

UPPER-DIVISION WRITING REQUIREMENT GUIDELINES

Per section 14.12 of the Academic Policy, “All students are required to complete a rigorous upper-division writing experience.” The purpose of this document is to provide guidelines for all student papers that are written to fulfill this requirement. Students must produce a paper of substantial merit which is of publishable quality and in a form suitable for law review publication. Proposed subjects that can be easily completed from secondary sources or existing literature are not appropriate. The subject matter will require independent thought and analysis by the student and supervision by a faculty member. For more information on the requirements, review sections 7.0 and 14.12 of the Academic Policy and also ABA Standard 303(a)(2).

These Guidelines, while not required, encourage the following practices:

1. The topic of the student paper is appropriate for an extended piece of legal writing which requires application of research, analytical, organizational and other writing skills.
2. The student advances a consistent thesis throughout the paper.
3. In the paper, the student analyzes the relevant legal, policy, and theoretical issues to reach a reasoned and logical conclusion.
4. The paper topic is appropriately researched. The student uses numbers and types of sources which are appropriate to the nature and scope of the paper topic.
5. The paper is well organized and demonstrates a grasp of grammar and other writing skills.
6. The student appropriately cites factual, legal, and other materials.
7. The paper should fully address all legal and policy implications which generally require at least twenty-five (25) standard pages in length or more. A “standard” page will generally have (i) one inch margins, (ii) 12 point, Times New Roman font in the body, (iii) 10 point, Times New Roman font in footnotes, (iv) double-spacing in the body, and (v) single-spacing in the footnotes, or other formatting that the faculty member believes appropriate to the assignment and that is communicated to the student(s) at the beginning of the course.
8. The student completes at least one rewrite of the paper after critique by the faculty advisor.
9. The final paper satisfactorily fulfills the requirements of the Upper-Level Writing Requirement Rubric (see Attachment A).
10. The student holds meaningful conferences with the faculty advisor throughout the process.
11. The faculty advisor may require any additional standards the faculty member finds appropriate for the paper. Attachment B sets forth guiding principles for Independent Study Papers.

Attachment A

Upper-Level Writing Requirement Rubric

I. Analysis and Reasoning						
	Flawed		Marginal		Satisfactory	
	1	2	3	4	5	6
1. Analyzes the relevant legal, policy, or theory issues	Fails to employ basic techniques of legal analysis		Analyzes the relevant issues but is sometimes unpersuasive or fails to consider alternatives		Clearly and thoroughly analyzes the relevant issues and considers alternatives and counterarguments	
	Flawed		Marginal		Satisfactory	
	1	2	3	4	5	6
2. Employs reasoning techniques to reach a logical conclusion	Fails to reason from facts, law, concepts, and data to a reasonable conclusion		Uses available facts, law, concepts, and data to reason to a conclusion		Clearly explains how the facts, law, concepts, and data support the conclusion while also considering alternative conclusions that might be drawn	
II. Research						
	Flawed		Marginal		Satisfactory	
	1	2	3	4	5	6
1. Appropriately researched	Insufficiently researched		Presents much of the relevant law and scholarly literature		Clearly explores most or all relevant bodies of law and scholarly literature	
	Flawed		Marginal		Satisfactory	
	1	2	3	4	5	6
2. Uses authorities correctly	Gives incorrect weight to authorities or misrepresents the content of authorities		Gives appropriate weight to most authorities discussed and accurately represents the contents of authorities relied upon		Authorities are given appropriate weight and are discussed accurately	
III. Problem Solving						
	Flawed		Marginal		Satisfactory	
	1	2	3	4	5	6
Advances a consistent thesis	Does not advance any thesis		Advances a thesis but sometimes includes irrelevant discussion or does not address all aspects of the argument		All portions of the paper serve to further the thesis or to present opposing evidence or arguments	
IV. Written Communication						
	Flawed		Marginal		Satisfactory	
	1	2	3	4	5	6
1. Organizes material logically	Fails to present the information in a logical fashion		Provides a mostly logical organization		Clearly organizes the argument around legal rules or theories or in	

			some other logical fashion
	Flawed	Marginal	Satisfactory
	1 2	3 4	5 6
2. Readability (e.g., grammar, punctuation)	Fails to present the information in a readable fashion	Is generally readable but contains scattered grammatical and punctuation errors	Is easy to read and contains few if any grammatical or punctuation errors
	Flawed	Marginal	Satisfactory
	1 2	3 4	5 6
3. Cites material appropriately	Fails to cite authority according to legal citation system prescribed	Cites to authorities, but citations have multiple errors	Adequately and accurately cites authorities with few errors
	Flawed	Marginal	Satisfactory
	1 2	3 4	5 6
4. Complies with Technical Requirements of Assignment	Fails to meet the 20-page requirement or a shorter length approved by the faculty member for the topic, fails to properly format document, or contains multiple typographical errors	Fails either to meet the page-length or formatting requirements or contains scattered typographical errors, but otherwise complies with assignment requirements	Meets page-length requirement, meets format requirements, and contains few if any typographical errors

Attachment B

Example Requirements for Independent Study Papers

Your final paper is due on the last scheduled day of classes in the semester you are registered for the independent study. Please review all relevant sections of the Academic Policy and also the following article: Eugene Volokh, *Writing A Student Article*, 48 J. Legal Educ. 247 (1998).

- a. **Approved Topic:** Your topic must be approved in advance by the instructor.
- b. **Length:** The paper should be twenty-five (25) pages minimum with text double spaced. Footnotes should be single spaced at the bottom of each page.
- c. **Attribution:** Use footnotes for attribution, with proper Bluebook citation format. Be sure to cite to primary sources where appropriate, not merely to secondary sources. You may present other author's views as background, but your grade will depend primarily on the strength of your own original analysis.
- d. **Plagiarism:** As you know, plagiarism is unacceptable, and can result in a failing grade, in addition to any penalties that the Honor Board and Administration may impose. Written projects must be submitted through the plagiarism detection service Turnitin (<http://www.turnitin.com>). Turnitin is an online plagiarism detection service that conducts textual similarity reviews of submitted papers. When papers are submitted to Turnitin, the service will retain a copy of the submitted work in the Turnitin database for the sole purpose of detecting plagiarism in future submitted works. Students retain copyright on their original course work. The use of Turnitin is subject to the Terms of Use agreement posted on the Turnitin.com website. You may request, in writing, to not have your papers submitted through Turnitin. If you choose to opt-out of the Turnitin submission process, you will need to provide additional research documentation and attach additional materials (to be clarified by the instructor) to help the instructor assess the originality of your work.

Assignment 1: Paper Title and Bibliography

All document requirements described below are to be turned in by the agreed dates. By the agreed deadline, list all legal materials relevant to your topic, in the following order:

- I. Constitutional and Statutory Provisions (including any legislative history)
- II. Cases (U.S. Supreme Court first; then U.S. Court of Appeals, U.S. District Court and State Court)
- III. Administrative Agency Materials (Report and Orders first; then NPRMs, NOIs and Agency Reports to Congress)
- IV. Books/Book Chapters
- V. Scholarly Articles

Assignment 2: Thesis Statement and Outline of Argument

The document requirements described below are to be turned in by the second agreed deadline. Please follow the following format:

- 1) The title of your paper and your name.

- 2) A brief statement of your thesis (1 or 2 sentences).
- 3) An outline of your argument. Summarize your main points and place your argument in the context of existing law, policy, and scholarship.

Assignment 3: First Draft of Research Paper

Your first draft is due on the agreed deadline. The first draft should convert your outline into a more extensive discussion. Here are guidelines:

- 1) **Length.** The draft should be approximately the same length as your final paper. The format should be double-spaced text and single-spaced footnotes. The goal is to emphasize clarity rather than length.
- 2) **Format.** All papers should include a 1-2 page Introduction. In your Introduction you should succinctly identify the problem you will be analyzing, summarize the existing judicial, administrative and scholarly approaches to that issue, and set forth your thesis. The rest of the paper should critically examine the legal problem you have selected. Sometimes writers find it helpful to begin by summarizing all pertinent cases and articles on a topic, then setting forth their analysis. At other times, writers prefer to break down a problem into several different components, and then examine the existing law and their proposed approach in each section. A paper often seems more manageable if you can subdivide it as much as possible. Finally, each paper should end with a short Conclusion (no more than one page). The Conclusion should be something more than verbatim repetition of the Introduction.
- 3) **Style.** Because this is a first draft, you should be most concerned with presenting your ideas in a clear and logical manner. Thus, the critical part of the draft is the text. You should not worry unduly if your footnotes are incomplete or if your citation forms are not in Bluebook form. But you should not have sentence fragments, typos, and the like.

Assignment 4: Oral Presentation

After you have turned in your first draft you will be asked to make an oral presentation of your paper. The presentation should be 15-20 minutes long with an additional 10 to 15 minutes for questions. You should plan to include power point slides and whatever other visual aids may assist the listener. The oral presentation is part of the editing process. The first draft of your paper with faculty advisor comments and edits will be returned after the oral presentation.

Assignment 5: Final Draft

Incorporate all changes, redraft, edit, and timely submit the final paper. The paper will be assessed according to the Upper-Level Writing Requirement Rubric.