

SKILLS AREA RESOURCE SERIES

WRITING SAMPLES

Many legal employers request a writing sample from applicants during the hiring process. Some employers, however, may not want or require a writing sample; therefore, do not send unsolicited samples. If requested, your writing sample should be legal in nature, concise (no more than ten pages) and your work product (not substantially edited by a supervisor/professor). Writing samples should be well-written with no typographical errors, grammatical problems or misspellings. You must, however, consider other issues in selecting an appropriate writing sample.

The following are *only* general guidelines and advice about suitable writing sample types. It is always appropriate to ask employers about writing sample preferences (i.e., law review article versus draft memorandum from an internship).

GUIDELINES AND PURPOSE:

The following instructive guidelines are adapted from an article by David C. James, the hiring attorney for the Office of the City Attorney, City of San Diego¹:

- Provide persuasive writing
- Provide something from the real world
- Provide your own work (excise parts written by others)
- Provide something recent
- Provide about ten pages
- Provide something understandable
- Excise confidential/sensitive information
- Avoid lurid subjects
- Provide an explanatory cover sheet
- Obtain permission to use from employer
- Many legal employers prefer “real world” writing samples, such as from a clerkship with a law firm or a government agency. David James explains, **“The purpose of a writing sample is to convince the employer that the student can do the kind of writing the employer’s attorneys do. So, the best writing samples are projects that could have been done in the employer’s office.”**

Remember: More recent writing samples are preferable as legal writing is a skill that improves with practice, and more recent material is probably more impressive. Keep copies of your work from all of your jobs, even if you believe that you already have a sufficient writing sample.

¹ David C. James, “Helping Students Select Writing Samples—An Employer’s Perspective,” September 1996, NALP Bulletin.

PRACTICAL WORK PRODUCT: If you plan to use a sample you wrote while working for a legal employer, including judges, it is necessary in virtually all cases to **obtain permission** from the responsible attorney or judge. Also:

- **Make sure the writing is not a result of substantial editing and revision by a supervising attorney**
- **Make sure you redact any confidential or sensitive information**

Legal documents filed with a court in a litigation matter are signed by a supervising attorney only. If the document is substantially your work product, it is appropriate to use as a writing sample; however, you must have the permission of the signing attorney and an explanatory note on the front page of the sample. For instance: “Attached is an example of my work product. This brief was based upon a draft I wrote that was submitted to Attorney Smith and filed with the court with only minor revisions. I am including it with his permission.” If only certain sections were written by you, and other sections written by someone else, neatly cross out sections that are not your work. Alternatively, you can attach only your sections and explain in the cover sheet that the sample is only a section of a brief.

Employers may specifically request “unedited” writing samples, so keep a copy of the “final” draft you submitted to a supervising attorney, and not the edited version submitted to the court. You nonetheless need to get permission from your supervising attorney to use such drafts as a writing sample and explain it is being used with permission. The fact it is a “draft” does not mean you cannot fix any errors yourself before submitting it as a sample.

Papers filed with a court are public record (not privileged). In contrast, internal/research memoranda are protected by the attorney-client privilege, and memos for judges are confidential. Get permission of the judge/responsible attorney before using. Also, redact sensitive/identifying information. A legal writing consultant noted, **“Your sample is a demonstration of your judgment as well as your writing skills. Applicants who submit samples without redacting confidential information are often rejected on the basis of the poor judgment displayed.”**²

When excising confidential information, substitute fictitious information so it is understandable to the reader. Don’t just black out clients’ names. You can substitute “Company X” for the real name of the client and “Company ABC” for the real name of the opposing party. You may note you substituted fictitious information to maintain client confidentiality in your cover sheet. Obviously, information substitution is possible only if you saved an electronic format copy of your sample that can be manipulated by a word processing program.

SCHOOL WORK AND LAW REVIEW ARTICLES: Writing samples written for a school assignment are acceptable, especially if the assignment simulates a real world product.

- First-year students are often asked to submit writing samples before they have any practical legal experience. Memos written for Legal Research and Writing courses and Moot Court briefs can be used as samples.

² Marilyn Bush LeLeiko, “Selecting Writing Samples: A Writing Consultant’s Perspective,” September 1996, NALP Bulletin.

- Law review articles (published or submitted) can be writing samples; however, they are not always preferred by employers. David James comments, “Because students polish law review articles to the nth degree, the amount of time spent on them is all out of proportion to the time available in practice.” In addition, employers might question the extent the final product was edited by editors. Finally, obscure or esoteric topics may not be appreciated by attorneys practicing in a different field. Nevertheless, the article might be advantageous, for example, you are applying for an environmental position and the topic of your article is an aspect of environmental law.

PRESENTATION

Do:

Put your name on it
Provide a cover sheet or cover memo
Explain nature and origin of writing

Don't:

Leave grades/marks on it
Use fancy binders and/or have it bound
Provide faded or unclear copy