

**GUIDELINES FOR STUDENTS FULFILLING
LOYOLA UNIVERSITY NEW ORLEANS
COLLEGE OF LAW
ADVANCED WRITING REQUIREMENT**

- I. Description of the Task**
- II. Selecting a Topic or Defining the Issues to Be Addressed**
- III. Researching and Organizing**
- IV. Writing**
- V. Plagiarism**
- VI. Texts to Assist in Researching and Writing**
- VII. Excerpt from the Law School Bulletin and Policy for Law 898 Legal Research**

I. Description of the Task

Before graduation, every student at Loyola College of Law must submit a piece of legal writing in which the student exhibits his or her ability to critically perform legal analysis. The type of piece shall be dictated by the supervising professor. Typically, though not exclusively, students will be asked to draft “law review-type” articles, research memoranda, or briefs. This set of guidelines focuses on the former, which includes pieces in which students critically examine and comment on an area or topic of law.

The article differs from an interoffice memorandum in which the writer researches an area of law to evaluate a case and predict the outcome of the application of that law to that case. It differs from a memorandum to a court and an appellate brief, which are written to advocate a particular client’s position and persuade the court of a certain outcome. The article traditionally does one or more of the following:

1. Suggests changes in the law and/or comments on discrepancies and inconsistencies in the law;
2. Provides in-depth analysis of the law;
3. Includes empirical data or other “non-traditional” information;
4. Compares the laws from more than one jurisdiction and considers the theories behind the laws;
5. Traces the history of the law; and
6. Recognizes differences in the application of the law by different courts and recommends a uniform application.

The article must be of suitable length and must earn the student a grade of C or better. Footnotes should be used for citations and should conform to A Uniform System of Citation (the Blue Book) and its guidelines for law reviews, unless the supervising professor requires some other format.

Other Guidelines, suggestions, or requirements may be given or imposed by the supervising faculty member.

II. Selecting a Topic or Defining the Issues to Be Addressed

Selecting a good topic or defining the issues to be addressed is one of the most important steps you can take to ensure that you produce a strong piece of legal writing. Before selecting a topic or defining the issues, consider the following:

1. Any requirements placed upon you by the supervising professor, such as writing in a particular area of the law because the piece is being written in conjunction with a class;
2. Areas of particular interest to you because of your personal experience, educational or work background, or desire to practice, teach, or work in a particular area in the future;
3. Evolving areas of law in which the scholarship on a particular topic is not well-developed;
4. Recent developments in the law;
5. Laws that may not be accomplishing what they were intended to accomplish;
6. Areas of law in which lower and appellate courts have rendered conflicting decisions and the Supreme Court or the state supreme court has not yet ruled; and
7. The suggestions and comments of professors and practitioners who work in your area(s) of interest.

If you are writing an article, once you have some ideas for topics, consult the Current Index to Legal Periodicals, Westlaw, LEXIS, Infotrac, or a speciality index in your area of research, such as The Index to Tax Articles, to determine what has been written on your potential topic(s) in the last five years. You may not duplicate what someone else has already done. Provide your supervising faculty member with a description of your topic, a preliminary outline of what you intend to cover in your article, and a description of and citation to any articles already written that parallel your topic.

III. Researching and Organizing

To research thoroughly for an article, consider primary and secondary authorities. Due to the number of sources you will consult, you should formulate a research plan before you begin researching and you should modify this plan as you conduct your research. A plan should simply identify what sources you plan to consult and in what order. Additional information that may be helpful is a note about why you are consulting a particular source, how you think it might be helpful, and how you are considering using the source in your article. Although you may not be required to produce a written research plan, a written plan may prove helpful to you as a checklist and barometer of your research progress and may help you to keep your research focused and on track.

Organize your material as you research. You will be reviewing many sources; consider using file folders or tabbed sections in a binder(s) to store your research as you collect it. Otherwise, you will end up with a large pile of information that will need to be catalogued before you can even begin to work with it. Color code, number, tab, separate – do whatever it takes to make final assimilation of the material easier when you begin to outline and write.

Further, as you work through the material uncovered by your research, always consider how you will organize your article. Each article will have its own organizational scheme, which will be dictated in large part by the material to be conveyed to the reader. Typically, though, articles begin with an introduction that sets out the author's thesis or theory and provides a roadmap of the article's organizational scheme. Additionally, most articles end with a brief conclusion section.

IV. Writing

Just do it! Many of us put off writing and get caught up in researching. Prolonging research time allows us to feel that we are actively working on the piece when what we frequently are doing is avoiding the sometimes more difficult task of assimilating our ideas and committing them to paper. If you have organized well, start with the section of your article with which you feel most comfortable and begin to write. The task of writing becomes much easier once your paper is no longer blank. Also, do not add pressure to the process by feeling as if what you are writing is your final draft. Rough or somewhat polished, what is critical is that you get a draft down on paper; revising an existing document is usually easier than trying to create a perfect first draft.

Footnote as you write. Even if you will need to go back and "Bluebook" the form of the footnotes at a later time, document your sources while you are writing. If you do not, you will spend valuable time later on in the writing process retracing your steps, trying to determine exactly where you got a particular idea or quote.

Spend a major portion of your time revising your work. After you have your ideas down on paper you will inevitably see new relationships between ideas that you had not considered earlier; you may change your opinion on some issues; you may see a need to restructure part or all of your article; or you may see a need to gether additional information on a certain point. Legal analysis and understanding is a continual process that does not stop simply because you have committed some ideas to paper. Do not discard the knowledge you will gain while writing; reserve time to incorporate this knowledge into your article.

Edit and proofread your work. You are a professional, and your work must reflect that fact. Lack of attention to the details of editing and proofreading may cause the reader to question your attention to the details of researching and analyzing.

V. Plagiarism

"Plagiarism" is defined as [t]he act of appropriating the literary composition of another, or parts of passages of his writings, or the ideas of language of the same, and passing them off as the product of one's own mind." Black's Law Dictionary 1035 (5th ed. 1979). Plagiarism is expressly prohibited by the Loyola College of Law Honor Code, which provides:

It shall be a violation of the honor code to plagiarize the work of another. No student shall claim or submit as his or her own original work the research, ideas or writings of another without acknowledging and clearly identifying such

material in an appropriate manner. Paraphrasing without acknowledgment of authorship is a form of plagiarism.

Paraphrasing is the close restatement of another's idea using approximately the language of the original

The Honor Code ¶ IV (B).

To avoid plagiarism, you must cite all sources from which you have quoted, paraphrased, paraphrased, or obtained unique ideas. Gray areas may arise in which an idea may not be particularly unique to any one source. In those cases, you will need to use your discretion, but you should err on the side of giving attribution to the authority or authorities. Keep in mind that citation to authority strengthens legal writing, rather than weakening it.

VI. Texts to Assist in Researching and Writing

Below is a short list of several sources that may assist in researching and writing. Most of the sources listed are already familiar to Loyola Law students. You should also review some published law review articles to become more familiar with what the finished product will look like.

Mary B. Ray & Jill J. Ramsfield, legal Writing: Getting it Right and Getting it Written (2d ed. West 1993) (specific sections on scholarly writing are found on pages 269-77).

Elizabeth Fajans & Mary R. Falk, Scholarly Writing for Law Students (West 1995).

Laurel C. Oates, et al., The Legal Writing Handbook (1993).

Richard C. Wydick, Plain English for Lawyers (3d ed. 1994).

A Uniform System of Citation (16th edition).

Texas Law Review Manual on Usage & Style (1995)

Bryan A. Garner, The Elements of legal Style (1991)

Additionally, be sure to consider the internet as a source of information when researching, especially if you are working in an area that changes rapidly or involves sources of information beyond the traditional sources of case law and statutory law. Publications that provide information and tips on researching using the internet include:

Christina L. Kunz, et al., The Process of Legal Research (Little, Brown & Co. 4th ed. 1996).

G. Burgess Allison, At the Edge of the E-Frontier: An Introduction to the Internet, 17 Pa. Law. 12 (Sept/Oct. 1995).

G. Burgess Allison, The Lawyer's Guide to the Internet (ABA 1995).

Elizabeth Gamsky, Rich & mark A. Shiller, An In.ter.net Primer for Lawyers, 68 Wis. Law. 14 (Sept. 1995).

Don MacLeod, The Internet Guide for the LeGal Researcher (Infosources publishing 1995).

James Evans, Law on the Net (Berkeley: Nolo press 1995).

Joan L. Axelroth, Reality in the Virtual Library: Legal Research on the Internet May be Easier and closer, Than You Think, 56 Or. St. B. Bull. 19 (may 1996).

Robert J. Ambrogi, Legal Research on the Internet: A Primer, 39 Res Gestae 44 (Jan. 1996).

A word of caution about researching on the internet: many of the sources noted above are careful to note the limitations of internet researching. Be sure to maintain your focus on the topic you are researching and be careful not to get trapped into spending hours on-line doing what could have been done in half the time "in the books."

VII. Excerpt From the Law School bulletin and Policy for Law 898 Legal Research

Writing Requirement

The faculty has established a requirement that a student demonstrate writing ability by the successful completion (as evidenced by a grade of C or higher) of one of the following:

- LAW L802 Law and Education Seminar
- LAW L809 American Legal History Seminar
- LAW L813 Evidence/Procedure Seminar
- LAW L816 Comparative Law Seminar (2- or 3-hour credit assignment)
- LAW L819 Construction Industry Law Seminar
- LAW L826 Advanced Torts Seminar
- LAW L827 Contracts/Commercial Law Seminar
- LAW L831 European Union Law Seminar
- LAW L846 Seminar in Scholarly Writing
- LAW L853 Family Law Seminar
- LAW L855 Child Advocacy Seminar
- LAW L862 Criminal Law Seminar
- LAW L865 Juvenile Law Seminar
- LAW L867 Business Planning Seminar
- LAW L877 Constitutional Law Seminar
- LAW L884 International Law Seminar
- LAW L885 Sex Discrimination Law Seminar
- LAW L886 Environmental Law Seminar
- LAW L887 Federal Taxation Seminar
- LAW L892 Law Review Seminar
- LAW L893 Public Interest Law Journal Honors Tutorial (only for comment)
- LAW L894 Public Interest Law Journal Seminar
- LAW L898 Legal Research (2 hr. credit assignment)
- LAW L910 Law and Religion Seminar

Any new seminar or course or existing course in which a paper of suitable length and quality is either required or offered by the instructor as an option.

Policy for LAW L898 Legal Research

1. A student interested in registering for the *LAW L898 - Legal Research* course must submit a detailed topic proposal (written outline of the topic along with a preliminary bibliography) to the supervising faculty member, with a copy to the Associate Dean for Academic Affairs, indicating whether the course will be taken for one or two hours credit and whether the course is intended to fulfill the student's writing requirement. The supervising faculty member shall review and approve in writing the proposal. Any one faculty member may supervise a student for *LAW L898 - Legal Research* for a total of no more than four credit hours. Only a full-time faculty member may supervise *LAW L898 - Legal Research* or *LAW L899 - Independent Study*.
2. A student must be in good academic standing to register for this course.
3. A two-credit hour project shall require work equivalent to that required in a two-hour seminar and equivalent in length and quality to a law review comment, with a suggested minimum length of 30 double-spaced typed pages. A one-credit hour project shall require work equivalent in length and quality to a law review case note, with a suggested minimum length of 20 double-spaced typed pages. This course cannot be taken for more than 2 credit hours.
4. The supervising faculty member and the student shall establish a regular schedule of consultation for the entire semester. The final written project shall conform to A Uniform System of Citation to the extent it is applicable. The supervising faculty member may impose requirements, in addition to the above, at the time he or she agrees to supervise the project. These additional requirements shall be incorporated in the proposal approved and signed by the supervising faculty member.
5. *LAW L898 - Legal Research* contemplates original research and is not to be based on modifications of work done for other courses, for employers or be simply a compilation of work done by others.
6. An incomplete grade may only be given upon presentation of written evidence of a medical or other handicap or compelling reason preventing the timely completion of the project. Incomplete grades must be approved by the faculty member supervising the credit and the Associate Dean for Academic Affairs must be notified that the incomplete grade is being given.
7. The final paper shall be forwarded to the Associate Dean for Academic Affairs, together with a copy of the grade submitted by the supervising faculty member.
8. Permission to drop *LAW L898 - Legal Research* or *LAW L899 - Independent Study* or to substitute a new supervising faculty member shall require the prior written permission of the Associate Dean for Academic Affairs.