

Document, Document, Document

Authorship Provenance as an Eligibility Criterion in Public Education

Everyone agrees on the advice: keep your version history, show your work. For a student who writes by speaking, that advice asks for an artefact her accommodation cannot produce.

ONE EVENING, ONE DOCUMENT

The record that clears her is the record that accuses her

A girl in her third year of high school is told her essay reads like a machine wrote it. No machine wrote it. She talks and the words appear, which is how she has written since an assessment the district paid for two years ago, and the district wrote that down.

She is given the usual advice. Show your process. Send the version history. She does. Four paragraphs land in one go at 9:47 in the evening, a fifth arrives eleven minutes later, then a sixth. No typing. No trail of edits. Whole blocks, fast and correct.

That is what her accommodation looks like from inside the file. It is also the exact shape her teacher was told to watch for. Nothing in the record settles which one it is, because the thing that made the record has no way of saying.

WHAT THIS PAPER IS ABOUT

Not the detector. The advice everyone gives about the detector.

There is already a large argument about detection software, and it is a good one. Classifiers misjudge writers whose first language is not English at much higher rates, and they get worse when human and machine sentences sit in the same document.

Out of that argument came a single agreed remedy, and the remedy is the subject here. Integrity offices, software companies, journalists and the people who attack detection hardest all say the same thing, and all of them offer it as plain prudence.

Keep your drafts. Write inside something that logs how the document was built. Be ready to show your work.

THE CLAIM IN ONE SENTENCE

An accommodation is a different process. Proving authorship by process punishes the difference.

Every one of these tools decides who wrote something by examining the mechanical history of how the text got into the document. That is a stand-in for authorship, and it holds for people who type.

It fails for people who do not, and the people who do not are disproportionately disabled, because arriving at text by some route other than a keyboard is a large part of what writing accommodation consists of.

In a school, the departure from the default is not a private habit. It is legally required, decided individually, and written down by the same body that will later mark the work.

A BOUNDARY, STATED AT THE START

The instruments are not inaccurate. They are accurate about the wrong thing.

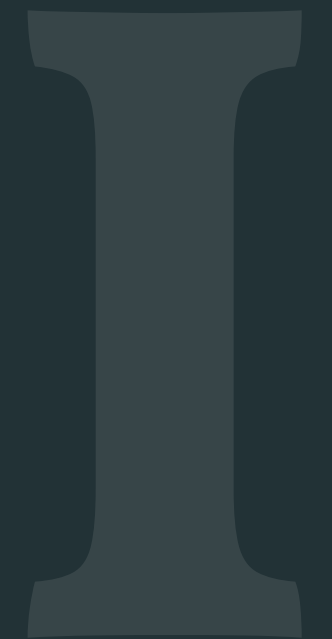
This is not an argument that these students are wrongly accused because the software makes mistakes. Nothing here depends on an error rate.

It is an argument that what the software measures is how text entered a document, that the result is presented as a finding about who wrote it, and that a better instrument therefore makes matters worse rather than better.

Sharpen the tool and you enforce the same defective set of categories more reliably.

The Remedy and Its Instruments

what the advice actually asks a student to produce



Three tools, one shared premise, and a research literature that names the defect in its own vocabulary.

THE ADVICE AS GIVEN

It circulates in three forms, usually together

I Preservation

Hold on to the drafts, outlines, notes and research file, and produce the trail if anyone questions the work. This one is old. It is what people used to say about plagiarism accusations.

2 Process recording

Compose in software that keeps its own account of the document's construction, so that account can be produced later. Companies sell this one, and it has started showing up in what institutions demand rather than only in what they advise.

3 Contemporaneous disclosure

Say how the work was made, in a box provided for saying it.

INSTRUMENT ONE

A tool that sorts every character into a fixed list of origins

Grammarly Authorship is the most developed version. It does not classify writing after the fact. It watches text arrive in real time and produces a colour-coded report, together with a replay of the document being assembled.

The list of origins is closed. Turned on over a blank page, it files each character as typed by a person, generated by artificial intelligence, altered using it, pasted from a source it can or cannot name, or touched by a spelling checker.

Two things about that list matter. Every character gets one of those labels, and none of the labels is for text that was spoken.

WHEN A FEATURE BECOMES A RULE

Reporting describes schools requiring the report with the paper

Independent coverage describes institutions asking for an authorship report to accompany the work, the point being to demonstrate how it was made rather than to examine what came out. Install the software, write inside it, export the timeline, submit both.

At that moment the report stops being a shield a student may pick up if she wants one.

A defence some students cannot use is unfortunate. A submission requirement some students cannot satisfy on equal terms is something the law already has a name for.

INSTRUMENT TWO, AND THE ONE THAT GOVERNS AMERICAN PUBLIC SCHOOLS

The dominant platform ships no authorship tool at all

What Google actually provides

Originality Reports, which check a submission against the web, against search results, and, where the administrator has switched it on and the district holds the right licence, against earlier work handed in at the same school. It is a copying tool. Assessments through the middle of 2026 agree it does not judge machine authorship, and that schools wanting that capability bolt on somebody else's product.

What teachers use instead

Google Docs version history, which keeps the revision record and the times at which large insertions happened. The reasoning is that machine output tends to land in one sizeable block near a deadline. More American pupils are governed by this than by anything else on the market, and it sorts nothing into anything.

Access is tiered as well. On the free education tier a teacher may run the formal report on five assignments per class, with unlimited use requiring a paid upgrade. Licensing scales with headcount, so the districts least able to afford the formal instrument are the ones most likely to fall back on the informal one.

THE RESEARCH BEHIND THE REMEDY

Twenty years of logging keys, and a published list of what counts as an action

None of this is folk practice. Researchers studying writing have logged keystrokes for twenty years, recording presses, insertions, deletions, cursor movement and the timing of every one of them as somebody composes.

What those systems count as an action has been printed, and every entry on it describes something done with a keyboard or a mouse: pause, insert, delete, paste, cut, replace, line break, each carrying a length, a position and a moment.

Speech is not on the list. That is no criticism of the method, which was built to study typed composition and does it well. The trouble starts on transfer, when a measure validated on typing is aimed at people who do not type.

THE CLASSIFIER ALREADY EXISTS

Testing service researchers built the thing in 2025 and reported the numbers

94%

accuracy in the laboratory

89%

accuracy in operational use

4.7%

error rate identifying a writer

The first two come from a study separating writers composing something new from writers reproducing text written elsewhere, and the paper says outright that generative software is the motivation: machine prose can be unique and therefore invisible to copying checks, so behaviour during writing is proposed to fill the gap. The third is a parallel line treating typing rhythm as a biometric able to say whether two essays came from the same hand. These figures are why the approach will be adopted.

What the Instruments Measure

a category problem, not a performance problem



Speech is not something these tools get wrong. It is something nobody ever handed them.

THE STRONGEST OBJECTION, ANSWERED FIRST

Nothing here is malfunctioning

The obvious reply is that these are engineering faults and better engineering will fix them. It will not, because nothing is broken.

Handed a block of dictated text that arrives whole, the tool correctly works out that it was not typed and correctly works out that it was not produced inside its own editor. It then reaches for the only remaining label that fits, which is material pasted in from somewhere it cannot identify. Every step is right. The report is true.

It is true about how text entered a document, and it is being read as evidence about who wrote it.

WHY BETTER IS WORSE

A list of categories is a claim about what exists

This one holds that writing is either produced at a keyboard or brought in from outside, and the people who drew it up could think of nothing else it might be.

So making the instrument better makes the injury worse. Sharpen its eye for insertions and it will see her paragraphs more sharply. Accuracy and damage climb together, which is how you can tell the trouble sits in the categories rather than in the performance.

It follows that promises to improve accuracy answer nothing. The responsive commitment would be a change to the list itself, and no supplier has announced one.

THE VARIANCE IS THE PROOF

Same student, same sentences, different verdict, because the products differ

Speech tools do not behave alike. Some push characters into the page as the transcript settles, and what they produce may register as typing. Others assemble a passage and drop it in whole, and what they produce registers as a paste.

So the same student writing the same sentences gets opposite findings depending on which product she happens to own. A useful test: hold the writer and the words and the thinking still, vary only the assistive tool, and see whether the authorship finding moves. If it moves, it was never about authorship.

The streaming route fails too, for its own reason. Even when dictation flows in character by character, the trace lacks the timing variability, the long pauses, the short bursts and the density of revision that the literature ties to original composition, and instead resembles the steady low-revision pattern that literature ties to copying. Only the label changes.

WHO PICKS THE TOOL

The obvious fix inverts the allocation federal law already made

Telling a disabled student to change assistive products so a measuring device can read her turns the arrangement upside down.

In working out what aids and services somebody needs, a public body must give primary consideration to what the disabled person asks for. The entity honours the choice unless it can show an equally effective alternative.

Under a process regime the choice runs the other way. The tool the student selected is the reason her work reads as suspicious, and the remedy on offer is to select differently.

THE WORSE OF THE TWO POSITIONS

One instrument gives a wrong label. The other gives none.

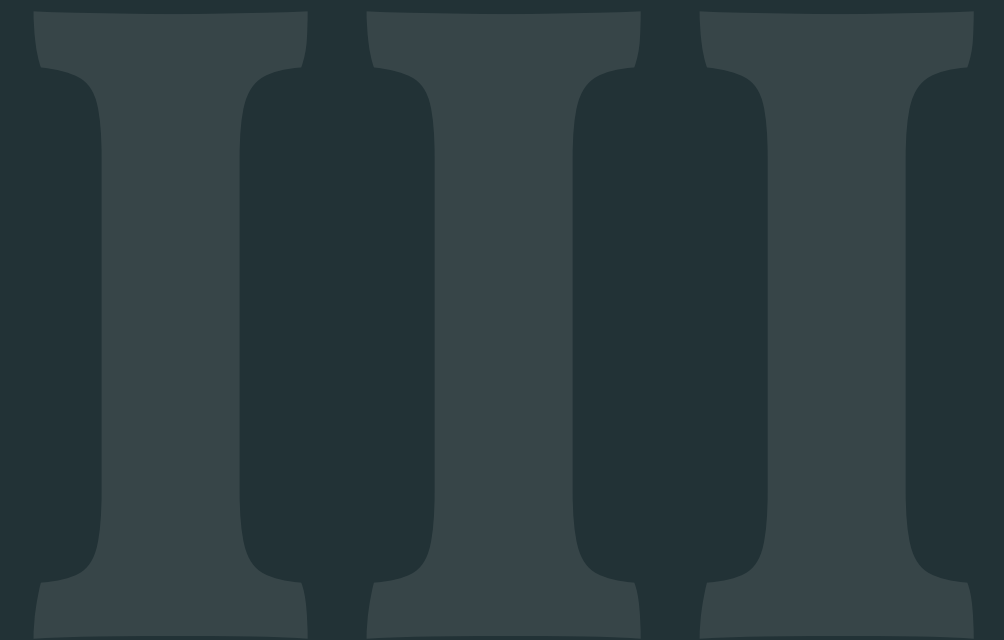
Where a block arrives in Grammarly Authorship, the student at least receives an explicit adverse category she can point at and dispute.

Where a block arrives in version history, she receives nothing. There is a timestamp, a size, and a teacher forming a private view about what it means.

Version history exists so colleagues can work on one file and so lost work can be retrieved. Pressed into service as proof of honesty, it brings along none of the apparatus a pupil would need in order to argue back.

The Accommodation Is the Deviation

and the district wrote the deviation down itself



The conclusion needs no empirical premise, but the empirical record happens to be there anyway.

WHAT AN ACCOMMODATION IS

It changes how a task is done. It does not change what is being marked.

A pupil who speaks her essay is still marked on the essay. Speaking is simply how that essay came to exist.

So every writing adjustment moves away from the ordinary route. Extra time reshapes the session. A scribe puts somebody else's hands on the keys. Speech replaces the keyboard entirely. Predictive text alters what happens letter by letter. Software that reads a draft aloud alters how the draft gets rewritten.

Every one of them disturbs exactly what a log is watching, and every one was chosen because the ordinary route had failed the pupil.

NO EMPIRICAL PREMISE REQUIRED

A regime that authenticates by process flags accommodated students at a rate near one

No study is needed to reach that. Working differently is the whole content of an adjustment, and working differently is the thing the instrument was built to spot.

Bias, in any interesting sense, is not required here. Correct operation is enough.

Which is why the claim belongs in the law as impact, or as a failure to act on what the entity knew, rather than as an accusation that somebody meant harm.

THE RECORD ON DICTATION, FINDING ONE

It lifts the students it was designed for and leaves everyone else where they were

One controlled trial with secondary school pupils found that those with learning disabilities wrote stronger essays by voice than by hand, and made fewer errors doing it. For the pupils without such disabilities, the method made no difference the statistics could detect.

A later study of middle school students found the same asymmetry. Those with fluency problems produced longer papers with fewer errors; average writers did not change.

That shape is the classic signature of a genuine accommodation. Something that lifted everybody equally would have changed what was being measured. Something that lifts only the group it was built for has removed a barrier, which answers in advance the complaint that allowing dictation hands out an unearned edge.

THE RECORD ON DICTATION, FINDING TWO

Writing by speaking has an architecture of its own

A close study of students with severe dyslexia composing by speech found no conventional spelling errors at all. What it found instead was a different class of error produced by the technology: words misheard, words and sentence parts dropped, homophones substituted, endings wrong, compounds broken.

The evaluation stage of writing split into three, adding a correction step that exists only because dictation exists. Revision clustered at the level of the word and the sentence, with little planning and little higher-level rework.

Now set that beside the classifier. What it looks for in fresh writing is uneven rhythm, lengthy stops, brief spurts and heavy reworking. The speaking pupil generates something dominated by correction, with almost no thinking pauses and almost no structural rewriting. She is not merely failing to look like fresh writing. She looks like something nobody has ever described, and the closest thing anyone has described is copying out.

WHERE SCHOOL DIFFERS FROM EVERYWHERE ELSE

She is being asked to prove a fact the district itself recorded

A disabled writer flagged on a publishing platform has only one way to establish her adjustment, which is to announce it, and announcing it costs her something. School is different. The announcement happened years ago and the paperwork sits with the district.

A student receiving special education services has a plan naming the aids, services and modifications to be provided. A student who is not eligible under that statute but whose disability substantially limits a major life activity may have a plan under the parallel civil rights provision, recording the same thing.

Either document is drafted by the district, delivered by the district, and held by the district as part of the pupil's file. Nobody is in the dark about how she writes. It is written down, decided for her specifically, legally binding, and stored on the entity's own servers.

THE JOIN THAT DOES NOT EXIST

Two systems, one district, no connection between them

One record sits in the special education database. The other sits in the office software. No wire connects the two. Nothing travels from a revision timeline to a pupil's adjustment file before somebody decides what the timeline means.

Somewhere in her employer's own filing there is a page that settles what the teacher is puzzling over as she looks at that block landing at 9:47. Her screen never shows it to her.

That changes what the lawsuit is. Arguing that a neutral rule lands harder on a protected group means carrying everything such arguments have to carry. Arguing that a body decided against a pupil while overlooking an adjustment set out in its own paperwork is a different case altogether, and in that one nobody can seriously dispute what the body knew.

AN HONEST CAUTION

Most of this harm will never produce a case

Most of it will be smaller than a finding of dishonesty. A teacher trusts a pupil's work a little less and never says why. A reference goes unwritten. A pupil works out that speaking attracts suspicion, so she types poorly rather than speak well, giving up an adjustment because of the atmosphere around assessment and not because anybody decided anything.

Nothing of that leaves a trace. The same shape is recorded in the neighbouring literature. Pupils with adjustments who have sat examinations under remote invigilation report worry about how the monitoring meets their disability, fear that the system will represent them wrongly, and added strain while the paper is running, together with the concessions they make so as not to be flagged.

Far more people are hurt by this than could ever be compensated for it. Which is an argument for the fixes in Part Five rather than the lawsuit in Part Four.

Doctrine

unusually favourable here, and honest about where it stops

IV

The question was answered once already, in 1997, by a court looking at a different documentation requirement.

THE PROVISION THAT FITS

A rule that tends to screen out a class must be shown to be necessary

Public school districts are public entities under Title II, and districts taking federal money are recipients under Section 504. Coverage is not in dispute.

The provision that fits most directly forbids a public body from using conditions of eligibility which exclude disabled people, or lean towards excluding them, from the full and equal enjoyment of what it offers, unless the body can show those conditions are necessary to the thing being offered.

Three features of that sentence do most of the work. It catches rules that merely lean towards exclusion, so no individual pupil need be shown to have been shut out. It puts the burden of showing necessity on the body rather than on the child. And it speaks of full and equal enjoyment, which places the injury in the right spot: taking part in school on unequal terms, with an evidential burden hung on one group of pupils and not another.

THIS WAS DECIDED IN 1997

A university once required documentation, and mostly lost

What the policy demanded

Students seeking accommodation for a learning disability had to be assessed by somebody holding named credentials, to produce testing done within the previous three years, and to supply intelligence testing on top of the usual battery. The court held these were eligibility criteria, because they were how the institution decided who got services and what services they got.

What survived the necessity test

The retesting rule fell. Nothing showed that a condition like dyslexia shifts after the age of eighteen, no published work backed the requirement, and no other institution anywhere in North America imposed one. The doctorate rule fell for specific learning disorders and stood for attention conditions, where the university actually had a scientific record.

The split matters more than either result on its own. It shows the necessity question is a real one, decided on evidence, and perfectly winnable by an institution that has put the work in. Ask a district today to explain why logging how work was written is necessary to running its schools and there is no comparable file to produce, because nobody has built one. Schools switch on whatever their platform ships, and this arrived with no such assessment attached, since no regulator has ever asked to see one.

SOURCES Guckenberger v. Boston Univ., 974 F. Supp. 106 (D. Mass. 1997).

A SECOND ROUTE

Where there is no rule to point at, there is still a way of running things

A public body is barred, whether acting alone or through contracts and other arrangements, from running a programme in ways whose effect is to discriminate against disabled people. Trial courts have treated that as its own claim rather than a repetition of the general ban.

It fits the commonest facts better than the eligibility provision does. Most districts have adopted no formal documentation requirement at all. Teachers simply open version history as a matter of practice.

There is no criterion to challenge in that scenario, and there is very plainly a way of running things.

DEFERENCE, AND ITS PRICE

Courts defer to academic judgement that was actually exercised

Any institution defending an academic rule will reach for deference, and deference genuinely exists. Judges decline to put their own view in place of a real academic decision.

It is conditioned on deliberation, though. The test asks whether the people responsible looked at other ways of doing it, at how workable each was and what it would cost and what it would do to the programme, and then landed somewhere a court can see the sense of, namely that the alternative would drop standards or force a substantial rebuild. Reasoned professional judgement, in other words, and not a bare assertion.

Applied here, the inquiry has a clean subject. Did anybody examine the effect on students using assistive input? Did anybody ask the supplier what the categories contain? Did anybody test the requirement against a dictating student before switching it on? Where those questions have no answers, there is nothing for deference to attach to.

THE ELEMENT THAT IS USUALLY FATAL

Here the knowledge is documentary, and the district is its author

Money damages here require more than showing the breach. Courts of appeal that have reached the question ask for deliberate indifference: the body knew that harm to a federally protected right was very likely, and did nothing about it.

For most disabled claimants that is the element which sinks the case, since what an institution knew must be proved against an institution insisting it knew nothing. Here it is the easy part. The district picked the pupil out, tested her, put the adjustment into a written plan, and is required to keep revisiting that plan.

The reply will be that leaving two databases unconnected is carelessness, and the test is a demanding one. That answers a complaint about how software was built. It answers much less well the case actually made, which is that one named official, holding one named pupil's plan, reached a conclusion against her that the plan itself would have settled.

TWO PROCEDURAL GATES

Getting into court, and what is left to recover once inside

Exhaustion

A claim for a student with an education plan will meet an argument that administrative procedures come first. Two decisions answer it. One holds that exhaustion is required only where the substance of the complaint is denial of an adequate education. The other holds that the requirement is no obstacle where the remedy sought is one the statute cannot supply, and money is such a remedy. This is a claim about the terms of participation in a programme whose adequacy is not in question.

Damages

Emotional distress is gone in private actions under spending-power antidiscrimination statutes, which removes the category a wrongly accused student would reach for first. One circuit has carried that across to Title II while expressly preserving recovery for lost educational opportunity as economic harm. So concede distress at the outset and plead the transcript: the course not finished, the credit not earned, the placement forfeited, the admission foreclosed, the scholarship now out of reach.

SOURCES Fry v. Napoleon Cmty. Schs., 580 U.S. 154 (2017); Perez v. Sturgis Pub. Schs., 598 U.S. 142 (2023); Cummings v. Premier Rehab Keller, 596 U.S. 212 (2022); Payan v. L.A. Cmty. Coll. Dist., 169 F.4th 971, 977–79 (9th Cir. 2026).

THE ADVERSE AUTHORITY, IN ITS STRONGEST FORM

Two decisions sit close to these facts. Neither reaches the question.

I The plagiarism finding

A student argued that writing by hand suited his disability and that typing made it worse, was failed for plagiarism, and lost. The court applied a standard requiring animus, not indifference; the theory pleaded was that the stated ground concealed a motive, which needs proof of what somebody was thinking; the comparison demanded was between students accused of dishonesty rather than between the evidentiary cost of clearing suspicion; and the opinion never addresses process evidence or assistive technology at all. It was also a university, so no district-authored plan was in the case.

2 The anti-copying rule

A professor who had allowed typed notes in examinations required handwritten ones after finding students pasting in slides. A disabled student using typed notes was found to have cheated, suspended, and refused readmission, and the appeal failed. The resemblance is exact and the case did not decide it. The disability claims fell on the limitation period, and the rest rests on deference over readmission and on state contract law. Whether a rule written against copying may lawfully make life harder for a pupil asking for an adjustment is a question the court says it is not deciding.

THE GENUINE RISK, CONCEDED

Whether these regulations can be enforced privately is not settled everywhere

One circuit has held that the decision eliminating private enforcement of impact regulations under the federal funding statute leaves claims of that kind alive under the two disability statutes. Another has held that a rule which does not itself spell out an individual right cannot be enforced by the individual. A third allows enforcement where the regulation explains what the statute already forbids instead of forbidding something new.

Three answers, strongest last. The exclusion provision is better read as explanation than as addition, since all it does is spell out what it means to shut somebody out because of a disability, and shutting somebody out is what the statute itself prohibits. The duty to make reasonable changes comes from the statute directly, and this objection cannot touch it.

And the third theory needs none of this. Where a district decides against a pupil while overlooking an adjustment written into its own file, the complaint is that it shut out of the programme somebody it had already picked out as disabled.

THREE SHORTER OBJECTIONS

Alteration, and the privacy argument that does not work

The institution will say that checking who wrote something is essential and that letting one group off changes the programme. Nothing proposed here lets anybody off the check. What is asked is that a note be put on the display, drawn from material the district is already holding, before conclusions get drawn. A change that leaves the essential requirement standing has to be made whatever the institution would rather do.

It will say that pupil privacy law blocks the link. It does not. The federal rules already let material move out of a school file, with nobody's permission needed, to staff inside the same body, and teachers appear on that list by name, so long as the body has decided they have a proper educational reason for seeing it.

A teacher marking a piece of work has a proper reason to know what adjustments that pupil has been granted. The body does have to keep access sensibly narrow, which shapes how the link gets built rather than forbidding it. All the note has to say is how the words got onto the page. It says nothing of the diagnosis and nothing of the rest of the plan.

Repairs, and What Doctrine Misses

four changes available without any legislation



Ordered by how little they ask, starting with two systems the same district already runs.

AVAILABLE NOW

Four repairs, ordered by how little they ask

I The connection

Any system putting a writing log in front of a marker should look up the pupil's adjustments first and mark the screen accordingly. Where the plan grants dictation, the timeline should say so before anybody forms a view. No fresh data, no fresh policy, and nothing revealed by the pupil.

2 The necessity review

Before making a writing log a condition of handing work in, a district should carry out and write down the assessment the regulation already demands, asking whether supervised writing, a conference or an oral defence would serve the same end. The duty exists today. What is missing is doing it before switching the thing on rather than after somebody complains.

3 The category

Suppliers should add labels for how the words arrived, dictation among them, and should say nothing at all about authorship where the software cannot tell. A truthful instrument says what it saw and goes no further. Researchers should measure the route into the document rather than ignoring it, and publish separate figures for writers using assistive tools.

4 The default

Where nobody knows how the words arrived, conclude nothing. That reverses current practice, which treats an unlabelled block as grounds for a closer look. It costs almost nothing, since a district with a genuine worry about cheating keeps every other means at its disposal, and it wipes out this whole class of harm in one move. It can be checked from outside, too.

STATED PLAINLY RATHER THAN DISCOVERED LATER

Three places the law does not reach

The first is procedural. Section 504 rules require recipients to adopt grievance procedures with appropriate due process, and at least one court has held there is no private right to enforce that requirement. The version-history problem is a problem about a decision nobody wrote down, and the provision aimed most directly at unrecorded decisions may not be privately enforceable.

The second concerns proof. No law today gives a pupil the right to hear that a writing log was looked at, to have a copy of it, or to be told what somebody concluded. Disclosure may well produce the log, since revision histories persist. It will not produce the conclusion, which nobody ever wrote down.

The third concerns reach. The pupils who suffer this are mostly not the pupils who go to court. Cases pick off the visible end of the distribution and leave the everyday version untouched. So one repair needs a legislature, and is listed here for completeness: a right to be told a writing log was used, to be given it, and to be told what was made of it.

WHERE THIS LEAVES US

The advice wears the costume of prudence, and that is why nobody looked

Three years of argument about detection produced one point of agreement: keep the receipts. That agreement is where the harm now lives.

These schemes establish who wrote something by examining how it got written. An adjustment alters how it gets written. Those two facts meet by design rather than by accident, and no individual product is at fault. This is simply what follows from taking a measure drawn from the usual case and pointing it at people defined by not being the usual case, and it will follow again from every instrument resting on the same assumption until somebody goes back and looks at the assumption.

A version of this was settled once already. In 1997 a court told a university that what it demanded by way of paperwork amounted to conditions of eligibility, that proving them necessary was the university's own job, and that respect for academic judgement has to be earned by actually deliberating. A log of keystrokes changes none of that. The one thing that has changed is that the demand now makes itself, falls on everybody, and has no defender, because nobody has yet been made to answer for it.

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