



*From the Editors* ... Many thanks to all who contributed to this issue, which presents a wide range of perspectives on and approaches to responding to student writing. The large number of contributions we received reflects how much thinking and effort we devote to this crucial activity.

With this issue we'd like to welcome as co-editor Elisabeth Keller, who has taught Legal Reasoning, Research, and Writing at B.C. Law School for almost 10 years. Lis' essay on responding to student writing with audiotaped comments appears in this issue.

The coming spring issue of *The Second Draft* will focus on the methodologies we use for teaching legal analysis in the classroom. What specific methodologies do you use to teach analysis? How do you run class discussions when you are focusing on teaching the analysis of a problem? To teach analysis do you incorporate collaborative exercises or in-class writing exercises? Have you developed teaching methodologies designed to make complex ideas more accessible to students who are visual learners and who learn less effectively with exclusively verbal methodologies? Have you used technology in ways that are specifically geared to teaching analytical skills? If you would like to share your thoughts on these (or related) questions, please submit your essay of approximately 750 words to Joan Blum at <blum@bc.edu.> by February 29, 2000. You may also submit your essay by mail, on disk and in hard copy, to Joan Blum, Boston College Law School, 885 Centre Street, Newton, MA 02459.

...Joan Blum, Jane Gionfriddo & Judy Tracy  
Boston College Law School



## *The President's Column*

### *Of Chickens and Checklists*

Mary Beth Beazley  
President,  
Legal Writing Institute

On Thursday, January 6, 2000, the Legal Writing Institute will honor Arthur Levitt, Chairman of the Securities and Exchange Commission, for his work promoting — and requiring — the use of plain language in corporate filing documents. The Institute's first Golden Pen Award will be given to Chairman Levitt at 4:30 p.m. on January 6 in the First Amendment Room of the National Press Club, 529 14th Street NW, Washington, D.C. Chairman Levitt put plain language requirements at the top of his agenda at the SEC, and the plain English regulations became effective October 1, 1998. The new rules require plain English for the cover page, summary, and risk factor sections of prospectuses. The Commission has noted that registrants must draft the language in

these sections so that, at a minimum, the language substantially complies with each of the following plain English writing principles:

- active voice;
- short sentences;
- definite, concrete, everyday words;
- tabular presentation or "bullet" lists for complex material, whenever possible;
- no legal jargon or highly technical business terms; and
- no multiple negatives.\*

Joe Kimble of Thomas Cooley Law School — a/k/a "Mr. Plain English" — has been instrumental in both the creation and the presentation of this first award. Mark Wojcik, of John Marshall, has been working hard as well. We hope that all of the legal writing professors who attend the AALS meeting will come to the award ceremony and bring their friends!

Whilst pondering the theme of this issue of the *Second Draft*, I thought back to the 1996 AALS annual meeting. In San Antonio that year, I attended a remarkable plenary session in which the presenter explained the history of training chicken "sexers" — that is, those workers whose job it is to look at a peeping ball of golden fluff and accurately predict whether it will grow into a hen or a rooster.

The old method of training was to have the trainee sit next to the trainer, who would go silently about the work. The trainee would silently guess whether each chick was a hen or a rooster and then observe what the trainer did. When the trainee — after a long apprenticeship — found that his or her guesses matched the trainer's guesses, the training was complete. Then the trainers made an amazing discovery — they could drastically improve the use of training time if the trainer talked to the trainee and described why which chick went into which pile.

As I recall, the speaker made an apt connection to old and new methods of law teaching, but I was already drawing my own analogies, to the teaching of legal writing. In the bad old days, students were shown good examples of legal writing and tried to guess how they could reach the same result. They had to figure out for themselves why the writing was “good,” imitating it in small ways and big, eptly and ineptly. There was no doctrine of legal writing to which they could refer when making decisions.

Legal writing professionals, like the chicken sexers, have begun to talk to the trainees. In the classroom, we hold up not baby chicks, but examples of good work and bad, so that we can point out the markers of good analysis and bad analysis. When we critique our papers, we continue the conversation with our comments.

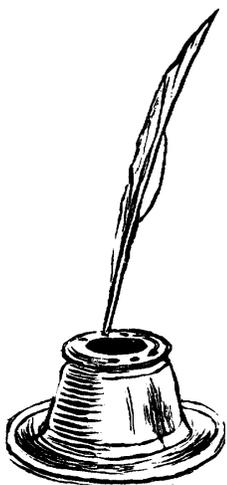
Like those training the chicken sexers, our job is to help our students to see. Our comments are meant to reveal what they have written, why it is good, where it is unclear, and how the

substance or the structure fails to support the writer's legal argument. When we give our students reasons for our comments, we help them not just with the document they are currently writing, but with every document they will write in the future.

Some of the best work in our field in the past twenty years has gone into identifying the markers of cogent legal writing. What is it that makes legal analysis complete? How can we label the elements needed so that we can recognize them, describe them, and talk about them? I can remember, in my own early days, being thrilled to discover the simple label “authority case.” Now, I have several different labels for those authority cases, including “illustrative authority” and “rule authority,” and authors of textbooks and scholarly articles keep coming up with more. This increased vocabulary gives us more ways to talk about what it is that lawyers do when they write, and thus helps us to control that writing and to improve it.

Which brings us back to the new SEC regulations. For too long, lawyers have claimed that the ability to write clearly is a gift that you have or you don't. These regulations do not apply to memos and briefs, and they don't address issues of legal analysis so near and dear to our hearts. But they are a start. They are proof that you can regulate writing. So from now on, those of us who incorporate plain language requirements into our classes can say that we teach a doctrinal course.

\* Securities and Exchange Commission Press Release 98-10 (January 22, 1998).



## *Essays by Members of The Institute on Responding to Student Writing*

### MATCHING GOALS AND METHODOLOGIES

#### COMMENTING ON STUDENT WRITING

*Beth Cohen, Jocelyn  
Cuffee, Harris  
Freeman, Jeanne  
Kaiser, Myra Orlen  
Western New  
England College  
School of Law*

At Western New England College School of Law, we have a five-person faculty in the legal research and writing program. The director of our program has been teaching legal writing for more than ten years and our newest faculty member has been teaching for about ten weeks. Given this disparity in our level of teaching experience, the discussions at our weekly meetings have gone beyond administrative

and curricular issues to include a great deal of reflection regarding our process of critiquing student work. Devoting this time to sharing concepts, philosophies, and strategy has benefits for each of us, and ultimately for our students. What follows are some ideas that we have discussed in our efforts to promote good legal writing.

A prerequisite to our discussions regarding how we comment on student work is to articulate the goals of each assignment and the overall purpose of the course. One important goal is to teach students how to edit their own work. Each of us, no matter how much experience we have, agree on the fundamental premise that the key to good legal writing is rewriting.

Those of us who have clerked for judges have seen firsthand how a well-written legal opinion does not leap directly from the judge's mind to the printed page, but rather goes through numerous drafts and revisions before the court issues the final decision. The challenge for us is how best to teach our students not just to be good writers, but good re-writers.

In order to gauge the student process of rewriting, we are requiring students to submit drafts of a number of assignments. We return these drafts with our written suggestions on how to improve the final product. This helps to fulfill one goal — the students must rewrite. In fact, we keep copies of the drafts, and may consider the improvement between the

draft(s) and the final product as part of the grade.

Nonetheless, we find that commenting on these drafts requires us to walk a fine line and balance the competing factors of teaching by doing and demonstrating, and teaching by explaining and instructing. An example of this balance is what we do when faced with that entity familiar to legal writing teachers everywhere — the awkwardly constructed and nearly incomprehensible sentence. Faced with a tortured, confusing sentence, we have all been tempted simply to rewrite in order to show the student that it is indeed possible to communicate a concept clearly and directly. Nevertheless, we hesitate. We fear that this method will simply enable the student to rely on us to do their rewriting instead of learning the important art of editing their own work.

On the other hand, simply circling a sentence and indicating that it needs reworking may provide little guidance to the student. The student probably already knew that the sentence was broken, and is looking to us to fix it.

There is little doubt that showing the student how to write the sentence in a direct, comprehensible way is a helpful teaching method. Because of the value of direct illustration, most of us do some direct rewriting of student work.

However, this cannot be the only method. We use different comments to achieve the goal of teaching our students to do their own rewriting. Sometimes, we will rewrite one or two sentences and then identify the other problem areas in the paper. Hopefully, students can use the edited work illustratively to help them rewrite their own sentences. Other times, we will identify the grammatical errors in the sentence and give the student enough information or direction to correct the errors.

We also instruct students to consider our written critique in conjunction with the class discussions and assigned readings. We discuss the writing assignments in class and go through some of the most common errors. In addition to the

individual comments on each paper, we often distribute a list of the most common errors and problem areas with some general instructions. This has the impact of helping the students realize that they are not the only ones experiencing difficulties.

Another tool that we use to supplement our written comments is to distribute sample paragraphs that we write ourselves. Alternatively, we collect sample student written papers from each section and put these on reserve in the library. By providing a variety of short samples, students are able to compare their own work to something that may be more effectively organized and presented. By including a variety, we are enforcing the notion that there is not just one correct way to construct a good piece of writing.

Comment or grading sheets also provide a helpful way to structure comments. We discuss the content of the evaluation sheet and share samples with each other. Some of the sheets are very detailed, while others include topic headings with more room for narrative comments. These comment sheets are attached at the end of each paper and supplement comments throughout the text. These sheets ensure that we are commenting on each component of the writing, substance, form, and mechanics.

Furthermore, positive presentation of the comments, together with enduring optimism, are important considerations. We realize that students may become resistant, frustrated, and, proprietary if they perceive our comments as too critical or as an attack. Therefore, we remain sensitive to the different skill levels and backgrounds of our students, especially in light of the potentially demoralizing impact of first-year law school. Proper phrasing of each comment is essential; the glass is half full. We are here, after all, to help our students learn to understand the process of becoming better writers, not to alienate them from the process. We try to convey to our students that lawyering does not have to be an isolating profession, that we are here as a resource. We try to share information generously.

In any event, our primary goal is to teach the students to look at their own writing more critically. As the year progresses, it is always satisfying to see certain students fix their own mistakes and improve the quality of their work before they submit it. This permits us to use our favorite comments — those that tell the student they have done excellent work.

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#### WRITTEN FEEDBACK ON STUDENT WRITING

*Steven D. Jamar*

*Howard University School of Law*

Giving effective, individualized feedback on writing is a difficult art, especially when giving it to first-year students. There is no difficulty finding things to comment upon. On the contrary, the problem is selecting which of many possibilities are most important. Over the years I have found the following guidelines useful.

1. Keep in mind the psychological needs of the students. In my experience, most students' egos are heavily invested in their writing and most students think they write well. Many of the tips that follow provide techniques for addressing the psychological responses of the students to written comments.

2. Emphasize that legal writing is different from whatever writing they have done before — they are writing to different audiences for different purposes. I balance this focus on differences with the idea that it is not as much a matter of throwing out what they brought with them as it is adapting to new requirements. An example of a written comment which is sensitive to these concerns would be, "In legal discourse we assume a change of word carries a change in meaning, so use the same word unless you intend such a change. I know that you may have been taught something different in your undergraduate major."

3. Emphasize something that was done well. This technique helps address the sense of some students that a critique of the writing is an attack on the person. I try to find something for which a

comment like “make the rest of it more like this” would be appropriate. If I look hard enough, I can almost always find some sentence or paragraph for which this is true at some level. I try to articulate the specific things which were correct and which should be emulated.

4. Provide a written comment sheet to the whole class giving both general comments as well as specific comments about what the class as a whole did well and about what needs significant work. I think the adage of “misery loves company” comes into play here.

5. Limit the number of comments per page. For most students I try to limit comments to about three per page. I have found that most students progress better by focusing on correcting a limited number of errors for each assignment than by trying to fix everything all at once. Furthermore, papers covered with more ink from you than from the printer are discouraging. Sometimes a student will ask that every weakness be noted. I usually try to comply.

6. Do not mark repeated instances of the same error after the first two or three times it appears. Students should look for the same sort of errors later in the paper; it is by learning to spot these mistakes themselves that they become better at editing and rewriting.

7. Edit one or two paragraphs. Many students have never had someone edit their work and have never seen what an edited paragraph really looks like. Modeling like this is very instructive to some students — for a few it is all they need to improve their work dramatically. I do not edit more than one or two paragraphs because the student should try to edit the rest of the paper in like fashion. Sometimes in conferences I will “live edit” a paragraph with the student to show not only the results, but also the editing process.

8. Phrase many comments as questions. The idea is to get students to begin to test their own writing with questions: “Does this sentence really show the causal link as clearly as desired?” Some students hate

this sort of feedback; some find it sarcastic and snide; others consider it a form of “hiding the ball.” Nonetheless, it is a time-tested, appropriate way to make comments, especially for higher level writing problems.

9. Write comments (not more than three or four) at the end of the paper. I try to phrase these comments in such a way that they (1) convey information to the student, (2) induce a student to come to see me, and (3) function as notes to myself for use in conferences. When the student brings the paper to a conference, I want to be able read these end-page comments to help me focus quickly on what, at the time of grading, I thought were the aspects of that student’s writing most in need of attention.

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#### PROCESS OVER PRODUCT: WHY I REVIEW STUDENT DRAFTS

*Andrea Kayne Kaufman  
DePaul University College of Law*

The syllabus of my legal writing course states that if a student submits a draft at least three business days before the paper is due, I will review a discrete portion of the paper and discuss it with the student in person, by telephone or by e-mail. A colleague and friend at another law school called me “nuts” for opening myself up to the potential review of sixty papers twice. I have three sections with approximately twenty students each. To this friend, I have several responses. To begin with, not all students take advantage of this draft review policy and most importantly, reviewing drafts enhances the process of writing for my students in three important ways.

First, by reviewing a student’s draft, I am more easily able to understand and correct a student’s thought process which may have led to faulty analysis and writing. For example, I recently reviewed a student draft that contained confusing and illogical analogies and distinctions. Through my discussion of the draft with the student, I discovered that what led to the flawed paper was confusion about the goal of the application section. The

student thought the goal was to find as many similarities or differences as possible; thus, he never followed through with any one issue. After I explained the purpose of the application section, the student was able to successfully correct his paper and receive a very good grade.

Second, reviewing a student’s draft is a way to enhance the process of writing without the stigmatizing effects of a grade. While all law students and teachers have to contend with grades, they can interfere with the process of learning. I know many students who receive low grades who label themselves as “bad writers.” This label becomes a self-fulfilling prophecy that shuts them off. They stoically accept their C’s and do not bother to read any of my comments, even though writing is not only important for success in other law school classes but also is crucial for success as an attorney. Grades do not always serve the “A” student as well. There have been many good students who do not read and consider my comments because they are busy and are already excelling in my course. When I review a draft, I do not give or even mention a potential grade. I only give feedback that most students listen to and incorporate in their papers.

Third, by reviewing a student’s draft I emphasize that good writing is a time-consuming process. A student who submits a draft to me must complete his or her paper with plenty of time to rethink, revise, and edit. I want my students to develop good writing habits that they use throughout their careers. I am happy to devote extra time to review student drafts if it results in more attorneys who approach writing as a recursive process, taking plenty of time to rethink, revise, and edit.



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## CRITIQUING STUDENT PAPERS — THE QUICK AND THE DEAD

*James B. Levy*

*University of Colorado School of Law*

Teaching law students to write well depends on effective review of their work product. In discussing the feedback we leave on student briefs and memoranda, we most often focus on what we say as teachers rather than when we say it. We discuss the importance of pointing out the good things students do as well as the mistakes. We debate the need for extensively marking their papers versus a more minimalist approach. We also discuss the benefit of margin comments as well as endnotes that summarize the areas that need improvement. However, another critical consideration that should be part of any sound writing pedagogy is the timing of that feedback. Indeed, when it comes to effective feedback from the students' standpoint, there may be only two kinds: the quick and the dead.

Learning to write well is a skill. The best way to teach it, like any skill, is to give students examples of the performance expected, have them try it for themselves and then provide feedback on their mistakes to help them improve. Educational theory holds that to make teacher feedback as effective as possible, it should be closely connected in time to the students' efforts to learn that new skill. With respect to critiquing student writing, therefore, students need to receive feedback from the teacher while the original assignment is still fresh in their minds.

Most legal writing programs are built around large assignments like office memoranda or briefs. Given student-teacher ratios and the heavy workload of most legal writing professionals, it is simply not possible to turn these papers around with lightening speed. Moreover, conscientious teachers never want to compromise thorough and insightful comments simply for the sake of returning papers quickly. The reality is that it takes time to thoughtfully comment on papers

in a way that helps students improve.

Nevertheless, it is pedagogically important to create opportunities during the semester for students to receive timely feedback on their writing. This can be accomplished by including some short writing assignments in the curriculum that can be marked and returned very quickly. For example, in the legal writing program at University of Colorado School of Law where I teach, we begin the semester with a series of short, two page assignments that ask students to analyze a hypothetical fact pattern using a few cases that we supply. These assignments can be critiqued and returned to the students relatively fast, thereby providing them with more immediate feedback. Each of these short papers also has a follow-up assignment that asks students to rewrite their original draft in light of the comments they received. Although the students' final grade is based largely on a more extensive office memorandum, augmenting that with shorter assignments creates the opportunity to give students more immediate feedback during the semester.

If it is not possible to fit short writing assignments into your curriculum, consider other ways to provide quick feedback. For example, consider doing an in-class editing exercise that allows the class to see how to turn an excessively wordy sentence into a model of pithiness. Write a sentence on the chalkboard, or use an overhead projector, and then ask a student to revise it so the whole class learns how to edit in real time. When holding student conferences, consider reserving part of that time for a self-editing exercise. Demonstrate for a student how to revise a wordy sentence and then ask her to do the same for you with another sentence.

At the Legal Writing Institute's biennial conference a few years ago, Professor Joseph R. Kimble discussed a technique that he uses to provide students with immediate feedback on their writing. He suggested marking all student papers during the individual conferences as a way of demonstrating the self-editing skills

that are vital to developing good writing habits. While some at the conference recoiled at the idea of doing that while students looked on, from a pedagogical standpoint, Professor Kimble's idea is a very good one.

The importance of including exercises in the legal writing curriculum that provide students with immediate feedback cannot be overstated. Sound pedagogy requires that students receive guidance from the teacher on how to improve their writing skills that is connected in time as closely as possible to their own efforts to master those skills. In that sense, there really are only two types of feedback — the quick and the dead. And to borrow a line from the film "The Outlaw Josie Wales," when it comes to effective legal writing pedagogy, "Dying ain't much of a living."

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## COMMENTING ON STUDENT PAPERS

*Debbie Mostaghel*

*University of Toledo College of Law*

The conventional wisdom is not to give students too much feedback because students may be overwhelmed and disheartened to see their pristine islands of prose come back to them as murky seas of red ink. My inclination has always been to give students a lot of feedback. First, I feel honor bound to point out problems because if I don't, who will? Second, I don't want students to have a false sense that they are doing everything right when that is not the case. After years of struggling with these two concepts, I find what works for me on most papers is to give fairly extensive commentary but to explain ahead of time what I am doing and why I am doing it. In general, I try to make my comments mirror the language of the textbook, since we've been working all semester learning to develop an analysis using the textbook as a tool. I write comments in complete sentences to avoid being cryptic. I try to give reasons for telling the student to do something. I praise where possible, even if I go on to give bad news. (Good, you've got the rule. Now present analogous cases so we can see how courts have interpreted this rule.)

The one place where I give minimal written feedback is the paper where the writer seems to have no discernable organizational pattern. These papers are hard to read, hard to understand, and hard to comment on. In fact, a bizarre organization suggests that the student is not ready for any significant volume of commentary. I want something that will grab the student's attention and give us something to work on in conference. For papers like this, I have found that a visual approach is the most concrete way to demonstrate what is wrong with the organization.

I use a different colored highlighter for each component I want the student to pay attention to. For example, if a student in an office memo is discussing three elements under a statute or a common law cause of action, I will use three different colored highlighters. I highlight the rule for the first element in yellow. I also underline the rule in pencil or pen to differentiate it from the other yellow highlighted material to come. Then, in yellow, I highlight all the related bits and pieces scattered throughout the discussion section. I repeat the process using a different color for each of the other poorly organized elements. Some papers will have a few yellow or green areas here and there. Others will end up variegated. I minimize other kinds of commentary on a paper like this because I want the student to focus only on organization. In conference, I ask the student to look over the paper and notice how the blotches of color are scattered through the discussion section. I tell the student that the first step in improving the organization is to bring all the related matters together. Usually an excited shock of understanding hits at this point. The student will burst out with something like, "Oh, I see! If I bring all my yellow highlighted sentences together, I'll be addressing the first element in one or two paragraphs instead of bringing it up over and over." I have the student talk to me about the elements and what he wrote about each one and show me how he would rearrange the colored sections so that they develop the point he wants to make.

This kind of visual commentary is highly effective to help students see flaws in their organizational structure. It doesn't guarantee that the content is good, but keeping related ideas together is a first step. For some students, developing an after-the-fact outline is a good way to check organization. For visual learners or for students with more serious organizational problems, I have found that using highlighters is an eye-opening way to diagnose chaotic organization.

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**EFFECTIVE ASSESSMENT: DETAILED CRITERIA, CHECK-GRADING, AND STUDENT SAMPLES**

*Melissa J. Shafer*

*Southern Illinois University School of Law*

We are in our second year of the lawyering skills program at Southern Illinois University School of Law. The legal writing aspect of the course includes two office memoranda, one trial memorandum of law, and one appellate brief. We have found in a short period of time that the inclusion of detailed assessment criteria, check-grading written work, and publishing student samples are extremely effective tools in assessing students' written work and ensuring that they glean as much as possible from that assessment.

The first component of our grading system is detailed assessment criteria. Our director, Prof. Penny Pether, advocates detailed assessment criteria for each written task. As such, we publish the assessment criteria directly in the syllabus and ask students to critique themselves against these accompanying lists as they complete their written products. The assessment criteria are weighted, and the following is an excerpt from the assessment criteria we use for the closed universe memorandum:

**A. Statement of Facts (10%)**

- Includes facts that are relevant to the legal issues being discussed/analyzed
- Organizes facts logically (i.e. chronological or some other thoughtful/rational form of organization)
- Does not introduce any analysis or

discussion of the issue/s

**B. Issue Statement (10%)**

- Defines legal issue/s effectively
- Exhibits organized, precise writing
- Uses facts relevant to the legal issue/s being discussed/analyzed

**C. Discussion (40%)**

- Addresses issue/s objectively
- Interprets authority accurately (there may be more than one accurate interpretation)
- Adopts Neumann model, IRAC or some other logical form of legal analysis
- Reasons analogically from and/or distinguishes facts of decided cases
- Analyzes each issue and sub-issue in an organized fashion
- Follows Neumann model or law/application format
- If appropriate, discusses policy and offers counter/analysis
- Uses quotations/paraphrases to support analysis rather than to substitute for analysis

The remaining 40 percent of the criteria focuses on the conclusion, academic writing style, grammar, spelling, punctuation, citation form, and format and structure. Additionally, we attach each assessment criterion with our points or percentages given for each portion to the written product that is handed back to the students.

There are many advantages to using detailed assessment criteria for each written task. To begin with, students have a good understanding of what composes their grade, which tends to diminish any claims that grading is arbitrary or without sound reason. Second, students have the opportunity to critique themselves against the criteria while working on their product, which increases knowledge and comprehension of the critical elements of each written product. In addition, after receiving their rated assessment criteria, students can attempt to trouble shoot the specific areas which were weak. Students frequently comment that they appreciate the specific feedback they receive from the criteria and many times ask their instructors what they can do to improve their performance in that area for the next

product. If a student received a low rating in academic writing style, then we suggest that the student review the published student sample for that product and think about how the student's writing style differed from the model. We haven't detected any disadvantages to using detailed criteria at this time.

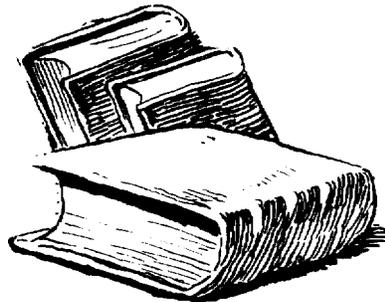
The second aspect of our system is check-grading. Last year we tried various methods of double-checking our assessment of written work including having our teaching assistants conduct a blind grading of each assignment that we graded. What we have found to be most useful is a system we refer to as 'check-grading.' In check-grading, each instructor rates each student in his/her section according to the assessment criteria. Each instructor then asks another instructor to briefly review the student papers and the assessment criteria and indicate whether he or she agrees or disagrees with the assessment. If disagreement occurs, the reviewing instructor indicates the specific reason for the disagreement on the assessment criteria sheet. After the reviewing process is complete, the original and reviewing instructor arrange a meeting to discuss the papers in which a disagreement exists.

The main benefit of the check-grading system is that student complaints about their assessment on written work are virtually non-existent. Students realize that with a system like this in place, their assessment is not the result of one instructor but instead is the collective judgment of the program. The disadvantage to the system is the extra time commitment required to grade and then review. However, as we have become more efficient at the process, we have discovered that reviewing takes only about half the amount of time that originally grading the work does.

Our final component of the grading system is the publishing of student samples. We use Westlaw's TWEN program in our course, and we have started publishing a sample of the best written work in each section of lawyering skills on TWEN. Students who performed

poorly on a task get an opportunity to see how their paper differed from that of the model paper. Last year, we even conducted conferences with students and asked them to come prepared to discuss how their paper differed from the sample. Many students found this to be an enlightening experience. However, as with all samples, students tend to view them as the perfect or only way to approach a written product. To combat this common problem, we always include with the sample a message to students informing them that the sample is not the only way to achieve an effective written product.

Overall, our system for dealing with students' written work is not without its problems, but we can report that students receive specific feedback about the areas they need improvement in, we have almost no student complaints about the assessed score they received, and student feedback indicates that they benefit greatly from published samples of the written product.



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#### THE ROLE OF SELF-EVALUATION IN THE LEARNING PROCESS

*Lori Shaw*

*The University of Dayton School of Law*

"Remember. You are not the writing Messiah. You can only do so much to save your students from their mistakes."

The words uttered several years ago at an LWI Conference made an indelible impression.

Like most teachers, I began my career intent upon leading my students to the "promised land" of effective writing. My bright red margin notes and copious end notes would serve as their Bible. As I matured as a teacher, I began to see the error of my ways. Despite my brilliant

insights, students often repeated their mistakes on subsequent assignments. The words of the speaker struck home. I can lecture, threaten, beg, and cajole, but only the students can learn.

In considering how to help my students better learn, I turned to the work of composition theorists. Over the past twenty years, theorists have shifted the focus of the writing course from "product" to "process." Process theory recognizes that "[t]o 'learn' is to be creatively active in the presence of the thing being learned. No one can manage this activity for another: it must be self-motivated and self-managed." Roger H. Garrison, *One-to One: Tutorial Instruction in Freshman Composition in The St. Martin's Guide to Teaching Writing 324, 340* (Robert Connors & Cheryl Glenn, 3d ed. 1995). Teachers can "guide" students on their journey, but they cannot take it for them. To guide a student properly, a dialogue must take place between teacher and student. Written comments on a memorandum provide a critique of the writer's product, but fail to illuminate flaws in the writer's process. Without input from the student, a teacher cannot begin to guess how a student's process is flawed. Having conducted numerous student conferences, I was convinced that they could foster the necessary dialogue. Still, I knew that simply scheduling mandatory conferences would not ensure students became "creatively active." Too many students wanted me to take the initiative and explain what they did wrong.

To foster creative activity, I decided to require students to complete a self-evaluation guide for each memorandum. Students complete the guide after they turn in an assignment, but before they receive my written critique. I do not want them to merely parrot my thoughts.

The guide provides students with a detailed outline of my analysis of the legal issue. I explain that the outline simply provides one example of a cogent analysis and a different analysis could be equally effective. The outline labels the various components of IRAC (issue, rule-standard,

etc.). Students are first asked to highlight the points they addressed. Doing so helps students to gauge the depth of their analysis and to identify particular problem areas, such as a consistent failure to provide rule-illustrations.

Students then answer a series of questions about each IRAC component. The questions not only compel students to identify their strengths and weaknesses, but to attempt to analyze the cause of any weaknesses. If, for example, a student fails to discuss an important issue, she is asked whether she remembers reading about the issue, whether the issue made it to her synthesis chart, whether the issue was included in her first draft, etc. The idea is to identify where her process failed her. In evaluating each assignment, I complete a critique form that mirrors the guide. During student conferences, the student and I compare our evaluations, and we discuss how the student might improve her process.

Although I cannot point to any empirical evidence, I believe that the students' work product has benefited from self-evaluation. The depth of their analysis has improved. Students have an enhanced appreciation of the individual elements of the creative process. They recognize the results of a failure to carefully read, synthesize, draft, revise, edit, etc.

The students' course evaluations suggest that they view the evaluative system favorably. The backlash I feared because of the time commitment required of students failed to materialize. Self-evaluation can be painful, but students appreciate being treated as individuals with individual needs. In turn, the students' commitment to learning has impressed me. The majority of students take the self-evaluations seriously and make a real effort to identify problems. On occasion, their insights have blown me away.

Some downsides to the evaluative system exist. The conferences themselves require at least one-half hour. Further, this type of conference provides a mental workout for both instructor and student. It is both exhilarating and exhausting.

All in all, I am glad that I came down from the mountain. Being an effective partner is far more satisfying than being an ineffective savior.

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#### LET'S TALK ABOUT IT

*Deborah Shore  
Rutgers School of Law-Camden*

I firmly believe that my written comments on my students' memos are a highly valuable teaching tool. One of the greatest challenges I face when commenting on students' writing, however, is keeping my written comments to a manageable length. Manageable for the students in the sense that placing too many written comments on their written product will often overwhelm and fluster a novice legal writer. Manageable for me in the sense that writing many individual written comments on each student's paper is often not the most efficient use of a legal writing faculty member's time.

In particular, I have often found it difficult to limit the extent of my written comments when stressing to students the importance of adhering to Richard Neumann's four-part paradigm for the proof of a conclusion of law. Because most first-year law students have not experienced this writing structure prior to coming to law school, this paradigm confuses and frustrates many novice legal writers. Even after detailing the model again and again on students' papers, many students have told me that, while they may understand how to organize their writing in this form, they do not clearly understand why they should employ the paradigm. As a result, my written comments have set out not only to explain the paradigm, but also to justify why the four-part paradigm model is both sensible and effective.

In an effort to reduce the length of my written comments in this area, while maintaining the efficacy of my comments, I have begun to employ a hybrid technique when reviewing students' writing. This technique combines both written comments and a role-play with each student mirroring a conversation between

the writer and the writer's audience. This role-play takes up only a few minutes of conference time with each student. During this role-play, I ask the student to act out a conversation that she might have with a senior partner in a law firm after she has been asked to research a particular issue and predict a likely outcome.

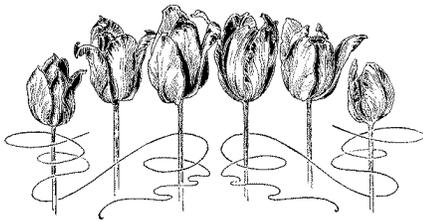
Playing the role of the senior partner, I ask the student a series of questions. First, I simply ask the student, "Well, what's the answer?" The next question I ask is "What does the law say about this issue?" This question is followed by, "Where does that law come from?" Finally, I ask the student, "How does this play out in our case?"

After this short role-play, I ask the student to summarize the answers to the questions I posed. I then congratulate the student by pointing out that she has just structured her analysis of a legal problem according to the four-part paradigm without even realizing it. I explain that in answering my first question, "Well, what's the answer?" the student set forth her conclusion, part one of the paradigm. I then point out that the second question, "What does the law say about this issue?" asks the student to set forth the legal rule upon which her conclusion was based, part two of the paradigm. Next, I point out that my third question, "Where does that law come from?" asks her to discuss the cases and other sources of law from which the legal rule came. Finally, I explain that my final question, "How does this play out in our case?" requests that she apply the relevant legal rule to the facts of her case, part four of the paradigm.

I have found that by placing the four-part paradigm model in the context of a conversation, the students come to realize that the paradigm structure simply provides the natural progression of answers to the questions posed by a reader. After going through this role-play, the students better understand the logic behind beginning their discussion of a legal issue with their conclusion. In other words, starting out by immediately responding to the question, "Well, what's the answer?"

Likewise, through role-play, the students learn that they need to answer the partner's question, "What does the law say?" before responding to the inquiry, "How does this play out in our case?" Thus, in a very short time, I am able to demonstrate easily to a student why it is far clearer to the reader to provide the entire rule and rule proof before applying the rule to the facts of her case.

Because the role-plays supplement what I have elaborated on in my written comments, I am now able to reduce the length but not the efficacy of my written comments in this particular area. I have found this dual approach to be an effective method of commenting on students' papers.



#### SOME THOUGHTS ON COMMENTING

*Nancy Soonpaa  
Albany Law School*

As I considered what to contribute to this discussion of commenting on students' written work, I tried to analyze my own process and decision-making when commenting. First, I realized that I decide how to give comments based upon my role as teacher in that particular student-teacher interaction. Second, I realized that I give several different kinds of comments. Stopping occasionally to review these roles and categories helps me to comment more effectively.

When I teach, I take on whichever of several roles best suits the situation — the subject matter being taught and the needs of the particular student. Identifying my role helps me to understand who I am and why I'm saying what I'm saying in a particular interaction, whether that interaction is in person or in writing. Some of those roles and their characteristics include the following <sup>1</sup>:

- mentor — works from a perspective of "I've been through this; this is what worked for me; learn from me."
- conveyer of knowledge — seeks to share or impart information.
- evaluator — objectively assesses the student's work; sets out strengths and weaknesses.
- motivator — creates an atmosphere conducive to learning; cheerleads and encourages; empathizes; urges the student writer to move forward.

Within the context of those roles, then, I offer a variety of comments; the specific comments depend upon the stage of the writing project. When I offer comments at the revision stage of writing (or the "formative" stage of commenting) <sup>2</sup>, I focus on these categories of commentary <sup>3</sup>:

- correcting — supplies factual information to help the student to correct error. For example, pointing out a Bluebook rule when commenting on a citation exercise would assist the student in drafting a correct citation.
- emoting — provides an emotional human reaction to what has been written. "Powerful statement of facts!" is a safer emoting comment than "I think your position is silly," which directs the emotion more towards the writer than towards the product.
- describing — offers the student a better understanding of writing terminology and of an editor's process and view of the piece. Saying "I see the legal issue in your question presented, but I can't find the relevant facts or applicable law" gives the student names for what she has written, helps her to understand what the teacher is seeking, and develops a common vocabulary and approach.
- suggesting — focuses on specific changes and is a more text-bound approach than describing. Suggesting may be too narrow to help with other assignments, but helps the student by offering a clear approach to a writing problem in a particular document.

- questioning — encourages students to rethink material to allow them deeper analysis or understanding. Comments such as "Why should a rule explanation follow a rule?" or "How can you reconcile these two decisions?" offer both writing- and content-based opportunities to develop a deeper understanding of the material.

- reminding — relates written work to the classroom, the text, and/or the underlying authorities relied on in the draft to reinforce the ways and interlinkages inherent in learning.

- assigning — creates a new task for the student, related to the written work, to emphasize what has been learned and to direct development from that point forward. Asking for an additional draft or having a student revise a particular part of an exercise offers the opportunity to both reinforce mastery and more effectively direct the writing process.

All of these categories offer the opportunity to be more positive than negative when commenting. They focus on making the work better, rather than focusing on its deficiencies.

Finally, end-stage or summative commentary on a final draft includes these types of comments <sup>4</sup>:

- assessing — looks at student's skill at specific point in time.

- evaluating — requires examining and perhaps ranking the final product. Is it well written? Is it better than the last assignment? Better than the draft?

Even summative comments on a less-than-stellar paper can be made positively by looking to future writing projects and helping the student to prioritize writing skills that still need work.

In conclusion, by selecting the teaching role and type of comment appropriate to the stage of the writing process and to the individual student's needs, I strive to offer effective comments that encourage, rather than stifle, students' growth as professional writers.

<sup>1</sup> See Brooke K. Horvath, The Components of Written Response: A Practical Synthesis of Current Views, in *The Writing Teacher's Sourcebook 207*, 212-13 (Gary Tate & Edward P. J. Corbett eds. 2d ed 1988).

<sup>2</sup> See *id.* at 207-08.

<sup>3</sup> See Elaine O. Lees, Evaluating Student Writing, 30 *College Composition and Comm.* 370, 370-374 (1979). The categories of commentary are based on her work.

<sup>4</sup> See Horvath, *supra* note 2.

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#### INTERACTIVE CLASS EDITING

*Kathleen Elliott Vinson*  
*Suffolk University Law School*

Legal writing is a process. Writing, however, is not a process that occurs in a straight line. An important part of the writing process is editing. Editing during different stages of the writing process can reveal organizational as well as analytical problems, in addition to grammatical and spelling mistakes. As Justice Brandeis said, “[t]here is no such thing as good writing. There is only good rewriting.” The time and extent spent on editing skills conveys the importance of editing. Devoting class time to editing and making it interactive allows students to focus on editing and practice their editing skills.

In my experience, students sometimes overlook the importance of editing and the critical role it plays in producing quality writing. Students often do not spend enough time editing or view it as merely proofreading. Perhaps one explanation is students’ past educational experiences. For example, in college some students may have written a paper the night before a deadline and received a satisfactory grade. Another explanation could be students’ view of editing as a tedious and unproductive process. Finally, students may be confused regarding the nature of editing. Students cannot effectively self-edit their own papers if they do not understand what they are looking for when editing. Students must learn the skill of editing.

In addition to requiring students to edit when they rewrite their papers, I devote ninety minutes of class time to the topic of

editing. First, I discuss common writing problems, such as weak thesis sentences, lack of transitions, conclusory analysis, and passive voice, just to name a few. By discussing common problems, students have a better understanding of what to look for when editing. Then I give editing tips regarding how to identify writing that needs improvement. Some of these tips include the following: copying the thesis sentences of each paragraph on a separate page to check if they are an outline of the points in the memo; circling transitions in your memo; underlining “to be” verbs to check for passive voice; and identifying the organizational components of the memo in the margin.

To reinforce and apply the material covered in class, I assign the students an editing exercise, due in the next class. This assignment requires students to edit a part of the discussion section of an office memo. Students must identify positive aspects of the memo and areas that need improvement. They comment on overall organization and analysis, as well as provide line-by-line critiques. They also include their reasons for each editing comment. Completing the exercise outside of class has several benefits: it saves class time, and students have the time and motivation to complete a thorough edit of the document. In addition, giving written feedback on their assignment is not necessary because my feedback occurs when we discuss the completed assignment during class.

After completing the assignment, students are more able to identify their own mistakes after “editing” another’s work. Students can critique with an objective eye when the writing is not their own. Some students begin to experience some of a reader’s frustrations when trying to comprehend a document that is unclear, conclusory, or riddled with mistakes. Also, after realizing the amount of time and energy required to do a thorough edit and give thoughtful feedback, students seem to appreciate the extent and amount of feedback I provide on their papers.

During the next class, students bring in their edited version of the discussion

section and the interactive editing begins. Making the editing class interactive allows students to become personally involved in the editing process. The class is collaborative because I edit the memo during class, based on students’ editing comments and their responses to other classmates’ suggestions. We discuss the process of editing and how editing improved the document. Students see a memo that at first glance may have seemed satisfactory transformed into stronger writing as a result of editing. When discussing the class editing exercise, I use technology in several ways to edit “live,” in class. By using a color ELMO document camera, I make editing technologically interactive. I display the original unedited discussion section on the document camera that projects the document onto a screen. Then, line by line, as well as viewing the displayed document as a whole, students volunteer editing suggestions. Students view the editing process as it occurs, as I mark the “edits” on the original document. I make the editing marks in color or black and white. Using the document camera saves time I would have to spend making copies or creating transparencies.

Another method of using technology for interactive editing is projecting an unedited discussion section of a word processing document onto a screen. Displaying the document requires a computer and an LCD projector. As students contribute their editing remarks, I edit the original document on the computer by using techniques such as cut and paste, highlighting text, underlining, and changing colors and fonts to emphasize edits. Again, the students are part of the live interactive editing process.

Finally, using Power Point is another way to use technology to illustrate editing. The technology requirements are the same as the second method described above. I display pieces of the unedited, original document on a Power Point slide. After eliciting students’ editing suggestions, I display slides with samples of edited versions of the document. Although using Power Point may not have the same live

editing effect, because I prepare the slides beforehand, it is a useful way to emphasize and display editing points.

Using technology to enhance the interactive class editing exercise has several benefits. It appeals to visual learners who

can see the editing process occur. Editing, a topic some students may perceive as a necessary evil, becomes lively and interesting. The class is collaborative and interactive because everyone participates with suggestions and responds to others'

remarks. By participating in the editing process and watching it unfold, students enhance their editing skills. Students then apply what they have learned when they self-edit their papers.

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## COMMENTING TECHNIQUES



### WRITING LABS: COMMENTING ON STUDENT WORK-IN-PROGRESS

*E. Joan Blum*

*Boston College Law School*

Over the past several years, my colleagues and I at B.C. Law School have been dividing writing assignments into smaller and smaller segments, and commenting on student writing at shorter and shorter intervals. When I started teaching 15 years ago, we required students to write three memos, but they handed in only one draft of each, and our comments on those drafts were the only feedback the students received. Now, we assign the same three memos (plus a fourth more informal one), but each of those memos has at least two drafts, and most of us break down the drafts even further so we can teach the students by responding at an earlier stage of their writing process.

For example, most of us divide the writing of the Discussion section of the first objective memo into three parts. This memo divides naturally into three major parts because the court divides the analysis into three equal requirements. After working together to analyze and synthesize the relevant cases, we give the students a sample of the analysis of the first requirement. Then they write and we comment on the second, and finally, the students rewrite the second and add the third, together with other parts of the memo,

and we comment on the whole thing.

Recognizing that commenting on student writing is individualized teaching that is extremely valuable to students, I decided to experiment with giving students “early intervention” comments even before they got to the first formal draft of Objective Memo II (OMII), their first major integrated research and writing assignment. I decided to do this experiment in the context of a “writing lab.” My colleague Judy Tracy had used a writing lab last spring for a different purpose, and I thought that Judy’s idea could be adapted to my goal of responding to student writing at a very early stage, while students were actively engaged in thinking through what they wanted to say.

My writing lab came after a sequence of classes on analysis of the OMII problem, and the day after they had handed in their “OMII Exploration,” essentially an idea draft that allows me to check for gaping holes in their reasoning (for example, leaving out a subpart of the analysis). Having thought through the problem for the Exploration, the students were in a position to pull their thoughts together about the overall structure of the memo. I therefore felt that they were ready to tackle the introduction to the Discussion section (which many people call the thesis paragraph).

I held three separate writing labs because I decided that I could work with groups of no more than 15 students, and I have 45. I scheduled one lab during my regular class time, and two additional labs during open slots in my students’ schedule. The lab met in one of the law school’s three eleven-work-station computer learning centers, which complement the several

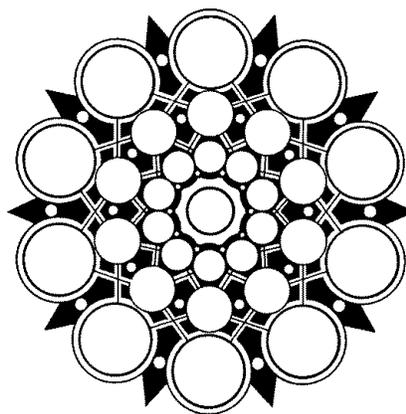
classrooms that are wired for data and power at each seat and the thirty-work-station student computer center. To accommodate 15 students at a time, I asked students who owned laptops to bring them to the lab; students without laptops used the learning center’s computers.

I used the beginning of the lab to refresh the students’ understanding of the audience and purpose of the objective legal memo. I asked the students what, in light of the audience and purpose, they thought a reader might want to know in the first paragraph or two of the Discussion section. This line of questioning led them to understand that the introduction to the Discussion section is an introduction to the topic and the analytical structure of the memo. I then asked the students what concepts or words they might want to see in the introduction, and listed on the board, in no particular order, the ones that I validated. Then, I directed the students to use what was on the board to write a draft of the introduction. I told them that I was not at all interested in whether their writing was polished, but rather in whether they had all the ideas they needed in the introduction, and whether the ideas were in logical order. I told them that as soon as they were ready to show me something, they should call me over to read it and give them comments. It took a few minutes for the first student to summon up the courage to call me over, but then in a matter of minutes, just about every hand went up.

I wanted to comment on the students’ writing while it was still on the screen because I wanted to intervene in the students’ writing process before their work

went into fixed form. I limited my comments to whether the first paragraph of the introduction had a topic sentence general enough to take in all the analysis in the memo, whether the introduction identified all the subparts of the analysis and their relationship, and whether each sentence was sufficiently linked analytically to the sentence that preceded and followed it. I gave these comments primarily orally, although with some students I did highlight and drag blocks of text. In each of the three labs I was able to give comments to more than 10 students. I invited students who did not receive my oral comments to spend no more than 10 additional minutes on the introduction (because I was not interested in commenting on a finished product) and e-mail me their drafts. Just about every student took me up on my offer and by return e-mail I gave the same type of limited comments as I had given live in the labs.

Although the labs required me to teach two additional hours (and probably another hour to handle the e-mail submissions), the benefits to the students outweighed the extra cost to me. First, the labs enabled me to teach the students how to write an introduction, and also to give them an immediate opportunity to apply what they learned and get immediate feedback on their first effort. Second, the labs helped build the students' confidence. Each student left the lab knowing that he or she had written the first paragraph or two of the actual Discussion section and that he or she was in the ballpark. When I saw how much I could accomplish with limited comments early in the students' writing process, I confirmed my hypothesis that early intervention in the students' memo writing was what was needed to move them from the idea generation phase to the first draft of the document. And I had the satisfaction of making a contribution to our continually developing curriculum. When I described the writing labs to Jane, Dan, Lis, Judy, and Mary Ann, my colleagues gave me their highest compliment: "I'm going to try that!"



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#### ENGAGING STUDENTS IN IMPROVING TECHNICAL WRITING SKILLS

*Amanda Buttress Cialkowski*  
*University of Illinois College of Law*

As I pondered the topic for this fall's Second Draft, it occurred to me that getting students to pay attention to the feedback we provide on their written work has been the biggest challenge I have faced as a professor of legal writing. Even though I would conscientiously write comments on student papers, often I would get the next assignment with many of the same mistakes. It became clear to me that students were not reading my comments, or if they were reading them, they weren't putting them to good use. Perhaps they were just looking at the score at the top of the page. In spite of the fact that our class is not graded, students still care about getting good scores on their papers. It seemed, at times, the students cared more about the score than the substance of what they were learning. I considered getting rid of scores altogether; however, many students found that working to improve a score and achieving that goal was extremely satisfying. So how could I keep using scored comment sheets and still get the students to pay attention to the written comments as well as the numbers?

To get the students' attention, I tried several things. First, I made a student's lack of attention to comments cost him or her more points for the next paper. Second, I decided to try making my comments into interactive exercises for the students. Both seemed to have greatly improved the quality of student writing.

I told my students that any error that had been corrected on their draft had better be corrected before the next draft. If I saw any of the mistakes repeated, those errors would count off double. I started requiring the students to turn in their drafts with my comments along with their final draft. I would place the papers next to one another, and I could see that students had checked off each correction I made, which required them to actually read the comments. I had always used score sheets that had the various areas of the paper assigned certain point values so students could see where they were losing points. Now if the student repeated a mistake, I would write the specific double point deduction and explain why he or she lost the points. I also started writing the total score at the bottom of the score sheet, rather than at the top. Forcing the students' eyes to at least skim over the comments as they scanned down the page to their score seemed to help the students to pay more attention to the comments.

In addition to making individualized comments on student papers, I began drafting a list of common errors made by students in the class. This was mainly to insure that, even though I was pretty certain that I had corrected the same types of errors on every student's paper, if I missed one, that student would still have the common error sheet that discussed the error and gave an example of how to correct it.

This approach definitely got the students' attention. Suddenly, papers were being turned in with many fewer mistakes and I could tell that my corrections were being thought about and fixed. But it wasn't just simple corrections (like misspellings) that I wanted them to learn; it was more comprehensive skills. To achieve this goal, I had to go beyond merely pointing out errors in spelling, punctuation and so on. In addition to teaching, in the classroom, rules that would translate beyond the particular sentence in a given paper to other sentences and documents, I wanted to give the students something to refer to outside of class.

To do that, I reread common error sheets

from the past to see which errors were most commonly made. I then wrote rule sheets to explain correct word usage, quotation style and so on. Some rules were simple, like “commas and periods always go INSIDE quotation marks.”

Other were more complex, like teaching correct use of ellipses in quoted material to indicate omissions, the correct use of the words “that” and “which.” I created handouts with rules for correct punctuation and quotation, how to get rid of litter words, and so on. The students could then refer back to the handouts throughout the class.

I also had the students take rules and organizational tools they had learned and apply them to their papers before they came in for individual conferences. For example, for papers that seemed to lack organization and tended to skip around from topic to topic, I had the students go back and identify, in the margins, the type of information in each paragraph. Was it a rule paragraph, was it an issue statement? I was generally teaching the students the IRAC form of organization. When the students completed the exercise, they saw something like the following in the margin of their paper:

R  
C  
I  
C  
R  
C

We would then sit down and go over the missing sections and discuss why moving things around would improve the flow of their papers. On occasion, the student would be unable to identify what the purpose of a particular section was. I pointed out that if they did not know what they were doing, it was highly unlikely that a reader would be able to make sense of it. Requiring them to be able to identify the point of each section really seemed to improve the organization of their papers.

Reading back over this article, the “fixes” seem quite basic, but they really have made a great deal of difference in the quality of student writing.

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#### COMMENTING ON STUDENT PAPERS

*Judy Fischer*

*Chapman University School of Law*

I will discuss comments on students’ finished papers, not comments made during the composition process.

Comments on the papers. I write comments directly on the papers in blue ink, deliberately avoiding red because of its often jarring effect. (I have yet to be convinced of the benefits of using a computer to embed comments on students’ disks.) I do not attempt to mark every error, and I may deliberately neglect some minor ones, believing that students absorb only a limited number of comments on their papers. Where a sentence or paragraph is particularly good, I say so, but I explain why.

I also attach a checklist to every paper. The list is organized into the major categories of substance and form, with subpoints under each. On each list, I check items needing work, sometimes adding comments. The purpose of this is threefold: 1) it provides the students with an additional form of feedback; 2) it provides the students with a schema showing what items I critique and how they relate to one another; and 3) it provides me with a record of the basis for the paper’s score.

At the top of the checklist, in a space left for that purpose, I write a summary comment, either in ink or by computer. I always begin with a positive comment. Usually a paper has some strong points, but in desperation I may write “I can see you’ve put a great deal of effort into this paper.” I then write my suggestions for improvement, framing them as such rather than as negative statements. I avoid using “you,” because that may seem to be an attack. Thus I would not write “Your organization is poor,” but “Next time, focus on organization,” followed by some

explanation. I then write a score at the top of the paper. I realized years ago that there is no completely objective method of scoring, so I relaxed into assigning holistic scores with the checklists as guidance. I use scores instead of letter grades because we have a mandatory grade curve. Letter grades might mislead the students, because I could not guarantee that their final grades would be a simple average of their letter grades.

In-class feedback. I then type up a list of good and bad examples from the papers in order to make certain points about the assignment. In class, I project this on a screen for discussion.

One-on-one feedback. A final form of feedback occurs one on one. My mandatory conferences occur while the students are writing the papers, but students often come in after the papers are scored to discuss them.

I must acknowledge the work of Anne Enquist at Seattle. Years ago I went to one of her presentations on this topic, and the research she presented there has greatly influenced my methods.

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#### AUDIOTAPED CRITIQUES OF WRITTEN WORK

*Elisabeth Keller*

*Boston College Law School*

I began taping my critique of students’ memos when I was seven months pregnant and was no longer comfortable sitting at a desk to type or write my comments. I used a small hand-held audio tape recorder and a cassette provided by each student. In the eight years since I began using this method, the majority of my students have chosen taped comments over written comments on their major assignments. I provide all my students with a taped critique of their first objective memo, which is ungraded and does not have to be rewritten. After this first assignment, students have a choice between written or taped comments for their major assignments, which are graded objective and persuasive memoranda that students must rewrite. I do not give students a choice on the first

memorandum since many of them have never received a taped critique on their writing and would be unable to judge its suitability for them without experiencing it first hand. The overwhelming majority of students choose taped feedback for their subsequent graded assignments.

When taping a critique of a student's paper, I first read or skim the paper to evaluate the overall organization and get a sense of the quality of the writing and analysis. After the first reading, I begin taping my thoughts about the memo by commenting on sentences, paragraphs, or sections of the memo and placing numbers on the paper that correspond to numbered taped comments. I still make any grammatical or spelling corrections on the paper, unless there is a consistent problem which I would likely address on the tape as well. I usually end the tape with a summary comment that stresses the strengths and weaknesses of the memo and focuses the student on the main goals for the rewrite.

In a written memo that accompanies the tape, I instruct students how to most effectively use the tape to help them revise their memos. I first ask that they listen to the tape in its entirety and identify the major themes of my comments. Next, I ask them to listen to the tape again and this time they must stop the tape after each comment and summarize my comment in their own words either directly on their memo or on a separate sheet. By the time they have reached the end of the tape they have a written document to guide their revision and have interacted with my critique through listening, writing, and finally by reading their own version of my comments. This approach requires students to actively engage with my commentary at least three times. In contrast, a written critique provides the student with a more passive learning experience and doesn't demand that they return to the comments. Once a student reads and initially reacts to the professor's comments, the student may be unclear how to most effectively use the comments in the revision process.

My oral critiques ultimately evolve into written critiques produced by the students

and although the ideas are mine, my students must try to digest each comment to write a useful summary. Very few students write my comments verbatim; instead, they interpret my comments and write a note to guide their revision. This written summary is important because my tapes are long (20-40 minutes per 10 pages). The length is due to my efforts to state some of my comments in more than one way to make certain the students grasp the concept that I am trying to convey. This points to another distinction between written and oral critique: when writing a comment, a teacher generally makes a comment once instead of writing several versions of the same idea.

However, when speaking, it is easy to make a point several times using different approaches, especially when addressing analysis, in the hope that students may better grasp the point by hearing it repeated in more than one way. This is similar to the advantage that oral critique has over standard comments that are composed on the computer before reading a student's paper. Although these comments are generally aimed at common problems seen in student writing, there may be a tendency to use the same comment on every paper even when it may not be the best way to address the problem for every student. Certainly there are times when I have to make the same comment on every paper, but just as often I find my self varying a comment that I have used with other students. A standard comment may be overkill for the more astute students and at the same time may not provide enough explanation for the student struggling with basic concepts. Since oral critique is developed on the spot as the teacher reads the paper, the comments are more likely to be directed at each student's individual needs.

Finally, when I come upon awkwardly written and confusing sentences or paragraphs where ideas do not flow well, I read the passage to the student on the tape before commenting. Many students report that when they hear their writing read to them they recognize the problem before they even hear my comments. Reading portions of their memorandum

to the students gives them the reader's perspective and helps them face their problems with clarity and precision in their writing. A written critique cannot place the student in the audience role as effectively. Students tend to react to written critique from the writer's perspective only and not from the perspective of the reader of the memo.

Incidentally, my pregnancy resulted in the birth of a beautiful baby girl who is now eight years old and can occasionally be heard in the background of my tapes laughing and playing with her three-year old brother.

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#### "DID I SAY THAT?" VIDEOTAPING ORAL ARGUMENTS

*Sharon O'Roke*

*Oklahoma City University School of Law*

Having struggled with the best way to provide feedback to students following their first oral arguments in law school, I have finally settled on videotape. Although it is time-consuming to administer, I found the benefits more than worth the required time and effort.

At Oklahoma City University School of Law, first year law students give their first oral arguments as a part of the second semester of LRW. Students individually argue the side they briefed to panels of three judges (one moot court member and two practicing lawyers). The LRW professor observes the argument, makes notes, and assigns the grade (usually 30% of the total grade for the course). I found that under even the best of conditions, it was difficult to make all the notes I wanted without missing some of the argument, or to listen carefully and still provide enough detailed comments so as to be helpful to the students. Most disconcerting, however, was that students were often unable to remember the aspect of the argument that a particular comment centered on. They either remembered nothing, remembered something they did particularly well, or could only recall something they considered to be a horrible mistake at the time (often one I attributed to nerves and didn't really focus on at all).

One year I tried audiotaping the arguments in order to refresh my memory before finishing my written comments, but the tedium of listening to each argument again was almost too much. Finally, last semester I took the plunge and videotaped all of my arguments. I made some comments during the argument, and some immediately after, but didn't feel pressured to do so. I also resisted the urge to settle on a grade at that point. This way I could listen more attentively and sometimes see evidence of insight even when the student's point was not made as artfully as it would have been by an experienced advocate.

The following week, in lieu of classes, each student came into my office to view the tape of his or her argument. I watched the tape with the student, stopped it when necessary to make comments on a particularly important point, and solicited the student's comments on his overall performance. I found that the students were almost always harder on themselves than I was, so it gave me an opportunity to point out the positive things I observed. After the student left, I finished my written comments and assigned the grade.

The process went very well for me and my students, for the most part. I did have a couple of students who did not want to see the tape, and I did not force them to do so. I also made the mistake of offering to copy an argument for any student who brought me a blank tape; as I'm typing this I can glance up and see those same tapes today — waiting to be copied in my "spare" time.

The disadvantages are few. One, of course, is resources. We have six to eight sections of LRW doing oral arguments at the same time, and the school's video equipment is not always available. However, I have found that there are usually enough personal video recorders available so that the school resources can be stretched further.

A second disadvantage stems from the student's need to explain or excuse every mistake. That type of give and take in every conference can make the time

commitment unreasonable. However, this can be easily avoided by setting the ground rules for the conference ahead of time. Ask the student to focus on the argument as a whole rather than dissecting it sentence by sentence, and reinforce that the purpose of the conference is for the instructor to give feedback in the context of the argument (not to debate the strengths and weaknesses of the feedback).

Finally, I found most students went away from the conference with a feeling of accomplishment. They were validated in their belief that they attempted something which is very difficult, and not only survived it but learned from it. This comes at a particularly important time in law school — the end of the first year. Many students' self-images have been changed dramatically by the process of legal education, and seeing themselves on tape allows them to check that self-image. They see a person who has been through a lot, but who has also learned a lot. They are the same people they were before law school, and can make their natural personalities and new-found knowledge work for them in this difficult pursuit.

So, "Lights, Camera, Action," and "May it Please the Court."



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#### USING AN ELABORATED CORRECTION KEY FOR BASIC WRITING PROBLEMS

*Sharon A. Pockock*

*Quinnipiac College School of Law*

How can a legal writing professor focus comments on the substance of a student paper and still adequately address numerous basic writing problems? This is the second year that I am using an elaborated correction key that not only identifies writing problems but also explains, with examples, each problem and its possible solutions. My elaborated key, "Writing Problems and Possible Solutions," is twenty pages long and covers some sixteen common writing problems.\* At the beginning of the year, I use the elaborated key as a teaching tool on sentence-level and paragraphing problems. Throughout the rest of the year, the elaborated key allows me to bring writing problems to students' attention quickly in written comments. By dealing with writing problems in this shorthand manner, I can devote my detailed comments to legal analysis.

It is a challenge to comment adequately on both the substance and form of those student papers that show basic grammatical and syntactical problems. A full-blown explanation of each writing problem is impossible in the limited time available for commentary: most legal writing professors want (and need) to focus written comments on the substance of the work product. On the other hand, abbreviated explanations are frequently ineffective. If an error is only circled, without more, the student most likely can't even recognize the problem in order to look it up in a grammar reference book. Even a brief explanation, whether in the margin of the paper or on a separate comment sheet, is often too cryptic, at least from the student's perspective.

It was one student's response to a brief comment of mine that spurred me to create my "Writing Problems" handout. In written comments on a draft brief, I noted to one student, who was bright and a fairly good writer, that the introductory phrase

of one sentence was a misplaced modifier. When I read the final version of the brief, I discovered that the student had edited the sentence so that the opening phrase now modified a different noun — but still incorrectly. Two points were clear: first, my brief explanation of the problem had been insufficient, and second, the student had not taken the time to consult our grammar reference book to learn about the problem and its solution.

Thus, I decided to create a correction key that would not merely identify various errors but would serve as a detailed reference document that explained how to recognize and correct basic writing mistakes. I reviewed a year's worth of student papers to determine the most common errors. Each entry in my "Writing Problems" handout gives a shorthand name and number to a writing mistake (e.g., Writing Problem 1: Noun-Pronoun Agreement or, in shorthand form, WP1). The entry then discusses the problem, with examples of mistakes and of possible solutions; such discussion can take anywhere from one-half page to two pages, depending on the complexity of the mistake. The entry ends with a summary of possible solutions and with cross-references to other course books so that a student knows exactly where to look for further explanation.

From my perspective, there are a number of advantages to the elaborated key. First, in using it as a teaching tool at the start of the semester before students submit any written work, I can alert students to points that may give them trouble. Second, later I can quickly correct basic errors on student work, simply by writing and circling "WP2" or "WP11A." Because my handout encompasses the full explanation that I want to present, I don't feel that I am shortchanging students by the shorthand notation (as I'd feel if I were using a simple key that merely identified errors, without more). Third, too many basic writing comments on papers often give students the impression that it is grammar that accounts for their grade. With the key and the circled WP notations, my comments on grammar do

not crowd out or diminish the importance of comments on organization and analysis. Yet, at the same time, students have access to a detailed explanation of their writing problems in the elaborated key. Finally, when students see the same WP numbers time and again on their papers, they more easily recognize that they have one or more chronic writing problems on which they need to focus.

This year I am using my key not only in my first-year writing courses but also in an advanced writing class. On the whole, I think the key helps not only me but also my students. In a conference, one first-year student told me that he had already learned much in the first few weeks of the semester through my elaborated key and planned to use it even after law school. If the elaborated key is ultimately successful, he shouldn't need it by then.

\* My Writing Problems handout treats noun-pronoun and subject-verb agreement; formation of possessives; incorrect use of possessives instead of simple plural nouns; misplaced modifiers; improper comparisons; sentence fragments; run-on sentences; parallelism problems; excessive use of passive verbs; improper use of commas and of semicolons; and syntax and vocabulary inappropriate to legal writing. In terms of paragraphing, my key addresses lack of a topic sentence; inappropriate length (too short or too long); and lack of coherence.



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## USING RUBRICS

*Sophie Sparrow*

*Franklin Pierce Law Center*

We use rubrics and individual comments to provide feedback and show first year legal writing students how we have evaluated their work. One or two pages long, these rubrics itemize what we are looking for and explain how we allocate an assignment's points. Though they have disadvantages, we've found rubrics valuable for several reasons.

- Rubrics show students the criteria we use to define success. For example, an objective memo rubric shows students the potential points they can earn for the questions presented, brief answers, facts, rule explanation, rule application, and conclusion sections. The rubric includes specifics: to earn the maximum number of points, students must include the legal question and sufficient facts.

- Rubrics provide detailed directions. We usually provide these to students in advance. Students then know what they need to do to complete the assignment and where to focus their attention. Looking at an objective memo rubric, students quickly see that they must write a solid discussion section to do well on the assignment.

- Rubrics can break down the ambiguity of a grade. Scanning the completed rubric, which is attached to the student's assignment, a student can quickly see where she needs to focus her attention. She can also compare completed rubrics from several assignments to assess her progress in different areas.

- Rubrics can allow for more individualized comments. Since the rubric addresses basics that need to be present in an assignment, more time can be spent individualizing comments for students. (When I've realized I've written the same point many times, I've often revised the rubric to include it.)

- Rubrics may give students tools they can use in practice. Attorneys frequently tell me that law students can't write. Students

and novice attorneys in turn voice frustration with supervising attorneys' lack of detailed feedback and direction. If students understand the components of legal writing, they can approach supervisors to ask for feedback on their written work. Should they focus on overall organization? Case analysis? Plain English? Paragraph structure?

- Rubrics may help provide consistency among grades. By having points for specific categories, we are better able to avoid the "halo" effect, which occurs when a student's excellence in one area positively affects the professor's evaluation of another area, without justification.

Among first year legal writing sections, students receive the same format and understand how points will be weighted. Even though professors may emphasize different aspects of an assignment, and have different standards for excellence within the rubric, students have reported that they feel there is more consistency with rubrics.

Rubrics do, however, have their disadvantages. They can be cumbersome. It can take extra time to determine why one student should have one number and another the same or different. It forces us to be much more conscious about how we are grading.

Using rubrics also means that we have to determine how we will evaluate students before we give out an assignment. This seems basic, but I have to admit that I thought I knew what I wanted in an assignment and explained it clearly to students until I saw their writing. Then I was forced to admit that I hadn't been as explicit as first year students needed me to be because I hadn't worked through the assignment myself in detail.

Sometimes rubrics don't work. For some assignments, the legal writing professors together determine what we need to see to award high scores on a rubric. When we read the students' work, however, we often have to revise those expectations. This sometimes means that we start to complete a rubric for each student, only to have to go back and revise our initial

scores. (Now we write our numbers in pencil.)

Rubrics don't work alone. We write comments to students on their assignments to provide the individualized feedback important for student progress. But together with comments, rubrics give students direction and focus.

Student feedback has been positive. At the end of the first semester in which we used rubrics, students overwhelmingly supported their continued use and their advance distribution. And, contrary to what a colleague anticipated, using rubrics has lessened students' questions about the validity of their grades. We recognize that these rubrics are works in progress, and keep working on them to make them more effective. If you would like to see samples, please email me at [ssparrow@fplc.edu](mailto:ssparrow@fplc.edu).



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#### USING THE AUTOTEXT FEATURE OF MICROSOFT WORD TO CREATE A CATALOG OF WRITING COMMENTS

*Hazel Weiser  
Consultant*

I can type faster than I can think and my handwriting is incomprehensible, even to experienced administrative assistants, my husband, and my father. So years ago, as soon as Microsoft Word created the "autotext" feature, I began to use the computer to draft comments for student papers.

Most assignments generate anywhere from fifteen to twenty different types of comments that require more than just a few words of explanation. I craft these comments, some of which are very specific

to the actual assignment, and log them into the "autotext" feature of the computer.

Here's how I do it. When an assignment comes in, I start by giving the papers a cursory read, then divide them in loose ascending order. I start with the weakest and lead up to the near genius! Working first with the lesser papers, I devise critical comments on organization, specific parts of the legal proof, paragraph configurations, transitions, and grammar, each of which I put into "autotext." Sometimes I use general comments from prior assignments that are not fact specific, e.g., a description of the purpose of a thesis paragraph or a review of the critical components of a legal proof. Over the years, I have devised an entire set of grammar rules that point students to fuller explanations in their assigned legal writing texts. (Caution: I segregate grammatical corrections in a section called Grammar Watch and limit those comments to two or three of the most persistent errors.) With just a key stroke or two, an entire preconceived paragraph can appear anywhere.

As I read through a paper more carefully a second time, I place a number, a giant footnote, directly on the student's paper, to indicate where in the assignment I want to comment. These numbers are the only marks I put on the student's work. Then I choose the "autotext" comment that fits, or maybe I construct a new one. For each student submission, I create a personal computer-generated comment sheet. Of course, introductory sentences and more specific explanations can be added to the "autotext" ones, and sometimes, as I work through papers, I find that my later comments are better crafted than the initial ones. To accommodate my work at improving comments, I often don't print the comment sheets until after I have finished grading all the papers. Then I get to include the best crafted comments on each paper.

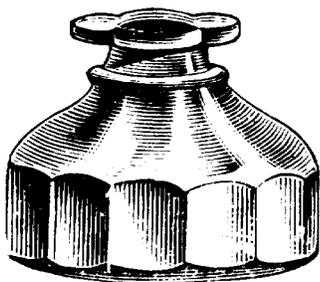
The great advantage to this method is that my comments are fuller. I don't devise comments according to how much space I might have in the margins. I can provide

context, draw inferences, and refer to cases, lectures, or reading to fully inform the student. And through this method, I get to model good writing for students. I might show them how to analyze one element of a three element proof, so that they can see, by way of a present illustration, how to construct a logical argument. The same is true with transitions between sentences and paragraphs. Right there in my comments, students have examples of how to connect ideas to form a coherent whole.

I find this method more satisfying for me, too. My intelligence does not get twisted into shorthanding what should be a more comprehensive response to a student's effort. Instead I get to use my intelligence to craft effective analysis and concise explanations. I find this creative and less dulling than scratching comments on an answer sheet or between double-spaced lines that really measure only one and a half!

This "autotext" method does not save time; however, it doesn't waste it either. Students feel so appreciated. Most of them have never had any professor pay this much attention to their work, especially their early work. They know I take my efforts seriously. They know that I really care. And they can read my comments. Students all agree that they use these comments to help rewrite portions, and some students even use these comment sheets to help them prepare future assignments.

OK, one student did sneer: I didn't have time to read the novel you wrote in response to my paper. So I had to learn to keep the length of the comments proportionate to the importance of the paper, whether a rewrite is involved, and when during the semester the assignment was due.



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#### SCORE SHEETS, TEMPLATES, MARGINAL NOTES, PEER-EDITING AND MORE

*Melissa H. Weresh*

*Drake University Law School*

At Drake University Law School, first year legal writing students prepare six graded assignments in the fall semester. Students are given considerable direction on each assignment, and because some of the direction is given before they turn assignments in to be graded, I hesitate to characterize the direction as "feedback." I have used a variety of tools to convey information to the students, and I have incorporated two new techniques this semester which have met with moderate success. I use the adjective "moderate" to balance my enthusiasm regarding the effectiveness of the techniques with grudging acknowledgments I received from frustrated, overburdened first-year law students.

When students are given an assignment, they are provided with a score sheet which breaks their grade into categories, each of which is assigned a certain number of points. For example, the categories for a research note include: question presented and conclusion (2 points); legal reasoning and objective analysis (3 points); sentence structure, grammar and spelling (2 points); location of applicable authorities (1 point); and use and citation of authorities (2 points). Students are encouraged to review the score sheet as they prepare and edit their memoranda. The objective of the score sheet is to identify general areas the instructor will focus on when grading the assignment. The graded score sheet illustrates to the students what their strengths are, and where they need to focus their efforts. In addition, grading is facilitated because scoring for the assignment is broken down into components.

I also provide students with a grade template that includes detailed substantive comments organized by category. I use the template to provide margin comments on assignments, but it also serves as a checklist for students as they prepare their

memoranda. The template is provided at the beginning of the semester and the students are encouraged to review it as they prepare and edit their assignments. This is the first semester I have used the template and I have received favorable feedback. Students indicate that the template allows them to engage in a detailed review of their work in components, making editing easier. In addition, the template has made grading more efficient.

Generally, I avoid providing samples for students to review as they prepare assignments. While the students have examples of objective memoranda in their textbooks, they frequently complain that the examples are not helpful when they address a topic unrelated to the assignment. I believe this observation illustrates the difficulty in identifying and applying legal rules and organizing a discussion once the student understands the analysis. I do provide samples of exemplary student work after the assignments are graded. The samples include my comments. This technique tends to be effective because the students understand the problem and can therefore identify effective rule application and organization.

In terms of evaluating assignments, students are given written feedback in the form of margin comments, endnotes and the grade they receive on the score sheet. I try to use the template exclusively to provide margin comments, except where substance-specific direction is necessary. Also, I have tried to focus more attention on the endnotes and less on the margin comments. I believe margin notes can disintegrate into detailed line edits which focus inordinately on grammar and technical writing problems, which undermines my credibility in the area of, and attempt to focus on, legal analysis. In addition to written feedback, students have conferences prior to handing in an assignment, and to review comments once the assignment is handed back. Because the template has allowed me to devote more time to endnotes, I find that it is rare for a student to request additional

feedback on a graded assignment.

Finally, I introduced a new form of feedback this semester that I believe has been extraordinarily effective: peer editing. Students prepare a research memorandum that requires them to locate two cases in two different sources and, when they hand in their assignment, they hand in an additional memorandum that is edited by one of their colleagues. When I introduce the exercise, I remind the students how difficult it is to edit their own work and indicate that the exercise is designed not only to enhance their writing, but also to focus their editing skills. Because the students are familiar with the problem, they can more easily identify gaps in the analysis. I received favorable comments from the students regarding the exercise. They indicate that it is especially illustrative to review a writer's analysis when the writer reached a conclusion contrary to their own. This observation provides an excellent basis for a review of objectivity required in legal analysis. Moreover, the exercise illustrates how differences in organization and prediction can result in equally effective analysis.

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#### KEYED COMMENT SHEETS

*Cliff Zimmerman*

*DePaul University College of Law*

I have come to love "keyed" comments on student papers. Essentially, giving "keyed" comments involves writing a reference, i.e. "A4," which takes them to a separate typed sheet of comments where A4 fully and legibly addresses a positive or negative aspect of what they wrote. Keyed comments save grading time, spare students aggravation that results from lack of legibility or clarity, allow me to give more comments on a page without overwhelming the student, allow me to provide more in-depth comments, and add to student understanding. Keyed comments are consistent with the atmosphere of mutual respect and non-threatening learning that I strive to create for my students.

When I first started teaching, it did not take me long to realize that I could not write everything that I wanted to write or

needed to write on every paper. With 60 students and the world's sloppiest handwriting, I had to find a solution. I started making lists of comments that would appear on more than one paper, that needed to be addressed in a short to medium size paragraph, and that could be explained textually as opposed to through a conference, rewriting, or other interactive means. After I finished grading, I typed up and copied the comment sheets and attached one to each paper. The students then received four types of feedback: line edits/comments, marginal notes, summary comments, and keyed comments.

Since those early days, the keyed comment sheets have evolved. I organize the comments by area, such as organization, writing, rules, citations, applications, conclusions, issues, etc. For each area, there are a number of comments, such as a comment relating to each of the structure, completeness, and development of the rules as well a comment that addresses each of the depth, clarity, and structure of analogies and distinctions. As I realized that most of my comments were (constructively) critical, I started adding positive comments for every area. Further, on some assignments, I will write general comments to everyone that precede the keyed comments. I also encourage everyone to read all the keyed comments.

My first use of these keyed comment sheets was well received (particularly due to the handwriting issue). As the keyed sheets changed, I realized that, in some respects, they were a reflection of my teaching abilities. Thus, they actually provided me a good checklist for what to be sure to cover in advance of the assignment, something that I may have overlooked, or something that I did not effectively present to the students. Over time, certain comments have fallen out of use or applicability.

Then, one year, a student asked if she (and the rest of the class) could see the

comment sheet from the previous year for the assignment that the class just received. Thus, they wanted to see my reaction to last year's student mistakes in an effort to avoid them. My gut reaction was not to make the sheet available, but I was experienced enough to say that I would think it over and post an answer on my door the following day. Further reflection convinced me that only positive change could result from adding these sheets to my reserve materials for the students.

Offering previous comment sheets to my students in advance achieves and supports many of my class goals. First, it addresses the ever-present student complaint that we "hide the ball." What is more revealing than showing the students what other students have done wrong in the past? Second, it shows the students a high degree of attention that directly relates to my concern for their growth and development — a typical discussion section comment sheet can be 4-6 pages of single-spaced keyed comments. Third, it helps them gain a stronger sense of their position relative to past students at the same time. Fourth, it helps the students to understand what they have done wrong — when they read the comment keyed to their paper it is not the first time that they have read the comment and the comment now has a familiar, personal context. Finally, it shifts the focus of the reserve material from examples (which students always want to see and I do not like to provide) to material that cannot be reduced to a model and followed blindly, but rather must be read, thought over, and implemented in their own work.



# FROM THE DESK OF THE WRITING SPECIALIST

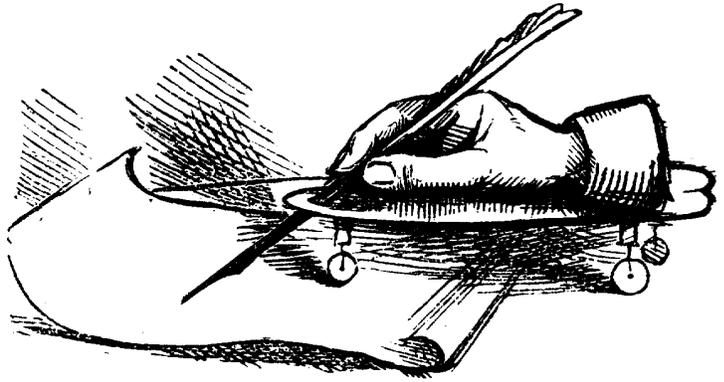
## *An E-Mail from the Writing Center*

Deborah Hecht, Director  
The Writing Center  
Touro Law Center

In addition to regular conferences and workshops at The Writing Center, I've encouraged students to work with me through e-mail exchanges. This approach, I'm learning, is useful but it is also more complicated than I had originally imagined. E-mail is an efficient way for students to schedule an appointment, to ask me a simple question, or to send a page or two of written work for my comments. E-mail is also an effective way to reach more students, especially those with fulltime jobs and heavy responsibilities at home. The questions I ask in a face-to-face conference can also be asked in an e-mail. For example, when a student comes to me for the first time I ask what kind of help or feedback he or she would like. This is often the most important question I ask a student: the student becomes a partner in a cooperative venture. The comments I make in a conventional meeting also work well in an e-mail exchange: I can read a paper and tell the student whether it is clear to me, a non-lawyer and a presumptively uninformed audience; I can read a student's work and point to the spots where I become confused about the meaning — and I can offer the student advice on writing with greater clarity and precision. Since even the simplest e-mail is a sample of the student's writing, I often notice ongoing and pervasive flaws in grammar, spelling, and punctuation. In this sense, e-mail is a useful way to get an idea of a student and that student's writing style.

However, e-mail should be handled with care. Working online is time-consuming and labor-intensive. According to Patricia Baker, director of the Electronic Extension Program, a graduate program at SUNY/Stony Brook, instructors of substantive classes (including writing-intensive courses) agree that it takes approximately five times as long to communicate online as it does face to face. There are no visual cues such as a smile or a nod; there are no encouraging murmurs or questioning "mmns" to guide either instructor or student. In my experience in The Writing Center, an online exchange as simple as setting up an appointment can take five times as long as when a student drops by my office to schedule an appointment; an online "mini-conference" also takes approximately five times as long as a conventional, in-office meeting.

I've discovered that it is important to establish guidelines and set limits for those students (and colleagues, as well,) who would like to work with me online. For example, some students seem to believe that I receive their messages at the precise moment those messages are sent. Not only does it sometimes take more than a day for an email to reach me, I've



had several instances where a student's e-mail reaches me several weeks after it was sent! In the asynchronous world of cyberspace, a message sent is not necessarily a message received — and students need to remember that. Some students also seem to believe that I will respond to their e-mails faster than a speeding bullet. As it happens, I do respond quickly. I keep my office computer on throughout the workday; I also log on from my home computer at night, on weekends, and even on school holidays. However, sometimes the Net is busy. Sometimes the server is down. And sometimes I'm simply not available. Thus, I now remind students that if they want to e-mail me, they may have to be patient. I also advise students that if there is no response within forty-eight hours, they should follow up with a voicemail to my office or a note in my mailbox. When I first started using e-mail, I was surprised by the informality of students' e-mails to me: I received e-mails that were so abbreviated that I struggled to decode them; I received e-mails that were studded with emoticons (a symbol that gives a clue to the writer's emotional intentions). I also received unsigned e-mails with clever handles that meant nothing to me. Now I insist, right from the start, that any student who wants to work online with me must pay close attention to organization, focus, grammar, spelling, and punctuation. The e-mail environment may look casual to a student, but not to a writing specialist.

There is another and far subtler quality to an exchange of e-mails between an instructor and a student: e-mails seem to create the illusion of intimacy. Students seem to feel that the cyberspace connection is more personal than the connection established in an office setting. I'm aware of this, because I feel it too. However, I changed my e-mail address from one that read DeborahH@tourolaw.edu to hechtd@tourolaw.edu and that apparently signaled a realistic distance. I am indeed able to reach more students now than I could before e-mail. However, there is a price. Techno-stress is a real part of my work life: if my e-mail isn't working, I feel isolated. After an especially long day or night at the computer, my wrists and my neck ache. The techno-world is encroaching on my personal world in ways I did not anticipate when I bought a computer

and a modem and created a home office that was electronically interfaced with my office at the law center.

I am still learning about the possibilities and the perils of using e-mail to work with students. My computer skills are developing and I feel confident about continuing to develop the "virtual" aspect of The Writing Center. It's a pleasure to

realize that I can reach students who might otherwise miss an opportunity to improve their writing. But, as I stated previously, e-mail should be handled with care. Working online is no substitute for a face-to-face exchange of ideas; e-mails should not replace the real lessons to be learned in The Writing Center.

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## NEWS from LWI

### GOLDEN PEN AWARD

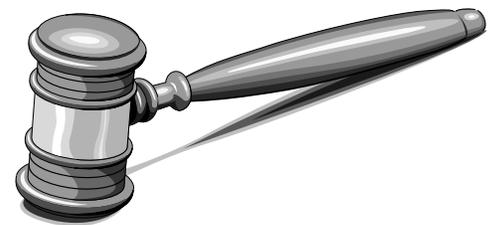
The Legal Writing Institute gives its first Golden Pen Award to Arthur Levitt, the Chairman of the United States Securities and Exchange Commission, for his leadership in requiring plain language in financial-disclosure documents. Chairman Levitt and the Commission have proved that good legal writing can make even the most complex legal documents easier to understand. The Commission's successful initiative has significantly advanced the cause of better legal writing. The award ceremony will take place at 4:30 p.m. on January 6, 2000 in the First Amendment Room of the National Press Club, 529 14th Street NW, Washington, D.C.

### CONTINUE THE MILLENNIUM CELEBRATION!!!!

Join ALWD, LWI and Scribes on Saturday, January 8, 2000 for the annual (and always festive) Legal Writing reception from 5:30 to 7:30 p.m. at I Matti in the Adams Morgan neighborhood of Washington, DC. The reception will include cocktails, conversation and delicious hors d'oeuvres from the kitchen of this popular and authentic Italian trattoria.

The address of the restaurant is 2436 18th Street NW between Belmont and Columbia Roads. The telephone number is 202-462-8844. It is located just a short taxi ride from the two conference hotels. After the reception, you can explore the exciting and diverse Adams Morgan neighborhood and enjoy the bohemian atmosphere and clubs. Admittance to this

fabulous event is a mere \$25.00 per person. If you want to attend the reception, please send your check made payable to ALWD c/o Toni Young, UC-Hastings College of Law, 198 McAllister Street, San Francisco, California 94102. If you have questions, please give Toni a call at 415-565-4729. Advance reservations are encouraged and appreciated. Top off a wonderful day of AALS Legal Writing events on Saturday the 8th by sharing ideas and food with your colleagues! We look forward to seeing you there!



## 2000 Legal Writing Institute Conference

The Legal Writing Institute will hold its next biennial conference at Seattle University School of Law in Seattle, Washington July 19-22, 2000. The theme for this conference is "Moving On: Preparing Students for Life After the First Year."

The Program Committee received over 110 proposals and is hard at work choosing presentations. The Committee will contact all those who submitted proposals between late December 1999 and the end of January 2000. Institute members should receive registration materials in early spring.

If you have any questions, please contact either of the Chairs: Jane Gionfriddo (617-552-4358 or <gionfrid@bc.edu>) or Steve Johansen (503-768-6637 or <tvj@lclark.edu>).

### 2002 LEGAL WRITING INSTITUTE CONFERENCE — CALL FOR HOST SITE

The LWI Board is looking for a host school for the 2002 Summer Legal Writing Institute Conference and will accept proposals for hosting this conference through January 31, 2000. Hosting the conference is a wonderful opportunity to put your school and your program on a national stage. Please consider taking that opportunity in 2002.

The Board has compiled a list of policies and procedures for hosting the national conference, which can be obtained from Lori Lamb. Either email Lori at <laml@seattleu.edu> or call her at 206-398-4033.

These policies and procedures include the following:

1) host schools must have a site that can accommodate at least 350 people;

2) they must be willing to provide support staff and facilities at no or minimal cost to LWI;

3) the location must be accessible to people of varying physical abilities, must be near an airport, and must have a variety of housing (including low-cost housing) available;

4) the site must be conducive to community-building among LWI members; and

5) the location must be one that participants want to visit at the time of year in which the conference is held. On this last issue, the Board has decided that it would prefer a July date for the Seattle conference and a June date for the non-Seattle conference in order to accommodate those members for whom either June or July is not feasible.

If you are interested in hosting, please feel free to contact the co-hosts of the 1998 Summer LWI Conference in Ann Arbor, Michigan: Diana Pratt (313-577-4824 or <dpratt@novell.law.wayne.edu>) or Grace Tonner (734-763-6256 or <gracet@umich.edu>). You may also get in touch with either Mary Beth Beazley (614-292-5919 or <beazley.1@osu.edu>

or Jane Kent Gionfriddo (617-552-4358 or <gionfrid@bc.edu>).

Completed proposals must be sent by January 31, 2000 to Lori Lamb, The Legal Writing Institute, 900 Broadway, Seattle, WA 98122-4340. The LWI Board will then consider these proposals and make a final selection at its meeting during the 2000 Conference in Seattle.

## LWI Calendar

Summer 2000 Legal Writing Institute Conference in Seattle, Washington

Proposal Acceptances — between late December 1999 and the end of January 2000

Conference Dates — July 19-22, 2000

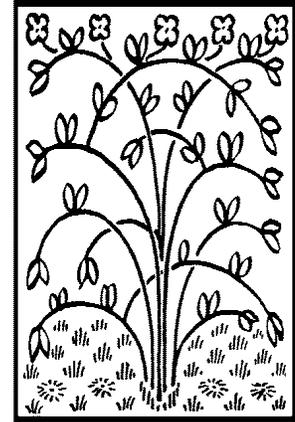
Elections for Board of Directors

Nominations — middle of January through middle of February, 2000

Election — middle of March through April 1, 2000

The Second Draft

Deadline for submissions for Spring, 2000 issue — February 29, 2000



## NEWS FROM OUR MEMBERS

### SECOND NOTRE DAME COLLOQUIUM ON LEGAL DISCOURSE

The second Notre Dame Colloquium on Legal Discourse will be held the last week in June, 2000. Probable dates are June 26 - July 1. James Boyd White and Martha Nussbaum are confirmed as primary presenters. Both will talk about law from a literary perspective, though their approaches are quite different. Jack Sammons, another primary presenter, will talk about rhetoric and how it applies to law and to legal writing. At press time,

invitations are out to two other nationally known people, so monitor the listservs to hear more exciting news. The Colloquium will be small — a maximum of about thirty people — so participants can spend a whole day with each of the speakers in a workshop environment. If you might like to attend, e-mail Linda Edwards at edwards\_lh@mercer.edu.

### NEW JERSEY INSTITUTE FOR LEGAL EDUCATION PRESENTATION ON BRIEF-WRITING

Ruth Anne Robbins and Deborah Shore, both of Rutgers School of Law-Camden, are collaborating with Brian J. Foley of Widener Law School and Anne Marie Iannone (who has returned to private practice from Rutgers), in conjunction with the New Jersey Institute for Legal Education, to produce a four-hour presentation and written materials on brief writing, for private practitioners. The program was extremely successful last

year, and early registration for this year's course suggests comparable enthusiasm.

### ADDITIONS TO THE FACULTY AT MICHIGAN STATE-DETROIT COLLEGE OF LAW

There have been some notable additions to the faculty at Michigan State University-Detroit College of Law. Now employed as full-time Legal Writing Instructors are Regina Umpstead, J.D., University of Michigan; Stacy Hickox, J.D., University of Pennsylvania; Sandra Wright, J.D., University of Michigan; and Lisa Gold, J.D., University of California, Berkeley (who is continuing on the faculty). Also happily joining the faculty are part-time Legal Writing Instructors Kevin Gentry, J.D., Wayne State University, and Kim Clarke, J.D., University of Michigan.

### NEW HIRE AT WESTERN NEW ENGLAND SCHOOL OF LAW

The Lawyering Process Department at Western New England College School of

Law is pleased to welcome our newest faculty member, Harris Freeman. Harris Freeman received his J.D. cum laude from Western New England College School of Law in 1993 and was the recipient of numerous awards for academic excellence. After graduation from law school, Harris served as a judicial law clerk to the Hon. Michael A. Ponsor, of the United States District Court for the District of Massachusetts. Before joining the Lawyering Process faculty this year, Harris was a litigation associate in a Northampton law firm and a cooperating attorney for the American Civil Liberties Union of Western Massachusetts.

## ACHIEVEMENTS

Bonnie Mitchell and Bill Richards, Clinical Professors of Law at the University of Utah College of Law who teach Legal Methods, were co-recipients of the Peter W. Billings Excellence in Teaching Award, announced and presented at graduation ceremonies in May. The award has never before been presented to a non-tenured faculty member. Students responded to the announcements with two standing ovations.

Nancy A. Wanderer, Director, Legal Research and Writing Program, University of Maine School of Law, recently presented a three and a half hour workshop for all Maine judges on "Writing Better Opinions." This focused on the importance of considering the various audiences of the court and featured a discussion among the courts about what they, as audiences, need from the other courts' opinions. She is currently working on a law review article on this topic.

## PUBLICATIONS

Mary Garvey Algero (Loyola New Orleans), In Defense of Forum Shopping: A Realistic Look at Selecting a Venue, 78 Neb. L. Rev. 79 (1999).

Gregory Berry (Howard) and Spencer Boyer (Howard), Unlikely Buddies: How Faculty Websites Can Help Bridge the Seniority Gap and Foster Collegiality, JURIST <<http://jurist.law.pitt.edu/lessons.htm>>.

Robin A. Boyle (St. John's), How Children in Cults May Use Emancipation Laws to Free Themselves, 16(1) Cultic Studies Journal 1 (a peer-reviewed journal for mental health professionals and lawyers).

Anne Enquist (Seattle), Critiquing and Evaluating Law Students' Writing: Advice from Thirty-Five Experts, 22 Seattle U.L. Rev. 1119 (1999).

Judith Fischer (Chapman), Misappropriation of Human Eggs and Embryos and the Tort of Conversion: A Relational View, 32 Loy. L. A. L. Rev. 381 (1999); Walling Claims In or Out: Misappropriation of Human Gametic Material and the Tort of Conversion; \_\_\_\_ Tex. J. Women & Law \_\_\_\_ (forthcoming; written in connection with an invitation to speak at a symposium on Approaching the Millennium); A Century in the Life of a Lawyer: Reflections by Joseph A. Ball, \_\_\_\_ Cal. W. L. Rev. \_\_\_\_ (forthcoming, written with Mr. Ball, a 97-year-old lawyer who reflects on his development as an advocate and the changes in the profession in the twentieth century).

Scott Fruehwald (Alabama), Choice of Law and Same-Sex Marriage, \_\_\_\_ Fla. L. Rev. \_\_\_\_ (forthcoming 1999); If Men Were Angels: The New Judicial Activism in

Theory and Practice, \_\_\_\_ Marq. L. Rev. \_\_\_\_ (forthcoming 2000).

Marlyne Marzi Kaplan (Miami), Language of the Law: Reference Books Make Great Holiday Gifts, The Florida Bar News 22-23 (November 1, 1999). [Marzi extends "thanks to colleagues who have written worthy works on the word" and adds: "I have included many relevant books in my annual review. The Florida Bar News address is 650 Apalachee Parkway, Tallahassee, FL 32399-2300. My school address is Marlyne Marzi Kaplan, University of Miami School of Law, Box 248087, Coral Gables, FL 33124-8087 (email: mkaplan@law.miami.edu). My home address is 945 S. Southlake Drive, Hollywood, FL 33019-1929."]

Jan M. Levine, (Temple) Leveling the Hill of Sisyphus: Becoming a Professor of Legal Writing, 26 Fla. St. U. L. Rev. 1067 (1999).

Ellie Margolis (Temple), Beyond Brandeis: Exploring the Uses of Non-legal Materials in Appellate Briefs, \_\_\_\_ U. S. F. L. Rev. \_\_\_\_ (forthcoming spring 2000).

Kathryn A. Sampson (Arkansas, Fayetteville), Adverse Authority: Rationales and Methods for Using it to Strengthen Legal Argument, 1999 Ark. L. Notes 93.

Nancy A. Wanderer (Maine) and Catherine R. Connors, Culture and Crime: Karger and the Existing Framework for a Cultural Defense, 47 Buff. L. Rev. 829 (1999).

Clifford S. Zimmerman (DePaul), Thinking Beyond My Own Interpretation: Reflections on Collaborative and Cooperative Theory in the Law School Curriculum, 31 Ariz. St. L.J. \_\_\_\_ (forthcoming, December 1999).



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