an unsupported assertion.
- Thinking about the premises you require to arrive at your conclusion will enable you to identify which

areas of your argument need more attention. For instance, you will be able to spot that a certain premise needs to be elaborated on by means of a separate argument in which it stands as the conclusion.

- Provide an argument for both your interpretation of the applicable legal principle and the application of that principle to the facts.
- This takes practice. In a sense, your entire legal study – every course, every lecture and every assignment – is aimed at developing an understanding of this skill.

1 2 1 3 Common mistakes

- Applying the Constitution

The Bill of Rights is written in an exceptionally vague language. The result is that rights such as the right to equality or dignity are open to a wide range of possible interpretations. The point is that a constitutional right (or any law for that matter) **cannot be applied without necessarily arguing the parameters of its provisions**. One cannot, for instance, rely on the right to equality *as it appears in* the Constitution. Instead, you must argue for **a certain interpretation of** the right to equality on the basis of case law, legislation and, more often than not, the criteria as set

out in section 36 (the “limitation provision”) and section 39 (“Interpretation of Bill of Rights”). In other words, you cannot only look to the Constitution to find out what it means.

- Using democracy, fairness and justice to *support* a conclusion

It is meaningless to use "democracy", "fairness" or "justice" as a premise to support a certain conclusion. This is because these terms *are* necessarily conclusions themselves, rather than verifiable premises. In other words, you cannot argue that your interpretation of legislation should be followed *because* it would be the most democratic, the fairest or the most just interpretation. This is not only because these terms are vague. It is also because the courts are already necessarily tasked with considering democratic ideals and justice when interpreting any legal precedent. It is unlikely that reminding the court that it has the duty to consider justice or fairness or democracy will assist your argument in any way.

- Not answering the question

It is not enough to submit your paper if it only contains a conclusion successfully supported by premises. **You must answer the question put to you in the assignment.** Do not needlessly discuss issues (however interesting they may

appear) that are not relevant to your topic. If you discover an interesting issue that falls outside the ambit of your topic, consider writing a separate article on the issue.

- Perpetual agreement

You do not always have to agree with judges or your lecturers. If, for instance, you come across a passage in a judgment that you believe is ambiguous (and its ambiguity is relevant for the purpose of the assignment), you are encouraged to communicate that observation in your paper. Be aware that some judges and academics do not write well. Instead of submitting to their reasoning or imitating their style – regarding it as some sort of template – focus on being accurate. Before criticising, however, you must be sure that you have made a thorough effort to consider all the possible interpretations and implications.

- Generalising the issue

Being specific also means describing the ambit of your topic as precisely as possible. If, for instance, your topic is about liability without fault (as a form of delictual liability), it may be inappropriate to simply refer to it as a more general issue of delictual liability. A failure to be specific can lead to misappropriating legal precedent. You may be unknowingly implying that *all* issues relating to delictual liability are

subject to the same considerations. In the law of delict, however, a distinction is made between liability without fault and fault-based liability (both are forms of delictual liability but they are founded on different bases and have different requirements). Be aware of what you are implying.

- Reluctance to get assistance

Your lecturers are available to discuss with you those legal issues that you – after you have reviewed your class notes or textbook – do not understand. The writing consultants are available to assist you in structuring and refining your assignments. Please keep in mind that the assistance that your lecturers or the writing consultants can give you will be limited by the extent to which you fail to prepare sufficiently before meeting with them.

1 2 2 The introduction

The primary purpose of an introduction is not to summarise the content of your paper. The purpose of an introduction is simply to explain to the reader **what you are writing about** as well as **the legal context** within which your discussion takes place.

Do not, however, attempt to grab the reader's attention by introducing your topic in exaggerated terms such as "the most fundamental right of all human beings". Nothing could

be more predictable and more boring. It is not only "big" issues that are worth discussing. Often the most interesting discussions involve a nuanced interpretation of a previously overlooked phrase.

Avoid variations of the following statement at all cost:

"This paper will take into account relevant legislation and case law in order to critically assess the applicable legal principles."

This statement is supremely obvious at best. There is no need to remind the reader that legislation and case law have relevance in legal analysis. The statement also does not explain why the issue is worth being discussed.

You may want to give **some indication in your introduction as to what form your argument is going to take**. There is nothing wrong with that. The danger, however, is that you confuse your introduction with your conclusion. It is best to save an explicit account of your argument for your conclusion, since you will have used the body of your assignment to elaborate on and justify its premises. Giving a detailed account of your premises and conclusions in the introduction will be premature.

1 2 3 *The conclusion*

Once you have established the validity of all your premises and conclusions, it is appropriate to end the paper by briefly outlining the structure of your central argument. This is what is meant by the "conclusion". You may wish to think of it this way: the body of your paper was concerned with providing proof, whereas the conclusion is a concise account of what it is that you have proven.

As with the introduction, the temptation may arise to phrase your conclusion in the most grandiose and profound terms possible. Resist this temptation. A conclusion does not need to be presented in dramatic binaries such as right/wrong, good/bad or success/failure. A conclusion can concern a nuanced understanding of a single word or insist that certain factors should be given more weight. Focus on precision. There is no greater accomplishment in legal writing than a precise and (formally) sound argument.

1 3 STEP 3: Editing

Read through your assignment as many times as possible. If your assignment exceeds the designated word or page limit, you will be required to distinguish between *more* relevant and *less* relevant information. Eventually, your assignment will be constituted of the information that you consider to be the *most* relevant to your topic. Make an appointment with

your lecturer or writing consultant, depending on the nature of your uncertainties.

CHECKLIST

STEP 1: COLLECTING INFORMATION

- 1 Read your instructions carefully.
- 2 Make sure that you are aware of the legal resources at your disposal. If not, seek assistance at the JS Gericke Library.
- 3 Open a Word document.
- 4 Use the library's databases to find sources.
- 5 Read through the applicable books, articles, legislation and case law. Write down all the relevant information and ideas as you become aware of it, remaining mindful of:
 - Not editing the information prematurely;
 - The legal principle on which the relevance of the information is based;
 - The relative importance (weight) of the information; and
 - The details that you may require for referencing purposes.

STEP 2: ASSIMILATING INFORMATION

- 1 After you have collected as much information as

possible, start planning the form of your argument (and be aware that this may change at any time during the writing process).

- 2 Make sure that your premises combine to produce a conclusion that is logically sound.
- 3 Start moving around pieces of information in a manner appropriate to the flow of your argument. In other words, start positioning information in order to support the premises needed for your conclusions.
- 4 Write an introduction explaining the topic and its legal context. Use the introduction to answer the question: why is this issue worth discussing?
- 5 Write a conclusion that briefly summarises the various premises and conclusions used in your argument.

STEP 3: EDITING

- 1 Read through your assignment as many times as possible and pay specific attention to:
 - Formulating your sentences as concisely and precisely as possible;
 - Formal requirements; and
 - The sufficient development of your argument.
- 2 If your assignment exceeds the designated word or page limit, you will be required to distinguish

between *more* relevant and *less* relevant information. Eventually your assignment will be constituted of the information that you consider to be the *most* relevant to your topic.

- 3 Make an appointment with your lecturer or writing consultant, depending on the nature of your uncertainties.

LANGUAGE AND STYLE ASPECTS

1 Language aid in the Faculty

Consult this part of the guide whenever you are uncertain about the correct language usage, style or referencing in papers that you are required to prepare under the auspices of the Faculty. This part of the guide contains guidelines on language issues that students at the Faculty often get wrong. This is not a comprehensive language guide and it only looks at those issues that cause problems for law students in general.

Always bear in mind that the Faculty offers a free writing and language consultation service. This service is, generally, not compulsory, but can make a positive difference to your writing skills – and thus to your marks. No aspect of your writing, presentation or language ability is too insignificant for help from the writing consultants. They are there to help you! Just remember to make an appointment (and be prepared) before you approach a writing consultant.

2 General writing principles

2.1 Plan your time

Postponing until the last minute is not a good idea. Give yourself enough time for **(a) preparation, (b) the writing of the paper, and (c) revision** afterwards. Also allocate time to seek the assistance of a writing consultant.

2 2 Prepare

This means that you have to understand what is expected of you in your paper; selecting and finding applicable sources; reading, interpreting, and analysing these sources, etc. Scribble simple notes to yourself, create a mind map, underline or emphasise with a highlighter while you are reading. Follow any method that works for you. Chat to a fellow student about the subject – it is an easy way to determine what you understand and what not. Or try to explain the subject as concisely and simply as possible to your room- or housemate. By this stage you should have a fair understanding of your subject. And only now are you ready to write.

2 3 Be (aware and involved) in class

The planning and preparatory phases above can only be successful if you attend classes, are attentive and ask questions. The intelligent, serious student does not shy away from asking questions. If you are too scared, embarrassed or lazy to ask questions, you are uninformed – and you will stay that way. However, if you have writing-related questions that you need to discuss before or after class, you may visit a writing consultant for a private consultation.

2 4 In general, read as much as possible

The better you can read, the better you will be able to write. Similarly to writing, reading also improves with practice. Concentrate while you are reading. Switch off your cell phone.

2 5 Beware of spelling and typing errors

Remember that spelling and typing errors are frowned upon at an academic institution, and especially in the legal profession – more so than at school. An assignment with spelling and typing errors immediately creates a bad impression. (See list of common spelling and typing errors on pages 76 and 77) It also makes it difficult for your lecturer to understand what you are saying (this is not a good idea, as it will be reflected in your marks).

2 6 Use a spell checker and other spelling guides

The use of a spell checker is not negotiable. However, remember that a spell checker identifies some words as correct, while they might be incorrect in a certain context. This especially relates to homophones, or words that have similar sounds. In this regard, examples are accessory / accessory, allowed / aloud, aural / oral, bare / bear, band / banned, board / bored, deviser / divisor, principal/principle, stationery/stationary, whether/weather, whose/who's, etc.

Example:

“The bored decided to accept the proposal.” A spell checker will accept “*bored*” as the correct spelling, while it should be “*board*” in this context. You should therefore ensure that you are using the correct word in a certain context. Supplementary to a spell checker you should also invest in the best dictionaries and thesauruses that you can afford. We recommend that you consult the *Oxford South African Concise Dictionary* 2 ed and *Oxford Thesaurus of English* 3rd ed revised. Also, the trilingual legal dictionary of Hiemstra & Gonin is available electronically at Juta.

2.7 Maintain user-friendly language

Write intelligibly, simply and clearly without being familiar and intimate. Avoid lengthy or complicated words or phrases. If you use it to appear clever or to artificially extend the word length of an assignment, you are only fooling yourself (or in a couple of years, your clients or colleagues) and not the lecturer.

The current trend in law is more user-friendly or plain language. This means that law practitioners should use comprehensible language to help lay people understand complicated legal issues.

Example:

“Guidelines with regard to extent and content are dealt with herein below . . .” is unnecessarily clumsy. *“Guidelines about extent and content are set out below. . .”* is shorter and simpler.

Remember:

*“The smaller the words, the larger the audience”.*³

2 8 Use concrete words or phrases rather than abstract words or phrases

It improves the clarity, factuality and comprehensibility of your writing, and simplifies the task of the reader. It also helps to avoid ambiguities and vague statements.

Examples:

“The majority of the voters . . .” The impact of this sentence, with the abstract word *“majority”*, could be improved by a concrete fact. For example: *“70% of the voters . . .”*

“The documentation concerned . . .” gains impact if you are concrete and specific. For example: *“The client file and the email correspondence . . .”*

³ Law Society of South Africa (L.E.A.D) Practice Manual *Business Writing Skills* (2011) 8.

Remember:

Circumstances may occur in the legal profession where a specific case may require you to use abstract words or phrases. For example, if you as a lawyer want to test the reaction of an opposing party for strategic reasons, but you do not necessarily want to provide the opposing party with all the information you may possess about the issue, it may be suitable to use abstract words or phrases.

However, your lecturer will rarely expect you to use abstract words or phrases – on the contrary, it will indicate that you are uncertain or that you do not know your work well enough!

2.9 Maintain the correct register

Aim for a fairly formal academic tone. The simple, user-friendly style referred to above does not mean that you should use slang, clichés (hackneyed sayings with no impact any longer, for example “role players” or “at grassroots level”), SMS or colloquial language. For example, avoid informal expressions such as “iron out problems” (instead of “solving problems”) and “put a proposal together” (instead of “draw up a proposal” or “design a proposal”). Also, try to avoid emotional expressions and unnecessary descriptions such as “hugely painful” or “terribly traumatic”.

Write in the third person – or simply make the statement without referring to yourself or somebody else – except where you are asked for your opinion on the issue.

2 10 Build healthy sentences

Good sentence construction forms the basis of good legal writing. Master it. You should especially remember the following:

- Keep your sentences as short as possible (fewer errors are also made in this way). If you do have to use a longer sentence, use punctuation marks to simplify the reading process.⁴ Shorter sentences are quicker and easier to read. It facilitates your lecturer's reading and, later in practice, that of your clients or colleagues. A reader who reads easily is a positive reader!
- A sentence should have a subject and a predicate (otherwise it is not a sentence). This means that a sentence should have a verb (or verbal group) that relates directly to the subject. The subject is that word or part of the sentence to which the verb/verbal group will relate.
- Where you are able to, use a single verb instead of a verbal phrase.

⁴ S I Strong *How to write law essays and exams* 3 ed (2010) 144.

Example:

“The trade union leaders have reached the decision that . . .” This is a verbal phrase in action. “The trade union leaders have decided that . . .” This is a powerful, single verb in action. It is shorter and has the most impact.

- Choose, where possible, the simplest word with the fewest syllables if you have a choice between words that, in your context, have similar meanings (synonyms).
- Use punctuation marks in your sentences like you would use road signs when you drive.
- Ensure that your sentences are linked to each other. (Use the connecting words or phrases provided below.) Your reader should be able to see how a sentence relates to the previous and the following sentence. This is called cohesion. Without cohesion, your reader will be unable to understand your argument because your sentences would appear loose and unrelated to each other.

2 11 Structure good paragraphs

The purpose of paragraphs is to offer your writing to your reader in “consumable” format (“bite-sized”). Keep them as short as possible. Please also note the following:

- A paragraph is a unit that is centred on a single idea or point. When this idea or point has been concluded, you should start a new paragraph for a new idea or point.
- A paragraph may – only for exceptional emphasis – even consist of a single sentence.
- Provide a logical, reader-friendly flow within and between paragraphs. Your reader should understand what the relation is between the end of one paragraph and the beginning of the next. Use connecting words or phrases to help you with this.

Examples:

- To indicate condition: ‘on condition that’, ‘if’, ‘unless’, ‘provided that’
- To indicate time: ‘firstly’, ‘secondly’, ‘to start with’, ‘subsequently’, ‘thereafter’
- Cause: ‘because’, ‘owing to’, ‘whereas’, ‘seeing that’
- Contrast: ‘against this’, ‘nevertheless’, ‘however’, ‘but’, ‘in contrast to’, ‘although’
- Similarity: ‘similarly to’, ‘in accordance with’, ‘likewise’
- Result: ‘consequently’, ‘thus’, ‘therefore’, ‘hence’, ‘as a result of’
- Examples and illustration: ‘in the case of’, ‘for

example', 'as an example', 'by way of illustration', 'with reference to'

- Additional facts/information: 'besides this', 'and', 'as well', 'also', further'

2 12 Use active verbs rather than passive verbs

The active use of verbs is generally considered the best style of writing. It enlivens your writing and makes it precise. It therefore facilitates the task of your reader.

<u>Example:</u>	
Passive	The premises will need to be vacated before the deed of sale can be signed.
Active	The occupant, John Black, will need to vacate the premises (situated at 10 XYZ Street, Stellenbosch) before the seller, Thabo Moloi, and the purchaser, Sarah Black, can sign the deed of sale.

However, there are exceptions to this rule.⁵ Use the passive voice when you deliberately do not want to be too specific, do not want to sound too critical, want to soften information, or want to emphasise a specific part of a sentence.

⁵ L.E.A.D. *Business Writing Skills* (2011) 13.

2 13 Decoration

Do not frame assignments and refrain from using decorative front pages, fancy borders, or extravagant binding. Background styling is also unsuitable in an academic paper. It will not earn you more marks.

The following rules regarding style and layout apply to any assignment that you are required to complete at the Faculty:

- **Font: Arial**
- **Size: 12**
- **Line spacing: 1.5**
- **Alignment: Justified**
- **Indentation: 0.5**

Although it is unlikely, your lecturer may provide you with specific instructions regarding style and layout that differ from these rules. Only in those instances are you allowed to deviate from these rules.

2 14 Last but not least

When your paper is complete, you should still have enough time to read through it critically, make corrections, reread it once again and make corrections again. Rewriting is inseparable from good writing. It requires time and patience! (The good news is that it becomes easier and quicker with

practice.) It is therefore in your best interest to acquire the habit of asking yourself the following questions – as objectively as possible – at the end of an assignment:

1	Is it clear (will my reader understand it)?
2	Is it concise (is it free of vagueness, unnecessary words, phrases or repetitions)?
3	Is it complete (have I addressed the entire assignment, are my sources cited correctly, are my references accurate and in line with the Faculty's referencing guidelines contained in this guide, and are my cover page, index and bibliography in order)?
4	Is it correct (did I understand the assignment correctly, are my facts, identification and exposition of the legal issue and the application thereof to the facts, and my spelling, grammar and academic register correct)?
5	Does the text flow (do sentences and paragraphs follow upon one another logically and meaningfully)?
6	Did I keep to the prescribed word count?

It requires practice to objectively observe one's own work, but a simple mind game might help:

Imagine that you are the lecturer. It is late at night. The assignment of the student in front of you (remember, this is your own) is one of many that you are marking tonight and there are many more to follow. You are tired and your patience is wearing thin. You are after all just a normal human being even though you are a clever law lecturer . . . imagine this and see for yourself how critical one can become in such a situation!

Another dyed-in-the-wool tip is to read your assignment aloud to yourself – you will be surprised how many errors suddenly jump out of your text like little red flags. Alternatively, you can ask someone else to read and comment on your assignment.

Also remember that the writing consultants are there to help you at any stage of the writing process.

And when you become completely despondent about your writing abilities (or the lack thereof), remember the words of the golf legend, Gary Player: “The harder I practice, the luckier I get.”

3 Specific language and style issues

3 1 Punctuation marks

3 1 1 *Dash and hyphen*

- These two punctuation marks have different functions:
- The **dash** is longer than a hyphen and used with spaces on either side. You can use it when you want to explain or emphasise something in a sentence.

Example:

The judge ordered that the defendant – who lost the case – should bear all the costs.

- Use dashes sparingly; rather use commas. Too many dashes, and thus too many explanations or emphases in your sentences, hinder the flow of the text. It impairs your paper's readability.

Remember:

If your paper does not read easily, the chances are good that your mark will be negatively affected.

- The **hyphen** is short and used without spaces on either side. It is used to join words and to separate syllables of a single word.

- Your computer often hyphenates words automatically at the end of a line. When you are reviewing your paper, ensure that the hyphen at the end of the line appears after the word division. If it appears at the beginning of the next line in front of the following section of the word, it is incorrect.

3 1 2 *Full stop and abbreviations*

- Remember to place a full stop at the end of each sentence. A full stop is always followed by a space. Also remember that abbreviations in references in legal writing are used without full stops. Spaces in abbreviations should also be avoided.
- Do not use abbreviations in the main text, except if a proper name is used repeatedly. In such a case, the first full citation of the proper name should be followed by the abbreviation, enclosed in double quotation marks and brackets. The abbreviation should be consistently referred to thereafter. Use abbreviations as far as possible in the footnotes.

Examples:

According to section 6 of the Constitution of the Republic of South Africa, 1996 ("Constitution") ... (**note the use of small letter "s" for "section" and not s 6 of sec 6 in the main text**)

The Treatment Action Campaign ("TAC") aims to influence government policy in various ways. The TAC has often stated that ...

- Abbreviations which are commonly used in footnotes to legal articles include the following:

art – article (unless legislation customarily requires capital A)

arts – articles (unless legislation customarily requires capital A)

ch – chapter

chs – chapters

cl – clause

cls – clauses

ed – editor; edition (second edition = 2 ed)

eds – editors; editions

GG – *Government Gazette*

GN – government notice

n – footnote; note

nn – footnotes; notes
no – number
nos – numbers
OS – original service
para – paragraph
paras – paragraphs
Proc – proclamation
reg – regulation
regs – regulations
RS – revision service
s – section
ss – sections
sch – schedule
schs – schedules
subs – subsections
subss – subsections
vol – volume
vols – volumes

- Never use abbreviations such as *op cit*, *loc cit*, *ibid* and *idem* and “p” or “pp” for “page” or “pages”.
- If you refer to a judge in your paper, the judge’s surname should be followed by his or her official title in capital letters.

Example:

"[T]he judgment of Steyn CJ in [*Ex parte die Minister van Justisie: In re S v Van Wyk* 1967 1 SA 488 (A)] is ripe for reconsideration by the Constitutional Court in South Africa."⁶

Examples of official titles:

J – Judge

JA – Judge of Appeal

CJ – Chief Justice

DCJ – Deputy Chief Justice

JP – Judge President

DJP – Deputy Judge President

AJ – Acting Judge

AJA – Acting Judge of Appeal

P – President

3 1 3 Comma

- Do not use a comma to separate the subject from the verb.

⁶ J Burchell *Principles of Criminal Law* 4 ed (2013) 138.

Example:

- Incorrect: An eighteen-year old in California, is now considered an adult.
- Correct: An eighteen-year old in California is now considered an adult.

3 1 4 *Other comma uses*

- To separate independent clauses when they are joined by any of these seven coordinating conjunctions: *and, but, for, or, nor, so, yet*.

Example:

The student explained her question, yet the lecturer still did not seem to understand.

- Use commas after introductory a) clauses, b) phrases, or c) words that come before the main clause.

Examples:

While I was eating, the cat scratched at the door.

Because her alarm clock was broken, she was late for class.

- Use commas to separate three or more words, phrases, or clauses written in a series.

Examples:

The Constitution establishes the legislative, executive and judicial branches of government.

The prosecutor argued that the defendant, who was at the scene of the crime, had a strong revenge motive, and who had access to the murder weapon, was guilty of homicide.

- Remember that a comma is always followed, but never preceded by a space.

3 1 5 Colon

- Use before a quotation and before a list or an explanation that is preceded by a clause that can stand by itself.

Examples:**Before a quotation:**

The defendant maintained his innocence: “Because I have paid the price in full, I do not owe the plaintiff any more money.”

Before a list:

The three stages of an assignment include:

- 1 Collecting information;
- 2 Assimilating information; and
- 3 Editing.

- Use in numeric time indication.

Examples:

09:30 (half past nine a.m.)

16:00 (four o'clock p.m.)

3 1 6 *Ellipsis*

Use the ellipsis only when you want to indicate that irrelevant words, phrases or sentences have been omitted. An ellipsis always consists of only three points or dots with spaces in between and on either side.

Example:

According to Quirk and Greenbaum, the distinctions are unimportant . . . for nouns with specific reference to definite and indefinite pronouns.

3 1 7 *Capital letters*

The use of capital letters should be limited to proper names, full titles or designations.

Examples:

the Cape Provincial Division, the Minister of Justice, the Department of Trade and Industry, the Interpretation Act, etc., *but* the judge, the supreme court, the minister, etc.

3 1 8 Quotations and italics

- Try to use quotations sparingly, preferably only as a striking example.
- Try to keep your quotation as brief as possible without sacrificing the authoritativeness of the statement.
- Quotations should correspond exactly to the original version. This means that, where the original makes use of capital letters, for example, your quotation should also include this.
- If a quotation contains a reference to a footnote, it is preferable to indicate that the footnote is omitted, or to insert the content of the footnote in square brackets in the main text.

Examples of quotations containing reference to a footnote:

Main text:

According to Harms JA:

"The effect of a non-variation clause has been the subject of two judgments of this Court, namely *Shifren* and, latterly, *Brisley v Drotsky*.¹²³".⁹

Footnote:

⁹ *Telcordia Technologies Inc v Telkom SA Ltd* 2007 3 SA 266 (SCA) para 12 (footnotes omitted).

or

Main text:

According to Harms JA:

“The effect of a non-variation clause has been the subject of two judgments of this Court, namely *Shifren* [SA *Sentrale Ko-op Graanmaatskappy Bpk v Shifren* 1964 (4) SA 760 (A)] and, latterly, *Brisley v Drotsky* [2002 4 SA 1 (SCA)]”.

Footnote:

⁹ *Telcordia Technologies Inc v Telkom SA Ltd* 2007 3 SA 266 (SCA) para 12.

- When a complete sentence is quoted (or when a portion of a complete sentence is quoted as a separate sentence), the quotation should be preceded by a colon and must appear as a separate paragraph with a left indent.
- Ensure that quotations have been checked for accuracy and references comply with the style requirements.

Exception:

Where you quote something that contains a quote in itself, the double quotation ("...") marks should be replaced by single quotation marks ("... '... '...").

Example:

Nicholson J held:

"Of significance are the following comments in 1986 *TSAR* 232 by Van der Walt who states 'In gevalle soos die wat hierbo vermeld is, herstel die Hof deur verlening van die gevraagde regshulp die versteuring van die *daadwerklike beheer* ...'."¹²⁴

- Where you have made changes or additions to a quotation, those changes or additions should be placed in square brackets.
- Do not start a quotation with an ellipsis. The quotation may, however, end with an ellipsis.
- Do not type quotations in italics, except when the original quotation is italicised.
- Italics may be used to emphasise words, clauses or sentences. If used for this purpose in quotations, the change must be clearly indicated at the end of the quotations by

expressions such as “emphasis added” or “own italics”.

- Underlining is not allowed, especially not as an alternative to italics.
- It is important to remember that quotation marks at the end of a quotation should be placed after the last punctuation mark (full stop, comma, etc.) within the quotation.

3.2 Headings, numbers and bullets

- In the headings contained in your assignment, a capital letter should only be used for the first letter of the first word, except where the further use of capital letters in the heading is required. No heading should be written completely in capital letters.

Examples:

- Incorrect: THE PROMISE OF REFORM
- Incorrect: The Promise of Reform
- Correct: The promise of reform

- It is very important that you make use of headings, subheadings and numbering when you prepare your paper. This makes it easier for the reader to follow your writing without

having to stop in the middle of your paper to try and figure out what you are writing about.

- Headings are consecutively numbered **without automatic numbering**, no headings are underlined, paragraphs are not separated by a full blank line, but only by an indent at the beginning of the new paragraph.
- The following should be used as sparingly as possible: 1) (1) (i) (ii) (I) (III) (a) (d), etc. If the use of one of these styles is essential, lower case Roman numerals are preferable.
- Bullets may be used to separate entries in non-numbered lists. First level headings are done in **bold**, second level headings are plain and third level headings are done in *italics*, for example:

3 Considering foreign law as a foundation for improved principles

3 1 Discussion of international theory

3 2 Examples of international practice

3 1 1 *Introduction*

When you divide your paper into numbered units or paragraphs, the following style should be used (omitting full stops between numerals):

1

1 1

1 1 1

1 1 2

1 1 3

1 2

2

3

3 1

3 1 1

3 1 1 1

3 1 1 2

3 1 2

3 2

You should never have only one subheading at any particular level:

Example:

1 Labour legislation

1 1 Unfair dismissal

1 2 Automatically unfair dismissal

2 Employment equity legislation

2 1 Equality

3 The Basic Conditions of Employment Act

There should not be a heading numbered “2 1” as there is

only one subheading under heading “2”. The subheading should therefore be removed:

1 Labour legislation

1 1 Unfair dismissal

1 2 Automatically unfair dismissal

2 Employment equity legislation

3 The Basic Conditions of Employment Act

3 3 Numerals

- The point of departure is that numbers below 20 should be written out in words (for example: one, two); numbers of 20 and higher should be expressed as numerals (for example: 21, 22). However:
- Monetary amounts are written in numbers. Also remember the importance of spaces and commas in the use of monetary amounts. For amounts above R1 000 a space is used, for example “R35 000”. Use a comma between the rand and cents, for example “R360,75”.
- Age is always written in numbers: “The boy was 11 years old.”
- Dates: note the use of words with the numbers, for example “from 2008 to 2010” and “between

2008 and 2010". Avoid "2008–2010" – it is a more informal style of writing.

- Percentage: always use the % sign and never the word "percentage", for example "10%" and not "10 per cent" or "ten per cent". There is no space between the number and the % sign.
- Page numbers: the number of the page to which you refer must always be expressed as numerals.

3 4 Prepositions

- Fixed preposition groups consist of combinations of two or more words that include at least two prepositions. The words in these groups, as well as the order in which they are used, may not be altered.

Examples:

in answer to

by means of

with reference to

on the basis of

with regard to (NOT with regards to). "Regards" is used, for example, when sending greetings to someone i.e. "Give my regards to your parents."

in respect of
in connection with
as a result of

- If you wish to keep your sentences concise and clear (exactly that which you should be striving for in your writing), you may replace these preposition groups with one word:

Examples:

as a result of . . . because/due to
on the occasion of . . . by
by means of . . . by/through
in connection with . . . about/regarding
with regard to . . . about
in respect of . . . about
by virtue of . . . by/through

3 5 Verbs

A verb is a word that conveys an action (for example: eat, read, play), an occurrence (for example: happen, become) or a state of being (for example: exist, stand). Verbs have a present tense, to indicate that an action is being carried out, a past tense to indicate that an action has been done and a future tense to indicate that an action will be done. To be grammatically complete, a sentence must have a subject

and verb, and present a complete thought. Take care to be consistent with your use of tenses in an assignment.

Example:

Incorrect: “The judge rejected the defence and orders that the defendant pay damages.”

Correct: “The judge rejected the defence and ordered that the defendant pay damages.”

3 6 Adjectives

Degrees of comparison

- The comparative (second) degree is usually used as follows: with the suffix “-er” or with “more” in front of the word (if it is a long word). Consult a good dictionary for the correct form if you are unsure.
- The superlative (third) degree is usually used as follows: with “the” and the suffix “-est” or “the most” in front of the word (if it is a long word).

Examples:

Large larger the largest

Convincing more convincing the most convincing

Practical tip:

Never merge the two possible forms of the comparative or superlative degrees. It is incorrect for example to use “the most largest”.

3 7 Choose the most suitable word

Archaic (old-fashioned) and exaggerated formal words and style

- Try to use modern language as far as possible. However, “modern” does not refer to the language that you would use on Facebook or in SMSs! You have to use correct grammar and in full sentences. Your sentences have to be clear and understandable at all costs and portray respect to your reader.

Examples:

afore	before
amongst	between; during; throughout
heretofore	until now
hereof	about, in this regard; of this
thereupon	directly; suddenly; then

whosoever	everyone who
whichsoever	every one that
whilst	although; during
whereupon	consequently

The repetition of words with similar meaning (tautology)

- It was mentioned earlier in this guide that good writing implies, *inter alia*, short, concise sentences without any clutter. Another way (in addition to what was mentioned previously) to write clearly and unambiguously is to eliminate tautology – an accumulation of words with similar meanings.

Examples:

- 1 The basic fundamental principles upon which the law is founded . . .

In this context the word “basic” (in any case a word that is often unnecessarily used as a stop word) is similar to “fundamental”. But that is not all. “Principle” also refers to “fundamental” or “foundation”. The sentence could thus be shortened and clarified as follows: “The principles upon

which the law is founded . . .”

2 Personally, I feel that the Constitution does not protect all human rights.

The words “personally” and “I” say the same thing. Improve the sentence in this manner: “I feel the Constitution does not protect all human rights.” Also see what happens to the word “that”.

3 8 Spelling

Words are codes used to convey or receive information. Languages therefore have spelling rules and guidelines in order for people to understand each other. There is also no room for ambiguity and factual errors (both could occur due to spelling) in law or in the academic world. It is therefore important for you as a student – and later as legal practitioner – to spell correctly.

The good news regarding spelling is: there are no grey areas. A word is either spelt correctly, or incorrectly.

Please ensure that your proofing tools (spell checker) are set up in Microsoft Word and set to English (South Africa). You can download the Afrikaans spell checker for Microsoft Word at <http://goo.gl/uelB4l>. Further spelling and grammar assistance is available on the Faculty's Legal Writing blog

under the heading Resources at:

<http://blogs.sun.ac.za/legalwriting/resources/>.

Words often misspelt:

Correct	Incorrect
accommodate	accomodate
adolescence	addolescence / adolesence
aggression	agression
argumentative	argumentitive
analyse	analise
apparently	apparrently / apparantly
appealable	appealeble
appellant	appelant
commission	comission / commision
committee	comittee / commitee
definitely	defnitely or definately
delegate	deligate
disappear	dissappear
discretion	discreision
graffiti	graffitti / grafiti
immediately	imediately
implement	impliment
incredible	incredable
interesting	interisting

irritate	iritate
mysterious	misterious
observant	observent
opportunity	oppertunity
professional	proffessional
representative	representitive
relative	relitive
relevance	relavence
separate	seperate
statutory	statutary
simultaneously	similtaneously / simultanuously
successful	sucesfull / succesful / sucessful
tolerance	tolarance
whether	wheather / wether

3.9 General

- Avoid expressions like “the learned judge”, “respectfully” and “with respect”.
- Gender-neutral language is encouraged. This can be promoted by using the plural or by avoiding use of a gender-specific pronoun. If this is not appropriate, use either “he” or “she”, but then do not alternate within a single piece of text, or use “he or she”. Do not use “he/she” or “(s)he”.

- Where words appear in brackets, punctuation marks (i.e. full stops, commas, colons, etc.) must always be placed after the final bracket. However, if a *complete sentence within a paragraph* appears in brackets, the full stop must be placed in front of the last bracket.

Examples:

... these factors are mistake (*error*), fraud (*dolus*), as well as ...

... domestic public procurement regulation is highly fragmented. (This was also confirmed in the 2002 World Bank CPAR.) Current reforms focus on consolidating ...

THE FACULTY'S REFERENCING GUIDELINES

1 Introduction

The purpose of referencing is essentially twofold:

- 1 1 to acknowledge the intellectual property rights of others and therefore to avoid being accused of committing plagiarism. See the [plagiarism section](#) of this guide for more information; and
- 1 2 to allow the readers of the written work to locate the source material and to learn more about specific cited aspects of the written work.

It is therefore very important that the information contained in your assignment distinguish between information that you have developed and information that you have borrowed from someone else. These referencing guidelines will enable you to draw this distinction and it should be applied to every assignment that you complete at the Faculty.

2 Footnotes

When you use a footnote, the footnote number must always appear after the last punctuation and/or quotation mark.

Footnotes are consecutively numbered by way of automatic numbering; footnotes are not separated by a full blank line (in other words single line spacing); footnotes

appear at the end of each page of the manuscript and not at the end of the manuscript. All footnotes should begin with a capital letter and end with a full stop.

Example:

- Incorrect: “it is the best law school”¹ or “it is the best law school”¹.
- Correct: “it is the best law school”¹

- Footnote numbers must not be italicised.

Example:

- Incorrect: “situated at the heart of Stellenbosch”.¹
- Correct: “situated at the heart of Stellenbosch”.¹

- You must include full stops at the end of each footnote entry.

Example:

- Incorrect: (Footnote entry) Bean *Engaging Ideas* 117
- Correct: (Footnote entry) Bean *Engaging Ideas* 117_.

- Footnote entries must be justified.

Example:

- Incorrect:

¹ A Boye “How do I create meaningful and effective assignments?” (2011) *Teaching, Learning, and*

Professional Development Center Texas Tech University
<<http://www.tlpd.ttu.edu/teach/TLTC%20Teaching%20Resources/CreatingEffectiveAssignments.asp>> (accessed 11-12-2012).

- Correct:

¹ A Boye "How do I create meaningful and effective assignments?" (2011) *Teaching, Learning, and Professional Development Center Texas Tech University*
<<http://www.tlpd.ttu.edu/teach/TLTC%20Teaching%20Resources/CreatingEffectiveAssignments.asp>> (accessed 11-12-2012).

- Page references should, if possible, be limited to footnotes.

Example:

- Do not say: "on page 32, the writer alleges"¹ or "with reference to page 57 of the judgment"²
- Rather say "the writer alleges"¹ or "according to the court"² – the footnote should refer to the relevant page number.

- The abbreviation "p" for "page" should never be used in footnotes.
- Where reference is made to consecutive pages, page numbers must be given in full.

Example:

- Incorrect: 72–9 or 164–78.
- Correct: 72–79 or 164–178.

- Refrain from using *supra* and *infra* in your assignment. Rather repeat the reference to the sources in its abridged form with the relevant page numbers you want to refer to. In other words, you won't need to cite the full reference every time you refer to the same source.
- References in the text may be followed by the words “above” and “below”
- The use of *ibid*, *op cit* and/or *loc cit* is not permitted.

Note:

- Where only one source is referred to in a footnote (e.g. *Conradie v Rossouw* 1965 2 SA 589 (C) 593F (full reference) or *Conradie v Rossouw* 593F (abridged reference) and the immediately subsequent footnote(s) refers to **only** that source, only the relevant page/paragraph needs to be indicated in the subsequent footnote(s) (e.g. 593F or para 14).
- As soon as a footnote refers to two or more

sources, full references or abridged references must be provided in the subsequent footnote.

- Multiple sources in a footnote should be separated from each other by semicolons.

Example:

Bean *Engaging Ideas* 6; A Boye "How do I create meaningful and effective assignments?" *Teaching, Learning, and Professional Development Center Texas Tech University* <<http://www.tlpd.ttu.edu/teach/TLTC%20Teaching%20Resources/CreatingEffectiveAssignments.asp>> (accessed 11-12-2012).

(Note the use of the semicolon between sources.)

3 Referencing various sources

3 1 Books

- The first reference to a book should provide the following information:
 - Initial(s) and surname(s) of author(s) - where there are two authors, do not write "and"; rather use an ampersand ("&");
 - If there are more than two authors, the initials and surnames of all the authors, separated by commas and an ampersand ("&") before

the last initial and surname, should appear in the first citation;

- Full title of book in italics;
 - Only second or further editions if any, are cited;
 - Year of publication in brackets; and
 - Page(s) to which reference is made.
- If a work consists of more than one volume, the number of the volume, in italicised Arabic or Roman numerals, depending on the numerals used in the publication, should be inserted after the title, without being preceded by vol or bk. This applies to both the full and abridged titles.

Examples (full reference):

P J Schwikkard & S J Van der Merwe *Principles of Evidence* 2 ed (2002) 211.

N Redlich, J Attanasio & J K Goldstein *Understanding Constitutional Law* 3 ed (2005) 78.

I Currie & J de Waal (eds) *The new constitutional and administrative law I* (2002) 113.

- As per the above examples, the full title of a book is cited where the book is referred to for the first time.

- Subsequent references to a book should provide the following information:
 - Surname(s) of author(s) – where there is more than one author, do not write "and"; rather use an ampersand "&";
 - Where there are more than two authors, only the first author's surname, followed by "et al" is cited with an abridged title. "et al" should not be italicised;
 - Abridged title of book in italics;
 - Page(s) referred to.
- In other words, initials, edition number, volume number (if any) and the date of publication are omitted from subsequent references.

Examples (abridged reference):

Schwikkard & Van der Merwe *Principles* 211.

Redlich et al *Understanding Constitutional Law* 78.

Currie & De Waal (eds) *The new constitutional and administrative law* 113.

- Where the same source, and only that source, is referred to in immediately consecutive footnotes, it is sufficient to cite only the page number in the consecutive footnotes. It is then not necessary to use the abridged title.

Example:

¹ P J Schwikkard & S J Van der Merwe *Principles of Evidence* 2 ed (2002) 211.

² 217 - 218.

³ 224.

NOT

¹ P J Schwikkard & S J Van der Merwe *Principles of Evidence* 2 ed (2002) 211.

² Schwikkard & Van der Merwe *Principles* 211.

³ 224.

BUT

¹ P J Schwikkard & S J Van der Merwe *Principles of Evidence* 2 ed (2002) 211.

² 217 - 218.

³ 224.

⁴ 2003 1 SACR 143 (SCA).

⁵ Schwikkard & Van der Merwe *Principles* 228.

Note the use of the abridged source (footnote 5) when directly subsequent citations of sources are interrupted by a new source: 2003 1 SACR 143 (SCA).

3.2 Chapters in edited collections⁷

- The first reference should contain the following information:
 - Initial(s) and surname(s) of author(s) of the chapter - where there are two authors, do not write "and"; rather use an ampersand ("&");
 - If there are more than two authors, the initials and surnames of all the authors, separated by commas and an ampersand ("&") before the last initial and surname, should appear in the first citation;
 - Title of the chapter in double quotation marks, not italicised and followed by the word "in";
 - Initials and surname(s) of the editor(s) followed by "(ed)" or "(eds)";
 - Title of the book in italics;
 - Year of publication in brackets; and
 - First page number of the chapter followed by the cited page number(s). Do not use "at" between the first and cited page number(s).
 -

⁷ An edited collection is a book that is divided into chapters, each of which is written by a different author or group of authors.

Example (full reference):

M Tushnet "Comparative Constitutional Law" in A Reimann & R Zimmermann (eds) *The Oxford Handbook of Comparative Law* (2006) 1225 1229-1230.

- Subsequent references to a chapter in a book should contain the following information:
 - Surname(s) of author(s) of the chapter – where there are two authors, do not write "and"; rather use an ampersand ("&");
 - Where there are more than two authors, only the first author's surname, followed by "et al" is cited with an abridged title. "et al" should not be italicised;
 - Abridged title of the chapter in double quotation marks, not italicised, and followed by the word "in";
 - Abridged title of the book in italics;
 - The cited page number(s).
- In other words, initials, names of editors, year of publication and the first page of the chapter are omitted from subsequent references.

Example (abridged reference):

Tushnet "Comparative Constitutional Law" in *Handbook of Comparative Law* 1231-1233.

3.3 Loose-leaf publications

- The first reference, where the particular section of the loose-leaf publication is attributed to a specific author or authors, should contain the following information:
 - Initials and surname(s) of the author(s) of the section - where there are two authors, do not write "and"; rather use an ampersand ("&");
 - If there are more than two authors, the initials and surnames of all the authors, separated by commas and an ampersand ("&") before the last initial and surname, should appear in the first citation;
 - Title of the section in double quotation marks followed by the word "in";
 - Initials and surname(s) of the editor(s) followed by (ed) or (eds);
 - Title of loose-leaf publication in italics ;
 - Second and further editions, if any;

- Year of publication of the current update service of the loose-leaf (not the section/chapter) preceded by OS (definition: original service) or RS (definition: revised service) with the service number in brackets (where indicated); and
- Cited page reference.

Example (full reference):

T Roux “Democracy” in S Woolman, T Roux & M Bishop (eds) *Constitutional Law of South Africa* 2 ed (RS 1 2009) 10-3 -10-22.

- Subsequent references are done the same way as abridged references of chapters in books:

Example (abridged reference):

Roux “Democracy” in *CLOSA* 10-22.

- If a particular section of a loose-leaf is not attributed to a specific author, the first reference should contain the following information:
 - Initials and surname(s) of the author(s) or editor(s) followed by (ed) or (eds);
 - Title of the loose-leaf publication in italics;
 - Second and further editions if any;

- Year of publication of the current update service of the loose-leaf (not the section/chapter) preceded by OS (definition: original service) or RS (definition: revised service) with the service number in brackets (where indicated);
- Cited page reference.

Example (full reference):

E du Toit, F de Jager, AP Paizes, A St Q Skeen & SE van der Merwe *Commentary on the Criminal Procedure Act* (RS 44 2010) 5-34A.

- Subsequent references are done the same way as abridged references of books:

Example (abridged reference):

Du Toit et al *Commentary on the CPA* 5-34A.

3 4 Theses

- The first reference should contain the following information:
 - Initials and surname of author;
 - Full title in italics;
 - Name of the degree for which thesis was presented;

- Name of the university;
- Year (in brackets); and
- Page number(s) to which reference is made.

Example (full title):

S Scott *Unjust Enrichment by Transfer in South African Law: Unjust Factors or Absence of Legal Ground?* DPhil thesis, Oxford (2005) 8-9.

- The abridged title is the same as with subsequent references of books:
 - Surname of author;
 - Abridged title of thesis;
 - Page number(s) to which reference is made.

Example (abridged reference):

Scott *Unjust Enrichment* 8-9.

3 5 Official publications and SA Law Reform Commission publications

- Official publications and SA Law Reform Commission Reports are, generally, the same as books. If a report has a number, the number is used instead of the date.

Example (full reference):

RSA *First Report of the Constitutional Committee of the President's Council* PC 3/1982 112-115.

Example (abridged reference):

RSA *First Report of Constitutional Committee* 112-115.

3 6 Unpublished materials

- References to unpublished material should be avoided as far as possible. If it is used, it should be treated as books and include an indication of where the relevant material can be obtained.

Example (full reference):

LM du Plessis *The Courts, the Legal Profession and the Legal Process in a future South Africa* (1989) unpublished paper presented at a conference on *A New Jurisprudence for a Future South Africa* hosted by the Centre for Human Rights Studies at the University of Pretoria, 26-10-1990 (copy on file with author).

D Banisar *Whistleblowing: International Standards and Developments* (2006) unpublished paper prepared for the *First International Conference on Corruption and*

Transparency at Mexico City, 23 to 25-03-2006 (available at www.corrupcion.unam.mx/documentos/investigaciones/banisar_paper.pdf).

Example (abridged reference):

Du Plessis *Courts, Legal Profession and Legal Process*.
Banisar *Whistleblowing: International Standards and Developments*.

3.7 Journal articles

- When you refer to a journal article, your first reference should contain the following information:
 - Initial(s) and surname(s) of author(s) - where there are two authors, do not write "and"; rather use an ampersand ("&");
 - If there are more than two authors, the initials and surnames of all the authors, separated by commas and an ampersand ("&") before the last initial and surname, should appear in the first citation;
 - Title of article in double quotation marks (not italics);
 - Year of publication in brackets;
 - Volume number, but not the issue number;

- The recognised abbreviation of the journal name in italics; and
- First page of article followed by page(s) to which you refer. Do not use "at" between the first and cited page numbers.
- If an article is published in instalments, the specific instalment to which reference is made should be identified in the same way as the volume number of a book. The Roman numeral follows directly after the title of the article, inside the quotation marks. It is not necessary to identify the instalment in an abridged reference to an article.

Example (full reference):

- Incorrect:

C Albertyn & B Goldblatt "Facing the Challenge of Transformation: Difficulties in the Development of an Indigenous Jurisprudence of Equality" (1998) 14 *South African Journal of Human Rights* 248 at 254.

- Correct:

C Albertyn & B Goldblatt "Facing the Challenge of Transformation: Difficulties in the Development of an Indigenous Jurisprudence of Equality" (1998) 14 *SAJHR* 248 254.

- Subsequent references should contain the following information:
 - Surname(s) of author(s) – where there is more than one author, do not write "and"; rather use an ampersand ("&");
 - Where there are more than two authors, only the first author's surname, followed by "et al" is cited with an abridged title. "et al" should not be italicised;
 - Year of publication in brackets;
 - The recognised abbreviation of the journal name in italics;
 - Page(s) to which you refer; and
 - Where there are more than two authors, only the first author, followed by "et al" is cited with an abridged title. "et al" is not italicised.
- The initials, title of article, volume number and first page are therefore omitted from subsequent references.

Example (abridged reference):

Albertyn & Goldblatt (1998) *SAJHR* 254.

3 8 Reviews and case comments

- Reviews and case comments as far as possible follow the conventions applying to articles.

- The first reference to a review or case comment should contain the full title under which it originally appeared. Thereafter an abridged reference is used.

Case comments

LM du Plessis & M Olivier “*Ngqumba v Staatspresident, Damons NO v Staatspresident, Jooste v Staatspresident* 1988 4 SA 224 (A)” (1989) 4 *SA Public Law* 134 136-137 (full reference)

Du Plessis & Olivier (1989) *SA Public Law* 136-137 (abridged reference).

Book review

T Roux “*Constitutional Property Law* by A J van der Walt” (2007) 18 *Stell LR* 207 208 (full reference)

Roux (2007) *Stell LR* 208 (abridged reference)

3 9 Articles in printed media

- Articles in printed media, such as newspaper and magazine articles, are treated the same as journal articles except that the name of the newspaper or magazine is not abbreviated.

Example (full reference):

LM du Plessis “SA Howe – Grammofoon of Politieke Kanaalgrawers?” *Rapport* (18-05-1986) 23 28.

Example (abridged reference):

Du Plessis *Rapport* (18-05-1986) 23.

3 10 Case law

- Always refer to the reported versions of cases. It is only if the case is not reported that you may refer to the internet reference of the case.
- Unreported judgments should be cited as follows:
 - the name of the case;
 - a reference to the jurisdiction abbreviated in the language in which the contribution is written;
 - the date on which the judgment was given (in the form dd-mm-yyyy); and
 - the case number.
- Do not refer to more than one set of law reports for any particular case.
- The name of the case should be in italics and cited in the main text.

- No brackets are placed around the volume number of the law report.
- The name of the case is cited in the main text and further particulars are set out in the footnote.
- It is permissible to use an abbreviated version of the case name in the main text, e.g. "Grootboom case". However, abbreviated case names are not used in footnotes where full case references must be provided every time a case is referenced.
- Where a case is referred to through a quotation in the main text, but not cited, the full reference and law report reference are cited in the footnote.

Examples:

Reported cases:

Main text: *Government of the Republic of South Africa v Grootboom* ("Grootboom").¹

Footnote: 2001 1 SA 46 (CC) para 96.

Unreported cases:

Waks v Jacobs en die Stadsraad van Carletonville TPD 30-10-1989 case no 5971/89.

Judgments only available electronically

Strydom v Liebenberg [2007] JOL 20689 (SCA).

Esau v Minister van Veiligheid en Sekuriteit (100/2008)
2009 ZANCHC 24 (4 Mei 2009) SAFLII
<<http://www.saflii.org/za/cases/ZANCHC/2009/24.html>>
(accessed 10-12-2010).

Or, when a case is not specifically mentioned in the main text, but only referred to in a quotation:

Footnote: *Government of the Republic of South Africa v Grootboom* 2001 1 SA 46 (CC) para 96.

- Punctuation marks and brackets should be omitted except in post-1946 references where the jurisdiction reference in capital letters should be placed in round brackets.
- Designations such as “and Another/Others” or “en ’n Ander/Andere” should be omitted, but not “NO” or “NNO”. Where, however, “NNO” is preceded by “and Another/Others” or “en ’n Ander/Andere”, the latter designations are also retained.
- Words like “on” or “at” preceding a page reference are unnecessary. Only the relevant page-number(s) should be mentioned. Where

paragraphs are also numbered, e.g. A, B, C, etc. (as in the SA Law Reports), paragraph references should preferably be included.

Examples (full and abridged references):

Full references: *Government of the Republic of South Africa v Grootboom*¹

Footnote: 2001 1 SA 46 (KH) para 96.

Abridged Reference: *Government of the Republic of South Africa v Grootboom*¹

Footnote: Para 96.

Full reference: *POPCRU obo Maseko v Department of Correctional Services*¹

Footnote: 2011 2 BLLR 450 (AH) para 37.

Abridged Reference: *POPCRU obo Maseko v Departement of Correctional Services*¹

Footnote: Para 37.

Full reference: *Dadoo Ltd v Krugersdorp Municipal Council*¹

Footnote: 1920 A 530 544.

Abridged Reference: *Dadoo v Krugersdorp Municipal Council*¹

Footnote: 544.

3 11 Legislation

- The first reference to legislation contains the name, number and year in the main text. Thereafter, only the name is used.

Example:

The Interpretation Act 33 of 1957 ("Interpretation Act") deals with . . .

3 11 1 *The Constitution*

- It is important to note that the Constitution is no longer cited as Act 108 of 1996. The official title of the Constitution is: Constitution of the Republic of South Africa, 1996.

Example:

Section 9 of the Constitution of the Republic of South Africa, 1996 ("Constitution") provides that...

3 11 2 *Subordinate legislation*

- References to subordinate legislation should preferably also identify the *Government Gazette* in which it appears.

Examples:

Proc R138 in GG 8331 of 06-08-1982.

GN R 3 in GG 7356 of 02-01-1981. (for regulations).

References to Bills must include the bill number for the final version or the *Government Gazette* information for draft versions.

Examples:

The Sectional Titles Schemes Management Bill B20-2010.

The Sectional Titles Schemes Management Bill (draft) in GN R1447 GG 32666 of 30-10-2009.

Old Authorities: Accepted usages should be followed whenever possible. Where no fixed conventions exist, older authorities are to be cited like any modern book.

3 12 Internet sources

- Referencing electronic sources is only permitted where the source is only available electronically.
- When you refer to an internet site, you generally need to provide the following information in your first reference:
 - Initials and surname(s) of the author(s) or editor(s) or the name of the institutional author, editor or compiler. If no author, "Anonymous" should be used.

- Title of document referred to in double quotation marks;
- Date of electronic publication or latest update of website;
- Title of website, in italics;
- <URL address> in brackets (< >) which should lead directly to the cited document or text. Remember to remove the hyperlink from the text of the article;
- The date on which you last accessed the website in brackets (accessed dd-mm-yyyy).

Examples (full reference):

Websites

- P de Vos “Fifa World Cup: Bad for Human Rights?” (29-01-2010) *Constitutionally Speaking* <<http://constitutionallyspeaking.co.za/fifa-world-cup-bad-for-human-rights/>> (accessed 7-12-2010).

Electronic Journals

- N Kornet “Contracting in China: Comparative Observations on Freedom of Contract, Contract Formation, Battle of Forms and Standard Form Contracts” (2010) 14 *Electronic Journal of*

Comparative Law 1 3-4 <<http://www.ejcl.org/141/art141-1.pdf>> (accessed 7-12-2010).

Media / Video

- E McArdle “FutureEd 2: A Major Conference explores how Legal Education will change amidst Rapid Globalization (Video)” (2-12-2010) *Harvard Law School* <<http://www.law.harvard.edu/news/spotlight/classroom/futureed-conference.html>> (accessed 7-12-2010).

- Subsequent references should contain the following information:
 - Surname of the author or editor. If no author, "Anonymous" should be used;
 - Full title of document in double quotation marks;
 - Title of website in italics.
- Note that if all of the information required for subsequent references is not available, the full citation must be used for that specific source, including the URL.

Examples (abridged reference):

- De Vos “Fifa World Cup: Bad for Human Rights?” (29-01-2010) *Constitutionally Speaking*.

- Kornet 2010 *Electronic Journal of Comparative Law* 4.
- E McArdle “FutureEd 2: A Major Conference explores how Legal Education will change amidst Rapid Globalization (Video)” *Harvard Law School*.

- When referencing international sources, you are advised to consult your lecturer for the referencing guidelines to be followed i.e. OSCOLA 2006 (Oxford Standard for Citation and Legal Authorities). An electronic version is available at:

www.law.ox.ac.uk/oscola.

3 13 Bibliography

- All the sources to which you refer must be comprehensively described in a bibliography at the end of the assignment. This generally includes –
 - the surname(s) of the author(s)/editor(s) of the work;
 - the first author/editor's surname is cited first, followed by initial;
 - the full title of the article/book;
 - date of publication in brackets;
 - the volume number of the relevant law

- journal;
 - the full title of the journal – **not abbreviated as in the footnotes**;
 - the publisher (of a book or edited collection);
 - page range of the relevant article or book chapter.
- Order items per type under headings and alphabetically per first author's surname within headings.

Examples:

Books:

Currie I & J de Waal *The Bill of Rights Handbook* 5 ed (2005), Cape Town: Juta & Co.

Klaaren J (ed) *A Delicate Balance: The Place of the Judiciary in a Constitutional Democracy* (2006), Cape Town: SiberInk.

Chapters in Edited Collections:

Tushnet M "Comparative Constitutional Law" in A Reimann & R Zimmerman (eds) *The Oxford Handbook of Comparative Law* (2006) 1225 - 1258, Oxford University Press.

Loose-leaf publications:

Roux T “Democracy” in S Woolman, T Roux & M Bishop (eds) *Constitutional Law of South Africa* 2 ed (RS 1 2009) 10-3 - 10-22.

Theses or dissertations:

Scott S *Unjust Enrichment by Transfer in South African Law: Unjust Factors or Absence of Legal Ground?* DPhil thesis Oxford University (2005).

Official publications:

RSA *First Report of the Constitutional Committee of the President's Council* PC 3/1982.

Subordinate legislation:

Proclamations: Proc R138 in GG 8331 of 06-08-1982.

Regulations: GN R 3 in GG 7356 of 02-01-1981.

Bills: The Sectional Titles Schemes Bill (draft) in GN R1447 GG 32666 of 30-10-2009.

Unpublished sources:

Du Plessis LM *The Courts, the Legal Profession and the Legal Process in a Future South Africa* (1989) unpublished paper presented at a conference on *A New Jurisprudence for a Future South Africa* hosted by the Centre for Human Rights Studies at the University of Pretoria, 26-10-1990

(copy on file with author).

D Banisar *Whistleblowing: International Standards and Developments* (2006) unpublished paper prepared for the *First International Conference on Corruption and Transparency* at Mexico City, 23 to 25-03-2006 (available at www.corrupcion.unam.mx/documentos/investigaciones/banisar_paper.pdf).

Law Journal articles:

Albertyn C & B Goldblatt "Facing the Challenge of Transformation: Difficulties in the Development of an Indigenous Jurisprudence of Equality" (1998) 14 *South African Journal of Human Rights* 248.

Printed media:

Du Plessis LM "SA Howe – Grammofone of Politieke Kanaalgrawers?" *Rapport* (18-05-1986) 23 28.

Cases:

Government of the Republic of South Africa v Grootboom 2001 1 SA 46 (CC).

Legislation:

Criminal Procedure Act 51 of 1977.

Internet:

Kornet N “Contracting in China: Comparative Observations on Freedom of Contract, Contract Formation, Battle of Forms and Standard Form Contracts” (2010) 14 *Electronic Journal of Comparative Law* 1 3-4
<<http://www.ejcl.org/141/art141-1.pdf>>.

E McArdle “FutureEd 2: A Major Conference explores how Legal Education will change amidst Rapid Globalization (Video)” (2-12-2010) Harvard Law School
<<http://www.law.harvard.edu/news/spotlight/classroom/futureed-conference.html>>.

SPECIFIC OUTCOMES

In each year of the undergraduate LLB-programme, writing-intensive courses are identified in which specific attention is paid to the development of writing skills in addition to the substantive law under discussion. In each of these courses, very specific aims are set regarding writing skills and each year builds on the skills developed in the previous year(s). These aims are taught specifically – in other words, there are specific sessions in these courses during which these writing skills are handled with the students – these sessions can take place either in the form of main lectures, or in smaller groups such as tutorial sessions. However, such teaching is not separate from the substantive law under discussion in the module – it happens simultaneously. An important benefit of this approach is that the students not only develop generic writing skills, but develop specific writing skills within the academic discourse of our environment – they therefore do not only learn to write, but to write in law. In the identification of writing-intensive courses, close attention is paid to the alignment of specific writing skills and the content of the relevant courses. In this regard, for example, courses with procedural content could be well-suited to the development of more practical forms of writing, such as heads of argument. On the other hand,

final-year electives can be used to demonstrate high-level academic writing skills.

There are, however, certain basic writing skills that each student should possess at the end of his or her first year of undergraduate studies at the Faculty. These skills constitute the foundation for the further development of more specialised writing and research skills in the writing-intensive courses referred to above. Accordingly, **at the end of their first year, students should be able to:**

1 Read, understand and answer a question

- This includes:
 - Reading and understanding the instructions.
 - Distinguishing between various types of questions and understanding what is expected from different types of questions.
 - Analysing the question by focusing on key words.
 - Following the guidelines / instructions in answering the question.
 - Being able to relate the question to the specific area of substantive law that is applicable.

- Doing research by giving consideration to the relevant section of the textbook and expanding the research from there. Visiting the law librarian and seeking her assistance if need be.

2 Draft proper introductions and conclusions

- In relation to the introduction, this includes:
 - Being able to explain the importance of the introduction, specifically in relation to the logical flow and coherence of the paper.
 - Being able to identify or raise the topic in the first few sentences, providing essential context and indicating the particular focus of the paper.
 - Convincing the reader of the value of the paper.
 - Properly setting out the structure or organisation of the paper.
 - Keeping it short and to the point.
- In relation to the conclusion, this includes:
 - Providing a final perspective on the topic.
 - Refraining from using (or abusing) clichés like “finally”, “in conclusion”, “to

summarise” or “in the final analysis” to start the conclusion.

- Summarising the key points without merely listing, rephrasing or reiterating them.
- Reflecting on the significance and implications of the argument.
- Refraining from introducing new ideas or material in the conclusion.

3 Write in plain language

- This includes:
 - Writing the same way as talking, thus avoiding abstract words and phrases where possible, using the active form rather than the passive form and substituting difficult words with words that are easier to understand (synonyms).
 - Keeping sentences short and to the point by cutting out redundant words and phrases and breaking up long, complicated sentences into shorter, simpler ones without artificially shortening words and phrases.

- Keeping in mind that the average length of a sentence is approximately 15 – 20 words.
- Ensuring good word order by using the subject and verb in close proximity of each other.
- Using plain and clear language that implies the absence of uncertainty and ambiguity in relation to what has been communicated.

4 Conduct proper planning and set out a proper structure

- This includes:
 - Being aware that the quality of attention paid to the initial planning will be clear from the final version of the written communication insofar as planning influences the quality of other aspects of the assignment, such as argument, structure and flow. Structure follows logically from planning so that the assignment makes sense, flows logically and is coherent.

- Using headings to identify the sections of the assignment (introduction, body and conclusion) to allow them to flow coherently.
- Being able to formulate an argument and to develop it in successive paragraphs.
- Being proficient at managing time.

5 Ensure a logical flow and coherence

- This includes:
 - Demonstrating how planning to write an introduction and conclusion and connecting different sections of the written communication are all essential for logical flow and coherence.
 - Moving in a logical order/sequence from one topic to another in order for the line of thought and argument to be clear and accessible.
 - Introducing the argument in the introduction and then building on it in each subsequent section.
 - Connecting the ideas and steps in the argument by explaining, at the end of each section, how that section fits into

the argument. It should also be clear how, what happens in the next section, follows and connects with what has just been explained in the previous section.

6 Adhere to the principles of academic legal writing

- This includes:
 - Demonstrating the ability to write for different audiences.
 - Ensuring that the information relayed is useable and accessible.
 - Keeping in mind that the quality of the writing and the merit of the argument are directly proportionate to the intelligibility of the writing.
 - Being able to write in simple (plain) language, concisely, audience-directed and in a way that the gist of the argument is clear.
 - Avoiding, where possible, metaphoric language, unchecked use of relative terms (e.g. “rich”, “cold”) and vague or unnecessary concepts.

7 Develop an argument

- This includes:
 - Collecting information (conducting research), assimilating information and editing.
 - Demonstrating the ability to distinguish between the different legal sources, where to locate it and how to utilise it.
 - Being able to distinguish between relevant and irrelevant information.
 - Read instructions carefully. Understanding the question will enable the identification of the relevance of the information.
 - Recording the sources (and page numbers!) while collecting information to prevent frustration when compiling references.
 - Creating a structure for the answer.
 - Identifying the argument(s) and the information to be used in support thereof.
 - Demonstrating the ability to distinguish between the meaning of and difference between a proposition, a premise, a conclusion and an argument.

- Ensuring that the premises combine to produce a conclusion that is logically sound.
- Positioning the information in order to support the premises that lead to the conclusion(s).
- Using the introduction to explain the topic and its legal context and to answer the question as to why the issue is worth discussing.
- Writing a conclusion that briefly summarises the various premises and conclusions used in your argument.
- Reading through the assignment (multiple times) and making the necessary changes.
- Ensuring that all aspects of the argument have been sufficiently developed.
- Spreading the editing stage over a few days to allow for new insights and a fresh perspective.
- Paying attention to referencing, grammar and the precise formulation of sentences.
- Obtaining input or feedback from a writing consultant, a tutor or a lecturer.

8 Reference

- This includes:
 - Appreciating that there are different referencing methods (e.g. Harvard, Stellenbosch Law Review, etc.).
 - Understanding what the purpose of referencing is.
 - Properly utilising the referencing guidelines contained in this Guide, which guidelines are based on those contained in the Stellenbosch Law Review.

9 Draft proper emails and faxes

- This includes demonstrating the following:
 - The formality of an email depends on how well you know the person and what the nature of your relationship is.
 - Formal emails are shorter and less formal than formal letters.
 - You are required to proofread your email before you send it to ensure that it is error free, that it doesn't offend and that the meaning is clear.
 - The subject line is a necessary part of the email, is short and concise, gives a

clear indication of the aim of the message and often contains a reference or file number.

- No full stop or other punctuation is used in the greeting or the ending.
- The title of the person is written with a capital letter and is used with the surname. Only use the name and surname, without a title, if you don't know the gender of the person to whom you are writing.
- You should, generally, use "Dear" not "Greetings" or "Hi".
- You should, generally, NOT enquire about the health of the person to whom you are writing.
- You should start by giving the reason for writing to the specific person.
- You should end the letter using "Regards" in formal situations or when you don't know the person to whom you are writing. If you know the person, use "Kind regards"- NOT "Bye".
- You should end the email by giving your name and surname in the first email. The

reader can then either address you by your first name or by your title and surname in the reply.

- You should mention the name of the company and your position in the first paragraph or after your name at the end of the letter depending on whether the email is written on a form with a letterhead.
- Do not thank someone if “thank you” is not applicable.
- Requesting action is done politely, using words like “would” or “could”.
- The format of a fax is similar to a semi-formal letter.
- A full postal address is not necessary.
- Pages are numbered so that it is clear if one page did not go through.
- Give enough relevant information in the subject line, but keep it concise and to the point.

PLAGIARISM⁸

Ethical Scientific Writing

Ethical, scientific writing is always honest, clear and accurate and gives credit to both ideas and text (including small phrases) that belong to another author. Ethical, scientific writing represents an implicit contract between yourself as writer and the reader, whereby the reader believes that everything you have written is your own work and that if this is not the case you will indicate this clearly by quotation marks and references, as appropriate.

(Miguel Roig. A Guide to Ethical Writing. Available to download at:

<http://ori.hhs.gov/education/products/plagiarism/>)

What is plagiarism?

"Plagiarism is the theft and use of the ideas, material and other intellectual property of others that are passed off as one's own."⁹

What is Turnitin and how does it work?

Turnitin is used by students at various academic establishments to measure plagiarism. Students upload assignments onto the Turnitin database where the papers

⁸ Anonymous "Avoid plagiarism" *SUN Library* <<http://library.sun.ac.za/English/howdoi/Pages/Avoid-plagiarism.aspx>> (accessed 04-01-2015).

⁹ SU Senate. 2010. Stellenbosch University policy on academic integrity: the prevention and handling of plagiarism [Internet]. Stellenbosch University. Available: [Policy document](#). [2011, 9 September].

are compared with billions of pages on the internet ([Turnitin Official website](#)). The results are returned in the form of an Originality Report that gives clear explanations of possible plagiarism.

How do I submit a Turnitin assignment in SUNLearn?

These [guidelines](#) and tips will help students to submit Turnitin assignments in SUNLearn. You may also consult the video on how to submit Turnitin assignments in SUNLearn. Download the (20mb mp4) video [here](#). You may contact your faculty librarian if you do not have access to Turnitin and want to use the Library Turnitin module on SUNLearn.

Where can I get help and training?

Plagiarism forms part of most library training sessions. Use [Ask a Librarian](#) if you need help.

Other support services:

- The Writing Lab offers academic writing skills workshops and consultations to all students. Plagiarism forms part of these workshops.
- The Division for Research Development (DRD) offers workshops on ethics.
- The writing consultants can assist you in referencing your sources correctly to avoid plagiarism.

SU POLICY ON ACADEMIC INTEGRITY: THE PREVENTION AND HANDLING OF PLAGIARISM

Senate: 26 November 2010

1 Background

The academic work done at a university means that academics and students are exposed to the ideas, written material and various intellectual and creative products of fellow students and colleagues. The intention of academic work is precisely that the ideas of the lecturer/researcher and student are shaped and honed by these ideas and material of others. At the same time, a process of critical evaluation is required to make new or original inputs or syntheses in order to make it applicable to contemporary international and local questions. Herein lies the particular satisfaction of academic work at university level.

Naturally, the original contribution by a person can only be evaluated if it can be distinguished clearly from the contributions of other people. This is done by way of acknowledged systems of acknowledgement and referencing. By not following these conventions and giving the necessary acknowledgement, the basis of the academic work at a university is undermined. By taking over this work (words, ideas, creations) of other people and passing it off as the writer's own is to commit plagiarism.

The University wishes to ensure that the mechanisms are in place that will enable staff and students to promote academic integrity and eliminate plagiarism. At the same time it is important that the effort to deal with cases that are related to plagiarism are dealt with in a consistent and fair manner. It therefore is essential that the University have a policy in place to intercept these aspects and create a framework within which it is possible to function.

The following policy is thus proposed and has to be read together with the Framework Policy for the assurance and promotion of ethically accountable research at Stellenbosch University, the disciplinary code for students of SU, the disciplinary code for staff of SU, as well as any other University policies and guidelines that may be applicable from time to time.

2 Plagiarism: definition and broad categories

2.1 Definition

Plagiarism is the theft and use of the ideas, material and other intellectual property of others that are passed off as one's own.

The intellectual property contained herein is, among others:

- a. *literary works*, which include articles, books, dissertations, theses, newspapers, notes, course

material, the assignment of fellow students, e-mail messages, data, computer code, internet sources, and *spoken text*, which includes speeches, cassette recordings, lectures, interviews, etc.

- b. *artistic works*, which include images and graphic art, photographs, etc.
- c. *multimedia products*, which include websites, video productions, films, CDs, design projects, etc.
- d. *musical works*, which include compositions, lyrics, CDs, DVDs, music or sound bites on the internet, etc.

2.2 Categories:

All cases of *plagiarism* amount to a serious offence, which can have dire consequences for the person concerned, including suspension or expulsion (in the case of a student) or dismissal (in the case of a member of staff) from the University, besides possible criminal or civil action.

In terms of the University's handling of cases of plagiarism, the offences are divided into three broad categories:

Category 1: Minor offences that can be regarded as resulting from ignorance, negligence or inaccuracy in working with and acknowledging

sources, but that can still be regarded as plagiarism.

Category 2: Less serious cases, in which sources/work/material has/have been handled injudiciously, but that by nature still constitute plagiarism. Category 1 and 2 offences are usually dealt with by the department concerned in the case of students. Repeated category 2 offences can be referred to the Central Disciplinary Committee (CDC) in the case of students, and in the case of staff they will be dealt with in terms of the Disciplinary Code for Staff (refers to less serious cases).

Category 3: Blatant cases, i.e. where the work/material of another person has been taken over and used intentionally and deliberately. In the case of students, such cases will normally be referred to the Central Disciplinary Committee (CDC), and in the case of staff will be dealt with in terms of the to the Disciplinary Code for Staff (refers to serious cases).

3 The university's approach

The University's policy approach is based on a developmental or awareness-creating dimension, particularly in the case of students and with due observance of the University's Policy on Learning and Teaching. This does not mean that the University is lenient in its handling of plagiarism; on the contrary, it creates a basis for the firm, consistent and tenable handling of cases of plagiarism. Through this dimension, the University creates an opportunity for offences relating to plagiarism to be handled in a decentralised manner and for certain cases to be dealt with at the departmental level and for others to be addressed by way of disciplinary processes, as set out in 3.1 and 3.2 of this document.

3 1 Alleged offence(s) by a member of staff

- (a) The departmental chairperson will only respond to written complaints that plagiarism has allegedly been committed, together with the necessary documentary evidence. Such complaint may be made anonymously.
- (b) In cases where it is suspected that a member of staff has committed plagiarism, the case will be facilitated by the chairperson of the department. If the member of staff who pointed out the

plagiarism is also the departmental chairperson, another member of staff in the department concerned has to be involved in the process.

- (c) The departmental chairperson will make enquiries at the Legal Services Division to determine whether any previous offence with regard to plagiarism has been reported. This information is taken into account in the further handling of the case.
- (d) Action against a member of staff is subject to the provisions of the Disciplinary Code for Staff. A first offence, if of a less serious nature, is handled by the dean of the faculty. All complaints of alleged serious (second or further) offences by a member of staff will be dealt with in terms of the provisions for serious offences in the Disciplinary Code for Staff.

3.2 Alleged offence(s) by students

- (a) Where it is suspected that a student has committed a form of plagiarism, the matter will be handled further by the chairperson of the department and the lecturer concerned. If the lecturer who pointed out the plagiarism is also the departmental chairperson, another lecturer in the

department concerned should be involved in the process.

- (b) The student shall be informed in writing that he/she has allegedly committed an offence and that, in terms of the rules of the University, the case can at the sole discretion of the student directly be referred to the CDC, that the process before the CDC is formal and that, among others, the student has “a right to legal representation” (in terms of the Disciplinary Code for Students). The student’s attention should also be drawn to the possible sanctions that can be imposed by the CDC.
- (c) The departmental chairperson will make enquiries at the Legal Services Division to determine whether any previous offence with regard to plagiarism by the student concerned has been reported. This information is taken into account in the further handling of the case. (See (d) and (e) below).
- (d) **In the case of a Category 1 or 2 offence:**
 - i. Category 1 cases are handled in the department and repeated cases of Category

2 are referred to the Central Disciplinary Committee for students (CDC).

- ii. A first Category 2 offence can be dealt with at the departmental level. However, the student has to make an informed decision on the possibility of the case being handled internally, in which case there can be specific sanctions (e.g. that a mark of nil is allocated, that the assignment has to be redone, etc.). In the case of action at the departmental level, the student's "right to legal representation" falls away, as does the right to have a process conducted before the CDC. The decision taken by the student must be put in writing, on the prescribed form that can be obtained from the Legal Services Division.
- iii. The minimum sanction by a department is a verbal warning.

(e) In the case of a Category 3 offence:

- i. The departmental chairperson must refer to case to the Manager: Student Discipline, who will handle the case in terms of the CDC protocol.

- ii. The decision of the Central Disciplinary Committee (CDC) on action against the student is put in writing.
 - iii. The Legal Services Division is informed of the case in writing on the prescribed form that can be obtained from Legal Services.
- 3 3 Record keeping in order to ensure the consistent handling of plagiarism
- 3 3 1 Departmental chairpersons must report all cases of alleged plagiarism to the Legal Services Division. This is also done for cases where the person concerned was found not guilty, for the record.
- 3 3 2 The following information should accompany all reports:
 - i. Plagiarism: Departmental handling (form as prescribed in Addendum 2)
 - ii. Written complaint that was submitted
 - iii. Alleged documentary evidence that was submitted
 - iv. Names of people who were involved in the investigation/hearing
 - v. Proof that the alleged offender, in the case of students, exercised his/her choice regarding

whether or not the case should be referred directly to the CDC.

- vi. Verdict, with the sanction, where applicable.
- vii. Proof that the alleged offender has been informed of the decision.

3 3 3 The Legal Services Division must standardise all cases on an annual basis – the reason being to ensure consistent action at the institutional level and to determine a median punishment. In cases where it is clear that a particular department is imposing penalties beyond the median, the department concerned should be informed accordingly and be provided with a copy of the latest guidelines.

3 3 4 Appeals are dealt with according to the existing protocols and procedures.

3 3 5 All cases should be dealt with in the strictest confidence.

4 Implementation

4 1 It is the responsibility of departments to ensure that all students and staff are aware of the policy and to make sure that the processes contained therein are implemented consistently.

4 2 It is compulsory for all students to sign the Plagiarism Declaration (as attached in Addendum 1)

and to attach it to any relevant study assignments, as prescribed by the department concerned. Furthermore, it is essential that members of staff are aware that they are also subject to this declaration as employees of the University.

4 3 The University has a development instrument (Turnitin software) that is available for students to check their documents as part of the learning process. Lecturers are also encouraged to make use of it. The Centre for Teaching and Learning can assist you with training where required. The University's Library and Information Service also provides information literacy sessions that address plagiarism.

4 4 In the case where a thesis/dissertation/mini-dissertation is examined for plagiarism, the item must be withdrawn from SUNScholar for the duration of the investigation, as should any other online forms of the document (e.g. on departmental websites). If no form of plagiarism can be found, the document may once again be made available.

4 5 Departments should endeavour to ensure the greatest possible measure of consistency in the implementation of the policy with regard to the

handling of plagiarism, in order to ensure fairness for all staff and students.

- 4 6 This policy takes preference over all other arrangements that faculties and departments might make with regard to dealing with plagiarism, and the necessary adjustments should be made to such faculty and departmental arrangements to ensure that they are in line with this policy.
- 4 7 The responsibility for supporting those involved in dealing with plagiarism is assigned to the Division for Research Development, which support will take place in consultation with other appropriate support service divisions, such as the Legal Services Division and the SU Library and Information Service.
- 4 8 The Legal Services Division keeps a record of all instances of plagiarism that are reported by the department concerned or by the relevant disciplinary committees.



UNIVERSITEIT • STELLENBOSCH • UNIVERSITY
jou kennisvenoot • your knowledge partner

ADDENDUM 1

Plagiaatverklaring / *Plagiarism Declaration*

- 1 Plagiaat is die oorneem en gebruik van die idees, materiaal en ander intellektuele eiendom van ander persone asof dit jou eie werk is.

Plagiarism is the use of ideas, material and other intellectual property of another's work and to present it as my own.

- 2 Ek erken dat die pleeg van plagiaat 'n strafbare oortreding is aangesien dit 'n vorm van diefstal is.

I agree that plagiarism is a punishable offence because it constitutes theft.

- 3 Ek verstaan ook dat direkte vertalings plagiaat is.

I also understand that direct translations are plagiarism.

- 4 Dienooreenkomstig is alle aanhalings en bydraes vanuit enige bron (ingesluit die internet) volledig verwys (erken). Ek erken dat die woordelike aanhaal van teks sonder aanhalingstekens (selfs al word die bron volledig erken) plagiaat is.

Accordingly all quotations and contributions from any source whatsoever (including the internet) have been cited fully. I understand that the reproduction of text without quotation marks (even when the source is cited) is plagiarism.

- 5 Ek verklaar dat die werk in hierdie skryfstuk vervat, behalwe waar anders aangedui, my eie oorspronklike werk is en dat ek dit nie vantevore in die geheel of gedeeltelik ingehandig het vir bepunting in hierdie module/werkstuk of 'n ander module/werkstuk nie.

I declare that the work contained in this assignment, except otherwise stated, is my original work and that I have not previously (in its entirety or in part) submitted it for grading in this module/assignment or another module/assignment.

Studentenommer / Student number	Handtekening / Signature
Voorletters en van / Initials and surname	Datum / Date



UNIVERSITEIT•STELLENBOSCH•UNIVERSITY
jou kennisvennoot • your knowledge partner

ADDENDUM 2

DEPARTMENTAL TREATMENT OF PLAGIARISM

Mr/ Ms

Student number:

*You have allegedly
committed plagiarism in
the assignment.....*

*.....
that you submitted to
the Department of
on ____ / ____ / ____
____ as part of the
module*

In terms of the *SU Policy on Academic Integrity: The Prevention and Handling of Plagiarism*, alleged plagiarism can be addressed either departmentally or by the Central Disciplinary Committee (CDC), on the basis of the following guidelines:

Category 1: Minor offences that can be regarded as resulting from ignorance, negligence or inaccuracy in working with and acknowledging sources, but that can still be regarded as plagiarism.

Category 2: Less serious cases, where sources/work/material has/have been handled injudiciously, but that by nature still constitute plagiarism. Category 1 and 2 offences are usually dealt with by the department concerned in the case of students.

Category 3: Blatant cases, i.e. where the work/material of another person has been taken and used intentionally and deliberately. In the case of students, such cases must be referred to the Central Disciplinary Committee (CDC).

The CDC process is a formal one and you have “the right to legal representation” in terms of the Disciplinary Code for Students. The sanctions that can be imposed by the CDC include suspension or expulsion from the University; the forfeiture of a degree or diploma; the forfeiture of a class mark or other forms of credit that have been attained. The

CDC may also publicise the details of the offence and the sanction, together with the student's name, on notice boards on campus.

The Department of is of the opinion that your alleged offence mentioned above is a category offence and that the case can be handled at the departmental level.

If you should choose to have the matter dealt with departmentally, the following sanctions are in force:

- (i)
.....
.....
- (ii) Your "right to legal representation" lapses.
- (iii) You forfeit the right to have the process conducted before the CDC.

If the departmental option above does not appeal to you, the matter can be referred to the CDC to be dealt with further.

Hereby I, with student number , choose that the case is dealt with at the departmental level

that the case is referred to the Central Disciplinary Committee (CDC).

.....
(signature of student) (date)

.....
(signature of lecturer) (date)

.....
(signature of departmental chairperson) (date)

Note: After it has been signed, a copy of this form must be sent to:

The Manager: Student Discipline, Legal Services, office B4207, Administration Block B, Stellenbosch Campus.

ABBREVIATIONS OF SOUTH AFRICAN LEGAL SOURCES

1 South African legal sources

AA	Butterworths Arbitration Awards
AD	Appellate Division
All SA LR	All South African Law Reports
ALR	African Law Review
AN	Administrator's Notice
ASSAL	Annual Survey of South African Law
BCLR	Butterworths Constitutional Law Reports
BLLR	Butterworths Labour Law Reports
BML	Businessman's Law
BN	Board Notice
BP	Burrell's Patent Law Reports
CILSA	Comparative and International Law Journal of South Africa
CLD	Commercial Law Digest
CON	Consultus
Con Bulletin	Conveyancing Bulletin
DJ	De Jure

DR	De Rebus
EL	Employment Law
GenN	General Notice
GN	Government Notice
ILJ	Industrial Law Journal
ILR	Industrial Law Reports
INS TAX	Insurance and Tax
ITC	Income Tax Cases. The SA Tax Cases Reports
ITR	Income Tax Reporter
JJS	Journal of Juridical Science
JOC	Judgments on Copyright
JOL	Judgments on Line (LN Butterworths)
JSCD	Juta's Supreme Court Digest
LAWSA	Law of South Africa
LLD	Labour Law Digest
LLN & CR	Labour Law News and Court Reports
Mag	Magistrate
MB	Modern Business Law
MBR	Moderne Besigheidsreg

Med Medii	Meditiones Medii
MJHRT	Monitor: Journal of the Human Rights Trust
MN	Municipal Notice
NULSR	Natal University Law And Society Review
PAB	Publication Appeal Board Reports
PH	Prentice Hall Reports
PN	Provincial Notice
Proc	Proclamation
RM	Responsa Meridiana
SAHRLLY	SA Human Rights and Labour Law Yearbook
SAILJ	SA Insurance Law Journal
SAJHR	SA Journal on Human Rights
SALJ	SA Law Journal
SALLR	SA Labour Law Reports
SALR	SA Law Reports
SALT	SA Law Times
SA Merc J	SA Mercantile Law Journal
SAPL	SA Public Law

SAS	SA Journal of Criminal Justice
SASK	SA Tydskrif vir Strafregepleging en Kriminologie
SASV	SA Strafregeverslae
SATC	SA Tax Cases Reports
SATJ	SA Tax Journal
SATR	SA Tax Review
SCD	(Juta's) Supreme Court Digest
Stell LR	Stellenbosch Law Review
TaxPI	Tax Planning
THRHR	Tydskrif vir Hedendaagse Romeins-Hollandse Reg
TM	The Magistrate
TRLJ	Transkei Law Journal
TRW	Tydskrif vir Regswetenskap
TSAR	Tydskrif vir die SA Reg

2 Useful links for finding abbreviation of legal sources

Cardiff Index to Legal	http://www.legalabbrevs.c
------------------------	---

Abbreviations	ardiff.ac.uk
Legal Abbreviations	http://www.legal-abbreviations.org
Oxford University Press: List of Abbreviations for legal materials	http://global.oup.com/uk/academic/authors/lawspecific/listofabbreviations/
University of Washington: Bluebook Abbreviations	http://lib.law.washington.edu/cilp/abbrev.html

3 Books in the library on legal abbreviations

- 3 1 D Raistrick *Index to legal citation and abbreviations* 3 ed (2008).
- 3 2 I I Kavass & M Miles Prince (eds) *World dictionary of legal abbreviations* 6 ed (1991).
- 3 3 N M Ferreira & K E Breckon *South African legal abbreviations* (1999).
- 3 4 C Fong & A J Edwards *Australian and New Zealand legal abbreviations* (2008).