



# REALLY BASIC RULES FOR WRITING GOOD PAPERS IN LAW SCHOOL

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## INTRODUCTION

In academia, writing is learning. Writing scholarly work provides students with an opportunity for thoughtful exploration and expression within the constrained space of specified word and page limits. Students too often squander that limited space through inattention to structure, substance, and style. This extremely brief guide is intended to help students avoid some frequently observed habits of poor writing.

While potentially valuable in other contexts, the “rules” laid out in this document reflect the context in which they arise, namely: concise academic writing submitted to me as a law professor, typically for credit. The examples provided here come from actual papers submitted to me over the years, at different institutions and in different contexts, mostly (but not solely) by students.<sup>1</sup>

This guide proceeds in three parts. It discusses paper structure in Part I, substance in Part II, and style in Part III.

### I. STRUCTURE

#### *a. Organize your argument.*

Starting on a blank page can be paralyzing, but there are many approaches to launching into a paper. Students tend to do so by exploring the problem or assignment at hand by “working through” the issues as they come to mind, consulting one source at a time, sprawling out and writing more and more as they learn. The result: a stream of consciousness featuring repetition of ideas, excessive explanation of minutiae, detours into abstraction, and a total lack of organization.

After exhausting their available resources and focus, and given the inevitable amount of strain produced by this approach to writing, students often seem to view their “finished” drafts as fragile and even precious. Students

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<sup>1</sup> The writing advice I provide here is idiosyncratic. I am but one law professor – and a tax law professor at that – with a specific set of ideas about what constitutes good writing. I prepared this extremely brief guide to help my students understand my expectations, but there exist multiple substantial resources that every law student would benefit from reading. A few of my favorites include Strunk & White, *THE ELEMENTS OF STYLE*; Zinsser, *ON WRITING WELL*, and, aimed specifically at law students, *McEvoy’s Writing Heuristic*, available at [www.williamcronon.net/handouts/mcevoy\\_writing\\_heuristics\\_2011.pdf](http://www.williamcronon.net/handouts/mcevoy_writing_heuristics_2011.pdf).

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seem to lose judgment and become reluctant to delete anything, lest that be the one item that strikes the reader as useful or important (or lest that deletion lead to the dismaying recognition that entire surrounding passages should probably also be deleted).

To hand in a draft after this kind of process is to concede defeat and ask the reader to do the analytical heavy lifting themselves. There is little that overwhelms and discourages readers more than a barrage of underdeveloped ideas presented without set-up, clear purpose, or thoughtful reflection. No reader wants to do this job for you.

A better approach is to start by thinking through the mission and how you plan to tackle it in broad outlines. Devise a rough plan that breaks the line of argument down into its main ideas and develops a clear rationale for the ordering, building a logical overall presentation with a coherent beginning, middle, and end. Then develop each idea in turn. Think about how you came to the idea yourself, and make sure you adequately lead the reader to your point.

In my view, very few term papers require more than five parts in total:<sup>2</sup>

Part I: Introduction

Part II: Background and context setting

Part III: Problem to be solved or issue to be analyzed

Part IV: Possible solutions or proposed way of analyzing an old problem in a new way

Part V: Conclusion

### *b. Develop a clear introduction.*

Some writers advise writing the bulk of the paper and saving the introduction and conclusion for last. This is sound advice as to the conclusion, but I disagree in the case of the introduction. I view writing, continuously consulting, and editing the introduction as a productive way to make sure that the rest of the paper develops clearly and rationally. This is because in my view, an introduction should typically be short and consist of just three elements: a contextualizing introductory sentence that briefly situates the

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<sup>2</sup> For a persuasive explanation of the reasons for this approach, see McEvoy's Writing Heuristic, *supra*.

reader regarding the content of the paper, a statement of the thesis if there is one (if not, then at least a brief explanation of the topic to be explored), and a roadmap to the paper.

When thinking is clearly organized before the writing begins, it becomes easier to assign the relevant component parts of the sub-sections and tackle them in turn. Your work must flow logically and carefully guide the reader through your argument from the opening idea to the conclusion. Carefully consider the sequence in which you present your ideas.

Finally, use style formatting to code the headers and sub-headers in your document, and use the navigation pane in the sidebar to keep an eye on your document structure as you draft. This will not only keep your writing organized, it will also aid you in making a table of contents when the draft is complete. Importantly, this allows the reader to understand the structure of the argument as well.<sup>3</sup>

*c. Avoid tangents.*

State a clear point in your opening paragraph, ideally articulating your thesis, and develop it throughout your work. Many ideas are important, but not all ideas are relevant to the paper at hand. Do not simply add in ideas that occurred to you along the way. Do not use the conclusion section as an opportunity to raise broad issues or unexamined topics.

Example:

“To the extent that one allows a conception of justice to be determined in part by the values that define the persons to whom the conception is applied, the issue is indeed prickly and merits a more fulsome discussion. Tackling it may require thinking about justice in novel ways that account directly for human agency, self-interest, and cooperation.”

This concluding paragraph unhelpfully raises issues not discussed elsewhere in the paper. It is also terribly cluttered and just generally an unlovely and uninformative couple of sentences.

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<sup>3</sup> Document formatting is a tremendously useful skill that is easy to learn and helpful for organization yet students often seem completely unaware of it. After explaining and demonstrating it for what seemed the thousandth time, I made a video explainer: Use Word Styles to Write a Better Paper, [youtu.be/Dw87mOHYgt0](https://youtu.be/Dw87mOHYgt0).

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### *d. Make every sentence count.*

Each sentence must contribute to your argument; otherwise space is wasted and so is the reader's attention. Do not waste time providing extensive background and context. If you find yourself explaining concepts before you get to your main point, you are getting sidetracked. Delete all that and focus on developing your point.

Most importantly: do not waste your time re-stating things. Usually, when you do this, you have not fully thought through a complex idea, and you are dragging the reader along as you muddle through it.

Examples:

“In other words . . .”

“That is to say . . .”

“As explained above,”

These phrases often indicate a lack of clarity in the preceding sentence. They tell the reader that you are about to repeat yourself. Exceptionally, they may be used to express an idea in different terms and from an entirely different perspective to add insight to the point being made. Consider their use very carefully and err on the side of not wasting the reader's attention span. This problem is exacerbated by the use of metaphors, especially in succession.<sup>4</sup>

### *e. Edit. Edit Again. Repeat.*

*Je n'ai fait celle-ci plus longue que parce que je  
n'ai pas eu le loisir de la faire plus courte.*

— Blaise Pascal (attrib., 1657)

*If I had more time, I would have written you a  
shorter letter.*

— Mark Twain (1871)

If you are turning in a paper that you have not re-read several times, you are not giving enough effort to the project. First, you must re-read at least once to catch typos. One typo comes off as careless, two as lazy; more than that makes the work unacceptable. If you turn in work replete

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<sup>4</sup> See *infra* part II.b.(i).

with typos, you are telling the reader you do not care about your work. If you do not care about your work, why should the reader?

If you think your paper is done after you review it for typos, grammar mistakes, and other sloppy elements, try going through it again to see if you can eliminate at least two weak words from every sentence. You will likely find that you have a habit of using a certain word (such as “said”, “such”, or “however”); this is a writing tic and everyone has them, including me. Use this editing pass to try to discover what your writing tic is and tame it. Next, see if you can delete a weak sentence from every paragraph. With the new word count space you’ve developed, you might now be able to add a new argument in support of an otherwise shaky position.

Sloppy construction severely undermines your credibility. While editing, check for some especially common writing errors and excise them:

- Typos, misspellings, verb tense mismatches, other grammar errors;
- repetition of words and ideas;
- throat-clearing (more on this below);
- editorializing; and
- redundant or otherwise unnecessary descriptions.

## II. SUBSTANCE

### *a. Substantiate everything.*

In general terms, legal method consists of making claims that are sufficiently supported by accepted forms of evidence. Everything you say must be appropriately substantiated.

Do not ignore hierarchy of sources. This means: do not cite secondary sources as support for claims made about primary sources. For example, if you are discussing the elements of a case, you must read and cite the case itself, not an article that discusses it. Cite a secondary source when discussing a point made uniquely by that source.

Only make claims for which you have found support with appropriate evidence. This is especially important if the claim you make is empirical in nature.

Examples:

“In most cases, corporations infringe ethical standards in ways that are frowned upon by society.”

“Most people think . . .”

“Many scholars state . . .”

These kinds of empirical claims require evidentiary support; its absence undermines your credibility.

*b. Represent others' claims accurately.*

Read your source material carefully and restate arguments even more carefully. In academic scholarship (as opposed to punditry, political speech, etc.), relatively few arguments will be patently unreasonable or outright wrong. If either appears to be the case to you, re-read to ensure your comprehension and to avoid making unsubstantiated claims.

### III. STYLE

*a. Work on Clarity of Expression.*

There is almost no point to writing if you write in such a way that demonstrates you lack interest in your reader. Your writing style is an expression of your persona. Think about how you wish others to perceive your work. Are you trying to take up all the oxygen in the room and prove how smart you are? If so, why do you think anyone would volunteer to read that? Instead, are you engaging with difficult concepts with the reader as your audience? How do you engage your reader? Remember that legal writing is about persuasion.

*i. Use active voice.*

“Having examined the question of passive voice, it might be concluded that that which the sentence conveys could have been better stated actively; the text risks being poorly understood and perceived as passive.”

If you stumbled through that sentence, so will your reader.

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*ii. Avoid lengthy, clause-laden, comma-laden sentences that never seem to end and that seem to try to make every point without pausing for breath and to help you stop doing this, try holding your breath while you compose your sentence or try reading it out loud to yourself without stopping because this is the experience for the reader: one of being deprived of space to breathe and think.*

Concision makes for engaged reading.

Just make your sentences short. It is very hard to get lost in a short sentence. A short sentence will typically be clear and make editing easier. Shorter sentences can create an impact rarely achieved by longer sentences.

*iii. Eliminate excess verbiage.*

Avoid cluttering your ideas with unnecessary words. They slow down the reader for no reason. This is especially the case with “throat-clearing” – prefacing sentences with unnecessary introductions – which a thorough edit should expunge.

Examples:

“It is evident that,”

“It is clear that,”

“While opinions differ on the matter, at least one school of thought has it that . . .”

If you could cut off all of the words before the first comma that appears in a sentence and the sentence would still make sense, do so.

*iv. Use one adjective when one will do; use none if possible. Don't editorialize.*

Avoid adjective-laden descriptions where one or no adjective would be appropriate. When I said above that throat-clearing words are those “a thorough edit should expunge,” notice that the word “thorough” was necessary to describe what sort of edit would expunge throat-clearing words, but I did not add “absolutely,” “completely,” “totally,” or [cringe] “thoroughly” to the word “expunge.” That is because the word “expunge” is itself thorough.

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Extra caution: sometimes when you use adjectives it is because you are editorializing. Avoid editorializing in academic writing, as it weakens an otherwise strong writing style and isn't usually needed to get the point across.

Example:

“Yet, alarmingly, the acquisition, use, and transfer of such data is largely unregulated.”

In this sentence, “alarmingly” editorializes the lack of regulation. In my view, the sentence reads better without the editorial. It is more convincing to lead the reader to the conclusion that unregulated data mining is a social bad by developing a strong argument than by using emphatic adjectives.

### *b. Examine Your Modes of Expression.*

Legal writing, like most writing, reveals your character. Whether warranted or not, some modes of expression signal lack of rigor, attention to detail, thoughtfulness, or even intellectual capacity. If you do not want readers to think you are lazy, sloppy, or capable of no more than superficial thinking, you should generally avoid the following aspects of expression.

#### *i. Cliché and metaphor.*

Advance your argument with a minimum of literary and linguistic shortcuts. The use of cliché and metaphor can indicate informality, superficiality of knowledge, or analytical laziness (forcing the reader to do the analysis themselves), or some combination thereof. If you use cliché or metaphor in your work, it must be only after careful reflection and an express rationale for the approach which is clear to the reader.

Examples:

“Put the cart before the proverbial horse,”

“the tail that wags the dog,”

“the cream of the crop,”

“avoid like the plague,” etc.

These are simply tired expressions that waste space without conveying meaning.<sup>5</sup>

Be especially cautious in attempting to use “this begs the question . . .”. It is almost always used incorrectly. Pro tip: even when used correctly, it is annoying.

*ii. Rhetorical questions.*

Rhetorical questions implicitly contain any number of unexplored assumptions, foisting unexamined positions on your reader and proceeding as if the reader agreed with all of them. State ideas in declaratory form not only to avoid this possibility, but also to alert yourself to the fact that you are making assumptions. Rhetorical questions can sometimes serve a purpose: for example, if you write a textbook,<sup>6</sup> you may wish to use them to invite reflection. For academic papers, however, turn your rhetorical questions into statements.

Example:

“So, what makes Canadians more accepting of higher tax rates than their American counterparts?”

This purportedly rhetorical question contains a number of implied but unexplained assumptions, such as what constitutes a “Canadian” as opposed to an “American” (and what we should think about those who identify as both), what constitutes “acceptance,” what constitutes “higher tax rates,” and the heuristic challenges involved in ascertaining whether Canadians and Americans are distinct groups and if so, what each would accept. That is a lot of assumption wrapped up in a phrase of fewer than fifteen words.

*iii. Disrespectful or informal tone.*

Do not categorically dismiss the research contributions of other writers even if you disagree with their conclusions. If you adopt an over-confident, dismissive, or combative tone with respect to the scholarship of others, you should not expect readers to engage with your ideas.

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<sup>5</sup> These are sometimes casually offensive as well. Please be mindful.

<sup>6</sup> Or a guide with really basic rules for good writing.

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Examples:

“Smith is mistaken . . .”,

“Jones is wrong . . .”,

“Miller overlooks . . .”

Relatedly, adopt a professional tone in your writing by avoiding inappropriate emphasis using italics, boldface, exclamation points, ALL CAPS, and other informalities unless you have thoroughly reflected upon the necessity of using these features.<sup>7</sup>

Textual emphasis does not make an argument more forceful. Instead, it conveys an amateurish tone and provides no support for an otherwise unconvincing argument. Less critically but still important: contractions (don’t, can’t) may read as unprofessional in some forms of legal writing.

Finally, excessive or unfamiliar acronyms stump the reader and may appear as shouting. It is almost always better to simply write out the words you want to say, even if they are long or cumbersome, than to come up with a new acronym. A couple of paragraphs in, the reader isn’t going to remember that acronym, and they are going to be frustrated, hunting back for the first instance in the document.

Example:

“FATCA is a highly regulated KYC/AML system that globalized previously bilateral AOEI efforts.”

Just in general: **PLEASE** *Don’t* write like THIS! It is a case of NOWERWTASF<sup>8</sup>!! ☺

### *iv. Avoid littering.*

Avoid littering<sup>9</sup> sentences<sup>10</sup> with multiple<sup>11</sup> footnotes.<sup>12</sup> Except in cases involving a long and complex list drawn from multiple distinct sources,

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<sup>7</sup> Don’t @ me. I mean it.

<sup>8</sup> No One Will Ever Remember What This Acronym Stands For (hereinafter, “NOWERWTASF”).

<sup>9</sup> As in scattering about.

<sup>10</sup> This is a distracting practice. Do not turn your footnotes into pop-up ads, an annoyance to be ignored by the reader.

<sup>11</sup> As in, more than one.

<sup>12</sup> This is a good way to make sure that the reader will not catch the idea of the sentence.

there is rarely a need for more than a single footnote at the end of the sentence. Never add a footnote in the middle of a sentence<sup>13</sup> citing to a source that you then cite again at the end of the sentence.<sup>14</sup> If you find yourself consistently littering with footnotes, your sentences are probably too long and contain too many different ideas.

Further, avoid littering sentences with punctuation, such as incorrectly placed commas, dashes followed by commas or semi-colons, open brackets followed by parentheses, frequent use of parentheses, and the like. In particular there should never be a comma after the word “and”. Excessive punctuation requires the reader to spend time parsing the sentence in search of its meaning.

Examples:

“Although, there is reason – in some circumstances – to believe that, all other options notwithstanding, and with certain caveats heretofore explained (see part 3 above), an algorithm could, with proper oversight, prove to be a useful tool.”

“This is better than the current system, and, could be a realistic approach, assuming that (in most, or at least a majority, of cases), the new rule would be followed.”

*c. Pay attention to how your document looks.*

Finally, a polished document is just easier to read than one that has weird formatting, inconsistent font sizes or types, and the like. Attention to detail is an important element in persuading the reader that the writing is founded upon thorough research and sound reasoning. Professional-looking papers will not make up for lack of effort in the drafting, but good writing can certainly be overshadowed by a messy presentation.<sup>15</sup>

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<sup>13</sup> There is simply no need to cite a source here that is going to appear at the end of this sentence.

<sup>14</sup> *Ibid.*

<sup>15</sup> To streamline things, I strongly recommend formatting with styles. See *supra* note 3.

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### *i. Be Consistent.*

Inconsistency in capitalization, punctuation, verb tense, citation or lack thereof, and other writing elements reads as laziness. Take the time to think about the stylistic choices you make as you write and edit your draft.

### *ii. Include standard document elements.*

Do not forget to include your name on your paper along with other potential useful elements such as title, date, page numbers, table and/or figure numbers and titles, and the like.

## CONCLUSION

This brief document lays out some of the recurring problems in student work. Avoiding common pitfalls is minimally necessary for good drafting. Accordingly, this document focuses on helping you avoid common pitfalls rather than helping you think about how to construct a strong argument and back it up with appropriate research and analysis. For help with this important task, consult more holistic writing resources, such as those mentioned above.

