

Guidance for Upper Level Writers
By Professor Karen Thornton

These materials are intended to facilitate self-reflection and peer review among students writing upper-level/scholarly papers, as well as provide seminar professors a grading rubric. The guidance materials are presented as a series of questionnaires students can use to introduce discipline into the independent writing process. The questions should be deployed at key writing milestones: the thesis statement, the outline, the first draft, the second draft, and the penultimate draft.

The goal of this guidance is to raise student awareness of the high expectations of their audience, provide a structured writing process, and ultimately encourage a sense of confidence and self-sufficiency in the writer. As such, these review questions and rubrics can be used in practice, well after the student has completed the upper level writing requirement. The materials can also benefit seminar professors who may choose to assign periodic self-checks outside of class and use the rubric to articulate their expectations and later grade the paper.

I. Questions to Guide Review of Thesis Statements/Research Progress.....2

II. Questions to Guide Review of an Outline.....3

III. Common First Draft Structural Challenges (and Solutions).....4

IV. Top Ten Second Draft Sentence-Level Challenges (and Solutions).....10

V. Questions to Guide a Peer Review of the Penultimate Draft.....15

VI. Final Draft Grading Rubric (with Grading Narrative).....17

I. Questions to Guide Review of Thesis Statements/Research Progress¹

- Does your thesis pass the “so what” test?
- Is the thesis useful to the audience you hope to reach?
- What kind of reaction do you hope to get from your reader?
- Is there anything about your thesis that would unnecessarily alienate your audience?
- Is your thesis easily identifiable?
- Is your thesis manageable/defendable?
- Can you articulate in 2 minutes how you will defend your thesis?
- Do you have advisor/employer approval of your chosen thesis (if required)?
- Have you done sufficient initial research to determine your thesis has not been “preempted?”
- If others have written on your topic, how is your thesis different?
- Are you comfortable enough with your initial research that you are now ready to move on to more focused, in depth research?
- As part of your deeper research, how do you plan on testing your proposal(s)?
- Have you identified unanswered questions as you analyze your research materials?
- Have you identified individuals (faculty members, practitioners, colleagues, etc) who can help you “test” your thesis?
- Have you reassessed your thesis statement as a result of analyzing your research?

¹ Jessica Clark & Kristen Murray, SCHOLARLY WRITING: IDEAS, EXAMPLES, & EXECUTION, 29-36, 57-58, (Carolina Academic Press 2010); Eugene Volokh, ACADEMIC LEGAL WRITING: LAW REVIEW ARTICLES, STUDENT NOTES, SEMINAR PAPERS, AND GETTING ON LAW REVIEW, 9-38, (Foundation Press, 3rd ed.).

II. Questions to Guide Review of an Outline²

Does the outline:

- Follow a Hook, Background, Analysis, Conclusion structure?
- Provide the audience what it needs – cogent, well organized analysis that persuades a particular outcome?
- Include the legal authorities that seem relevant to proving the thesis, as opposed to *all* the possible relevant legal authorities from the research chart?
- Organize those authorities around different points of law and consider how those authorities will apply to the facts?
- Reflect the depth of discussion necessary for each point of law?
- Articulate headings, categories or unifying principles that encompass details?
- Separate primary and secondary ideas using subheadings?
- Play with hierarchical orders?
- Reflect good legal thinking?
- Assert the author's ideas?

Is each division based on a single principle?

Are there sub-points that could be new issues requiring separate discussion?

Does the sum of the parts equal the whole?

Is each part mutually exclusive?

Are there digressions or entire sections that should be deleted because they make the paper too broad?

Is the outline internally consistent?

Are the headings similar in structure?

Are the sections in proper proportion?

Does the initial thesis need refinement?

² Elizabeth Fajans & Mary Falk, SCHOLARLY WRITING FOR LAW STUDENTS, 62-71 (West, 3d ed.); Christine Coughlin, Joan Malmud & Sandy Patrick, A LAWYER WRITES: A PRACTICAL GUIDE TO LEGAL ANALYSIS, 74-79 (Carolina Academic Press, 2008); Jessica Clark & Kristen Murray, SCHOLARLY WRITING: IDEAS, EXAMPLES, AND EXECUTION, 99-102 (Carolina Academic Press, 2010).

III. Common First Draft Structural Challenges (and Solutions)³

THE EARLY FIRST DRAFT STAGE

1) CHALLENGE: *Overcoming a Shallow Draft.* A common diagnosis for first drafts is that they say too much and too little at the same time. In other words, the writer is skimming the surface on a number of issues, but not truly engaging on any of them or appreciating what the reader wants.

SOLUTION: The real issue here is that the thesis is overly broad. You cannot prove a thesis in under 100 pages unless it is narrowly tailored and targeted to meet your reader's interests. The writer should take a step back and ask himself, what it is that he is uniquely able to offer the reader. Very likely, this will be a subpart of what the writer originally outlined. This may initially feel like a set-back, but in fact it can be liberating to realize you were making the paper harder than it needed to be. Instead of seeing it as going round in circles, envision yourself spiraling upward.

In the course of your early drafting, your ideas have evolved. You see connections you didn't appreciate at the outset. Don't resist this change – it's the natural process of becoming an expert and it includes making mistakes along the way. Pause and re-focus the "why" you are writing this paper. Use this introspection to narrow your scope, and then drill down to evaluate the policy implications, compelling issues, and counterarguments that surround the more narrow thesis. Then re-outline the paper and start writing the analysis section. You can fill in the background later.

2) CHALLENGE: *Organizing your Content.* Your goal is to present your ideas coherently so the ideas flow logically. You also want your structure to be explicit so your reader can understand your logical connections and stay focused throughout the entire document.

SOLUTION: Write deliberately so your reader can follow your thoughts/argument step by step. It is often clear to you what you want to convey, but if the ideas do not make it to the paper, the reader will get lost.

Talk through your logic with friends and encourage them to ask questions if they are unable to follow your logic. How you explain orally is likely the most logical way to present your ideas: You begin by introducing your audience to the "big picture" by providing information they already know. Then they can connect what's familiar to the new information you give them. As your audience becomes familiar with the new

³ After supervising Note-writers for four years, I (and the 40 adjuncts who serve as my colleagues) have found that all student first drafts tend to have similar shortcomings or challenges. This seems to stem from the students' desire to use the first draft writing process as a means to get everything out of their heads and onto paper, rather than to write toward proving their theses. The solutions offered are intended to guide students back to the notion of writing purposefully so that the next stage of refining the draft should be focused on the audience.

information you can link more information. When you write, be conscious of arranging your sentences so they move from old information to new information (more on this under *Transitions*, below).

During the drafting process, you may find your theory is evolving and you are no longer following your original outline anymore. To make sure your structure is still sound, you should reverse outline your draft. Next to each paragraph, insert a comment bubble with a phrase that sums up the point of the paragraph and how it fits into the overall analysis. This reverse outlining will help you see whether you are making the point you set out to prove. It will help you see where you might have forgotten a step or where a step is out of order. You may also find paragraphs that can be removed – think critically about whether the information is necessary to prove your point. (Remember, if your reader gets bored his focus will stray). If you are unable to transition into or out of a thought, it is a sign it does not belong (see *Transitions* below). Perhaps the thought is better suited for a footnote.

3) CHALLENGE: *Transitions*. Transitions are the ties that bind your assertions and supporting data together to convince the reader that your idea is best. Good transitions are a vital part of persuasive writing. Without effective transitions, the reader has to work to draw conclusions based on the information presented or may simply become confused. Worse, the reader may draw conclusions you had not intended. In drafting, it is often easier to write one bit at a time, but unless you clearly and explicitly connect those bits, you are not proving your theory.

SOLUTION: Write conversationally, telling the story of your theory. Transitions are like the physical cues you give when you talk – hand gestures, raised eyebrows, tone of voice. Transitions are a significant opportunity to influence the reader (rather than allow the reader to draw his own conclusions). They signal to the reader what’s to come, why it is important for him to pay attention, and how he should react to your ideas. Transitions build expectation and then show that the expectation has been fulfilled.

Use the thesis you are asserting to link paragraphs (and maintain the reader’s focus) by using elements of the theme in topic sentences and conclusions. These connections may be self-evident to you, but the reader may not recognize the logical link. Transitions guide the reader within paragraphs, between paragraphs, and from section to section. Subheadings can be very helpful to transition between sections of your paper. Conclusions confirm for the reader that your claim is best and ensure the reader is taking away the conclusion you want, rather than making the reader think for himself. Roadmaps are another form of transitions, letting the reader know what is at stake and the context for your reasoning. Readers are more likely to understand and retain information if they understand its significance.

Examples:

· To signal a change in direction: however, but, instead, yet, nevertheless, nonetheless, conversely, on the contrary, whereas

- To add a point: in addition, similarly, likewise, moreover, furthermore, of course
- To sum up: in conclusion, in short, therefore, thus

Within paragraphs, one effective means of transitioning from one sentence to another is to move from the “known” to the “new.” Bridging a known concept from one sentence to a new idea in the second sentence helps the reader to understand how your ideas connect and build upon one another. *For example:* Every semester after final exams are over, I am faced with the problem of what to do with books of lecture notes. These books might be useful some day, but they just keep piling up on my bookcase. Someday, the shelves will collapse under the weight of information I might never need.⁴

Test how well you’ve crafted your transitions by reading only the topic sentence of each paragraph of your draft. You should be able to follow the thread of your argument in a logical and linear flow.

For more help with transitions check out the excellent writing resources at the Purdue University Writing Lab <http://owl.english.purdue.edu/owl/resource/574/01/> and the University of North Carolina Writing Center <http://writingcenter.unc.edu/resources/handouts-demos/Students>. Additional writing resources are linked to the GW Law Writing Center homepage at <http://www.law.gwu.edu/Academics/EL/Writing%20Center/Pages/WritingResources.aspx>

4) CHALLENGE: *Extensive descriptions of cases.* Your goal is to demonstrate for the reader that you have read all the relevant case law and extracted the key principles for their understanding of the current legal framework. You do not want to slow the reader down by making him feel like he has to retain details numerous cases.

SOLUTION: Your contribution to the current scholarly discussion on your topic is not just your analysis section, but also your presentation of the key cases in the background section.

Use the rule synthesis skills you learned in LRW and extrapolate the principles at the root of the key cases. This is your value added. Having a novel thesis is really all about finding fresh connections among old ideas. Remember Steve Jobs’ quote about having to look backward to connect the dots.

5) CHALLENGE: *Over-reliance on quotes.* When properly used, a direct quote can be a powerful tool. You want to avoid diluting that power by over-using direct quotes. Furthermore, a long quote suggests you do not fully understand the substance or are too lazy to paraphrase.

SOLUTION: Paraphrase and use direct quotes sparingly. Take care to excerpt out only the most essential language in the quote – this will make the quote even stronger.

⁴ This example came from the Purdue University On-Line Writing Lab page on Sentence Clarity. <http://owl.english.purdue.edu/owl/resource/600/01/> Check it out for more great tips on good sentence-writing.

When you get stuck in the drafting process, the best advice is to go back to an earlier step in the writing process. Here, you want to go back to the thinking stage. Your goal is to ensure the *voice* in the Note is *yours*, so you need to read your accumulated research critically before you even begin to write. By thinking and asking yourself questions about how other writers have argued the issue, you can write your own telling of the story rather than simply describing or borrowing what others have said. One way to read critically is to deconstruct the rhetorical devices other authors use (see more on logos, pathos and ethos in #6, below). If you are less than fully convinced by another author's argument, ask yourself whether he is over-relying on one device or another. You can make *your* argument more persuasive by righting this imbalance.

6) CHALLENGE: *Lack of confidence when addressing counterarguments.* Many students present their solution, then say "but, for X and Y reasons, this solution may not work."

SOLUTION: While it is important to acknowledge counterarguments, you should do so in a manner that advocates for your proposal. Use the three forms of rhetoric (logos – a logical appeal to the audience; pathos – an emotional appeal; ethos – using your credibility to appeal to the audience) to turn a negative into a positive for your argument. Resetting the context is what all good advocates do when faced with “bad facts.”

For example, instead of saying, "on the other hand, X could be a problem," assert that "X is not a problem because...." Draw analogies to laws or regulations that have addressed the issue effectively in other contexts. Use policy arguments to appeal your reader's sense of justice if the logos arguments are limited. The best way to use ethos is to demonstrate your expertise in a narrow are of the law by presenting deep footnotes as proof you have read every source available. You can also avoid some counterarguments by indicating that they are outside the scope of your paper, but could be addressed in a future article.

7) CHALLENGE: *Insufficient support.* Every sentence in the background should be footnoted. In the analysis section, unless it is entirely your thought, each sentence also needs a footnote to the source of your analogical reasoning.

SOLUTION: Go back to your research and supply citations. Keep a master document of all your sources and when you're tired of writing, work on Bluebooking those cites. Then you can cut and paste from this document to fill in the necessary footnotes.

*CHALLENGES TO ANTICIPATE AS YOU LOOK AHEAD
TO THE NEXT STAGE OF REVISION*

1) CHALLENGE: *Redundancy*. Review your draft paragraph by paragraph, sentence by sentence to make sure each presents a separate idea or point.

SOLUTION: It will be much easier to avoid redundancy if you limit yourself to one concept per paragraph and one idea per sentence. Combine and synthesize so your reader has less to read – the less he has to read, the more he will retain of your idea. Having said that, there is a time and a place for repetition – you should be repeating your central theme/thesis throughout your paper.

2) CHALLENGE: *Categorical/exaggerated assertions & vague criticisms*

SOLUTION: Never use “never” and always avoid “always.” “Clearly” is another loser. Commenting that a court’s decision creates a “slippery slope” or “chilling effect” is not useful to the reader. Instead, explain the “why” and “how” behind your criticism using analogical reasoning.

3) CHALLENGE: *Sentence level errors*. Readers want to read about actors doing things. When you try to sound overly formal one or the other gets hidden. This detracts from focus and clarity.

SOLUTION: Keep the subject and verb close together in a sentence, bringing the actor closer to the action. Do not hide the actor in the passive voice. Do not hide the action with nominalizations. Limit yourself to one thought per sentence or the reader will have to work too hard. If the reader has to make an effort to follow your thought he will focus on your writing rather than your ideas. Avoid starting with dependent clauses -- it’s more forceful to lead with the subject. Use parallel construction – when you have a series of words, phrases, or clauses, use similar grammatical construction so the reader can identify the common relationship more clearly. Avoid unclear pronoun references by ensure the pronouns you use refer clearly to a noun in the current or previous sentence.

Overstuffed Sentences: An overstuffed sentence happens when a writer tries to pack too many things into one sentence in convoluted fashion, making it difficult for the intent of the sentence to come through and to follow it becomes an exercise in re-reading the sentence while making the sentence clearer in our brains so we can understand the overstuffed sentence, which is the point of reading.

Imprecision: When writers just miss the target ground with their word using they on occasion elicit a type of sentence experiential feeling that creates a backtracking necessity.

Nathan Bransford, “Writer Wednesday: Do You Suffer From One of These Writing Viruses?”,
http://www.huffingtonpost.com/nathan-bransford/writer-wednesday-do-you-s_b_678449.html, 8/11/10.

4) CHALLENGE: *Throw away phrases.* They make the reader work harder to get through a sentence and run counter to your goal of being direct. Concise wording makes more of an impact on the reader.

SOLUTION: Delete the following phrases from your draft:

It should be recognized that	With a view toward
In the sense that	In connection/conjunction with
In order that	It has been determined that
It should be noted that	On account of
The fact that	It is obvious that
To tell the truth	I am of the belief that
It is interesting to note that	It is widely understood that
By means of	For the purpose of
I would argue that	

5) CHALLENGE: *Reducing wordiness to achieve concise and effective writing*⁵

REPLACE

WITH

A large number of	many
At present	now
At that point in time	then
Concerning the matter of	about
During the course of	during
For the reason that	because
In accordance with	by, under
In favor of	for
In regard/reference to	about
In the event that/of	if
Is lacking in	lacks
Negatively affect	hurt <i>or</i> harm <i>or</i> decrease
On the part of	by
Prior to	before
Subsequent to	after
Referred to as	called
Sufficient number of	enough
The manner in which	how
To the effect that	that
Under the circumstances in which	when <i>or</i> where
With regard to	about

⁵ Eugene Volokh, Academic Legal Writing, 3rd ed. (appendix) & Wayne Schiess, Legalwriting.net

IV. Top Ten Second Draft Sentence – Level Challenges (and Solutions)
(with Exercises to Help Form Good Habits)⁶

AVOID⁷:

1. **Misuse of the Passive Voice**
2. **Nominalizations**
3. **Overuse of the Verb “To Be”**
4. **Complex Verb Constructions**
5. **Wordiness**
6. **Unnecessary Repetitions**
7. **“There” & “It” Constructions**
8. **Long Descriptive Phrases**
9. **Cliches & Legal Jargon**
10. **Lack of Specificity**

Passive Voice

Exercise 1-2

Change the sentences that are passive to active.

1. An answer must be filed within twenty days after the filing of the complaint.
2. A plaintiff must file a reply to a counterclaim.
3. Affirmative defenses must be raised in the answer, or they are waived.
4. The crime was committed by John Smith, who had formerly been Susan's client.

⁶ These exercises are excerpted from a series by Scott Fruehwald, titled “Exercises for Legal Writing I: Active and Passive Sentences and Writing with Verbs,” “Exercises for Legal Writing II: Editing for Wordiness,” and “Exercises for Legal Writing III: Emphasis, Clarity, and Specificity.” Electronic copies are available at <http://ssrn.com>, under the following abstract numbers: 1715702, 1704045, 1737442.

⁷ Having completed the first draft phase of refining, which tends to focus on structural and organizational issues, at the second draft phase, the writer is ready to focus on sentence-level clarity and precision.

5. Although she had never met Judge Smith, she felt she knew him from the many stories John had told about his experiences in Judge Smith's court.

Nominalizations

Exercise 1-6

Eliminate the nominalizations in the following sentences,

1. Jane will make a decision as to whether she will attend law school.
2. The salesman made a demonstration of the company's new oven.
3. The company made full disclosure of defects in the automobile.
4. The court's denial of Jane's motion was because it was filed too late.
5. The company made a request to Peter that he transfer to the Denver office.

Overuse of the Verb "To Be"

Exercise 1-9

Revise this paragraph by replacing the verb "to be" with active verbs:

Martha is a lawyer in a large New York law firm. She is one of the brightest young lawyers in the firm. Her area of practice is employee benefits, and her boss is Mary Smith. Martha is happy with her job.

Change "to be" or "to have" verbs in the following sentences to active verbs.

1. Jan will have her first jury trial in June.
2. There will be a clown at the party.
3. Donna was in Europe last summer.
4. My job is in the Criminal Division of the Attorney General's office.
5. Her dream is to climb Mt. Kala.

Complex Verb Constructions

Exercise 1-10

Eliminate the complex verb constructions in the following sentences.

1. Most historians consider him to have been the most important poet of his generation.
2. The child had to have a cookie.
3. Joe Johnson was thought to have been a part of the Lincoln conspiracy.
4. Before his early death, Smith was to have been the next president.
5. A child needs to be loved.

Wordiness

Exercise 2-1

Edit the following sentences for wordiness.

1. I am writing you in regard to your letter of March 5, 1994.
2. John is a person who succeeds at everything he does.
3. Mary left in an abrupt manner.
4. In the last few days, she recently decided to attend law school.
5. He studied abroad in France.

Unnecessary Repetitions

Exercise 2-3

Eliminate the unnecessary repetitions in the following sentences.

1. Each and every person should attend his lectures.
2. I personally have never been to Europe.
3. The weather will probably continue to remain cold.
4. The professor allowed him to retake the test again.

5. The spacecraft was oval in shape.

“There” or “It” Constructions

Exercise 2-5

Eliminate wordy there or it clauses from the following sentences.

1. It is obvious that John will win the competition.
2. There are many ways to train a dog.
3. There are six subjects the professor might test us on.
4. There are five students nominated for the scholarship.
5. It is probable that it will snow tonight.

Long Descriptive Phrases

Exercise 2-6

1. The director is planning a movie that will last two hours or three hours.
2. He saved money for graduate school by only buying books that were used.
3. Frank liked the song that was soft and beautiful.
4. Carrie had two children who were polite and well-behaved.
5. I am looking for a job that will satisfy me more.

Cliches & Legal Jargon

Exercise 3-6

Rewrite the following sentences to remove clichés and legalese.

1. The engineering's testimony is a circumstance over which we have no control.
2. If worse comes to worse, we can always argue that the plaintiff should recover for unjust enrichment.
3. It goes without saying that the plaintiff's argument will fail.

4. This argument is contrary to the cherished belief that negligence victims should recover from tortfeasors.

5. This argument is a mirror to the one the defendant made in Smith v. Jones.

Lack of Specificity

Exercise 3-7

Replace the general verbs in the following sentences with specific ones.

1. Peggy let go of the glass.

2. The airplane flew through the clouds.

3. The professor spoke the lecture in a monotonous tone.

4. The lovers walked through the garden.

5. The dog ate the steak.

V. Questions to Guide a Peer Review of the Penultimate Draft

A. *Structure*

1. Is the paper designed with a proper title, introduction, background, analysis, and conclusion?
2. Is the thesis easily identifiable from the title and introduction?
3. Does the introduction present a hook that captures the reader's interest and articulates the scope and relevance of the thesis?
4. Is there sufficient information on key facts and legal doctrines in the background section to prepare the reader for the analysis that follows?
 - Does the writer successfully synthesize the precedential cases and issues rather than merely summarize them?
 - Is the length of the background section proportional to the length of the analysis section?
5. Does the analysis section exhibit clear, parallel structure from one section to the next?
6. Does the conclusion restate the thesis and the major points that support it, without introducing new or confusing information?

B. *Quality of Legal Analysis*

1. Did the writer properly use legal authority to support the main argument?
 - Does the writer exhibit solid research skills and thoughtfulness in selecting the most effective authority for each assertion?
 - Does the writer predominantly rely on primary rather than secondary sources as supporting authorities?
 - Is citation form correct and are citations used where needed?
 - Does the writer use footnotes effectively to provide substantive explanations that would distract the reader if placed in the main text, rather than simply to provide attribution?
2. Has the writer effectively discerned and addressed potential counterarguments?
 - Are there economic/policy implications of the writer's argument that have been left unaddressed?
 - Has the writer effectively made concessions or acknowledged trade-offs as necessary?
 - Does the writer take problems and turn them to his advantage?
3. Are the cases or situations at issue properly analyzed?
 - Does the writer present both comparisons and distinctions to other cases and situations?
 - Does the writer exhibit biases or unsupported assumptions?
 - Is the paper internally consistent?
4. Is the writer's argument ultimately persuasive?
 - Does the writer present viable justifications that address the most difficult nuances of the issue rather than speak in vague generalities?
 - If the writer argues for a procedural proposal, does the paper articulate what substantive standards should be applied?

- Does the argument show evidence of having been tested against actual rather than hypothetical facts to avoid unanticipated results?
- Is the writer able to move beyond the basic thesis and make connections to broader or parallel issues in a way that enrich the paper, rather than distract the reader?

C. *Technical Precision: Spelling and Grammar*

1. Is the paper a polished product or is there evidence of a lack of effort in the refining process? (Look for misspellings, incomplete sentences, run-on sentences, subject-verb agreement, tense agreement, split infinitives, misplaced modifiers, and proper use of punctuation).
2. Does the paper contain excessive use of the passive voice such that it detracts from the persuasiveness and accountability of the author?

D. *Organization, Clarity, and Presentation*

1. Is the writer's tone professional, avoiding idioms and colloquialisms?
2. Does the paper embody sophisticated and artful writing, ensuring a pleasant rather than cumbersome read?
3. Is the paper organized logically with a clear sense of purpose and avoiding digressions?
 - Does the writer employ informative roadmaps and headers to maintain the reader's focus?
 - Does the writer employ effective transitions to ensure the argument flows well from one paragraph or one section to the next?
 - Does the writer present paragraphs that lead with a topic sentence, are cohesively structured internally, and focus on one point at a time?
 - Does the writer structure sentences clearly and concisely, or does the paper suffer from excessive wordiness?
 - Does the writer show precision in word choice or is the writing forced or clumsy?

VI. Final Draft Grading Rubric (With Grading Narrative)

SCHOLARLY WRITING RUBRIC

Introduction

The student:

- identifies the thesis and includes a hook that captures the reader's interest and articulates the scope of the thesis.
- describes the overall argument.
- clarifies fundamental concepts to the extent necessary.
- summarizes the paper's structure in a roadmap.

Thesis

The student's thesis is evaluated on the basis of the following elements:

- **Issue Statement**
 - The student identifies a problem and provides a constructive analysis of it.
 - If the proposal is procedural, the student provides recommended substantive standards.
- **Legal Significance**
 - The student presents a thesis that is novel, not obvious, and useful to the audience.
- **Persuasive Argument**
 - The argument in support of the thesis is clear, logical, and sustained throughout the document.
 - The student makes connections to broader related issues, without tangents or distractions.
- **Balance**
 - The student offers a proposition and gives sufficient weight to opposing views and countervailing considerations, by:
 - taking problems and turning them to his/her advantage.
 - addressing implications such as resources and policy matters.
 - acknowledging tradeoffs as necessary.

Analysis: Support of the Thesis

The student proves his or her proposition by:

- analyzing relevant facts, statutes, regulations, case law and policies and using these sources effectively to support arguments and distinguish counterarguments.
- synthesizing cases and issues rather than simply presenting a descriptive summary.
- discussing precedent with an emphasis on binding precedent.
- testing the thesis' viability using actual facts to avoid unanticipated results

Organizational Choices

The student:

- structures the sections in a logical order.
- prepares the reader for the in-depth analysis by providing sufficient factual and legal background.
- coherently connects sections and uses transitions to effect good flow throughout.
- provides informative road maps and headers to guide the reader.

The student's conclusion:

- re-states the thesis.
- provides insightful observations and conclusions (for example, by discussing the future implications of the thesis or by providing forward-looking recommendations).
- avoids introducing new, confusing information or propositions.

Writing Style & Polish

The student achieves a polished product by employing:

- correct spelling, grammar, and punctuation.
- appropriate vocabulary and usage.
- clear and concise sentence structure, avoiding the passive voice where it would detract from persuasiveness or clarity.
- a professional tone, avoiding idioms and colloquialisms.
- an artful writing style that makes the paper pleasurable (not cumbersome) to read.

Evaluating the Overall Supporting Research

The student:

- understands how the thesis fits in the context of the existing literature.
- relies, where possible, on primary rather than secondary source authority.
- discusses the hierarchy of law and provides sufficient coverage of various sources.
- discusses relevant sources of law (constitutions, statutes, treaties, regulations, cases, administrative materials, and the like) with an appreciation of their authority relative to one another.
- discusses relevant case law.
- discusses relevant policy-related developments and issues.

Compliance with Citation and Academic Integrity

The student:

- complies with *Citing Responsibly* and cites to all outside sources.
http://www.law.gwu.edu/Academics/Documents/Academic%20Integrity/0809Academic_Integrity_Code.pdf and
http://www.law.gwu.edu/Academics/Documents/Academic%20Integrity/0809_citingresponsibly.pdf
- submits a signed Honesty Pledge with every draft.
http://www.law.gwu.edu/Academics/Documents/Academic%20Integrity/Pledge_Honesty.pdf
- places citations appropriately using the formatting guide directed by the professor (e.g., Bluebook (19th ed.)).

Final Scholarly Paper Rubric in Narrative Form⁸

	Highly Proficient	Proficient	Developing
Introduction	Introduction is effectively crafted to grab reader’s attention by gaining and holding interest. Introduction articulates the paper’s thesis, places the thesis in proper context, and lays out the framework of the paper. Hypothetical or real illustration may be used to give context to reader and develop an interest in the thesis. If a quotation is used to begin the paper, the quotation is closely connected to the topic and thesis, attributed to a credible source, and makes a good “sound bite.” The introduction includes a roadmap of the major subsections of the paper, briefly describing each part of the paper.	Introduction is well-crafted, but does not successfully grab and hold reader’s attention. This may be due to underdeveloped context, missing context, or an otherwise incomplete contextual background for the reader. An example may be used, but fails to fully connect to the thesis. A quotation, if used, appears to have no obvious connection to the topic of the paper, giving the impression that the author felt a need to include a quote, but for no good reason.	There is an introduction attempted, but execution is so poor as to give the reader no real sense of what to expect from the paper. There may be parts missing, such as a comprehensive roadmap. Over-quoting or over-reliance on other authors’ work may dominate the introduction, detracting from the sense that the paper topic and thesis is unique to the author.
Thesis	There is a clearly-stated thesis in the introduction to the paper. The thesis says something, is easily identifiable, and is manageable. The thesis strikes the right balance in scope, neither too simple nor too complex. Any biases or assumptions at play in the thesis are fair and appropriately identified, with recognition of alternatives where possible. Thesis results are positive and supportable; to the extent there are negative or problematic results, those results are addressed and defended in the analysis.	There is a thesis present in the paper, but it is not well-crafted. The reader has to work to find the thesis, and the reader may have to synthesize multiple partial thesis statements to understand the actual thesis in the paper. The thesis may be vague or underdeveloped, possibly resulting from the author’s incomplete grasp of the thesis, from an over-ambitious project (too broad in scope), or other reason suggesting the author has not fully committed to a thesis.	There are loose references to multiple possible theses, but no single sentence states the thesis, and the reader cannot uncover the thesis from reading the multiple loose references. Even with a thesis sentence, the thesis is poorly designed because it fails to fully satisfy the requirements of saying something, being easily identifiable, and manageable, though it may satisfy one or two of these requirements.
Analysis: Support of the Thesis	Based on the analysis, the thesis is valid and supportable. Analysis addresses counterarguments, reflecting critical reflection on the thesis. The paper considers how the thesis would operate in different factual situations to provide further support for the thesis on a broader scale. The analysis presents a solution that can be implemented or addresses why lack of implementation does not detract from the strength of the proposed solution. Effective use of hypotheticals or examples to illustrate analysis help reader grasp complex points. Limitations in scope are appropriately identified and addressed.	The analysis is partially underdeveloped, erroneous, or missing, leaving the reader unable to determine the validity of the thesis. This is more likely due to inadequate research or effort than to actual substantive gaps (meaning, there is analysis to support the thesis, but the student has not fully developed it, as compared to there is no analysis to support the thesis). The analysis fails to fully address counterarguments or implementation challenges, leaving unanswered questions for the reader. Scope limitations are acknowledged, but not addressed, or ignored.	There is an attempt at supporting the thesis, but the analysis is too thin to convince the reader of the thesis’s validity. The author’s approach is too cursory, making unsupported assumptions and drawing conclusions without fully engaging in the scholarship and other material to support the thesis.

⁸ Excerpted from Jessica Clark and Kristen Murray, Scholarly Writing.: Ideas, Examples, and Execution (Teacher’s Manual), (2d ed., Carolina Academic Press).

Organizational Choices	The paper executes the appropriate large-scale organizational approach (possibly as directed by law review or seminar professor), as well as consistently effective small-scale organization. The paper is internally consistent, with similarly structured headings and sub-headings, and properly proportioned sections. The paper is effectively and accurately titled. The paper shows evidence of thoughtful organizational choices that support the analysis.	On the whole, the paper shows signs of thoughtful organizational choices, but those choices are not effectively executed throughout the paper, or are not as well-executed as they could be. Some signs of this are imbalanced sections (e.g., a lengthy background section and a very short solution section), inconsistent headings and sub-headings, and an ordering of arguments that does not support the thesis as well as it could (e.g., starting with counterarguments).	There is no clear organizational approach to the paper, suggesting the author dumped in all information without time to assess its placement. The organization is so poorly executed as to detract from the analysis of the paper because the reader cannot understand how the parts and sub-parts of the paper fit together or how they support the paper's thesis. Lack of organization on the small scale is also present here, including poor paragraphing.
Writing Style and Polish	The writing is clear, concise, rhetorically effective, and meticulously proofread. For this category, technical accuracy is necessary but not sufficient: the writing also must be fluid and sophisticated. When effectively executed, examples of fluid and sophisticated writing include topic sentences, transitions, subject-verb agreement, and simplicity and brevity in sentence structure and word choice.	The writing contains few, if any, errors in style or mechanics; these errors do not detract from the overall substantive strength of the paper. Despite technical accuracy, the writing lacks some fluidity or sophistication (e.g., overuse of the passive voice, mismatching in subject-verb pairs, nominalizations, unnecessary wordiness, etc.).	The writing suffers from clarity or precision issues; substance is sometimes confused or obscured as a result. A more rigorous edit would have eliminated technical errors and mistakes. Use of colloquial or idiomatic speech is excessive. At the low end of this category, the writing shows a distinct lack of care in proofreading and editing. There may be signs of a need to work on the rules of standard written English.
Incorporation of Feedback	The paper accurately and appropriately incorporates feedback, including in response to specific comments from reviewers and applying specific comments on a global scale. Sophisticated interpretation and application of feedback is evident throughout the paper, resulting in a significantly improved draft. The improvements are attributable to the author's interpretation and application of the feedback rather than merely the result of accepting specific suggested changes.	The paper accurately and appropriately incorporates feedback, but does so by merely accepting specific changes or strengthening identified weak areas. The paper does not reflect a global application of feedback, leaving the reader to deal with inconsistencies and confusion—the inconsistencies and confusion stand out because the author demonstrated the ability to avoid these problems in other parts of the paper, but failed to similarly do so in others.	The paper rejects most or all feedback with no legitimate basis (e.g., the student did not communicate disagreement with the reviewer, but instead, just ignored the feedback).
Publishability	The paper contributes to the scholarly discussion in a way that suggests it is publishable with little revision. The paper appears complete and professional, with no obvious indication it is a student paper. The topic and thesis are timely, also suggesting likely publication; sources are appropriately and accurately cited. The style and voice are appropriate for a scholarly publication read by practitioners or scholars. A paper that meets this category is not guaranteed to be published, as all publishing decisions are the sole responsibility of the journal editors.	The paper does not advance the scholarly literature on the topic or does not advance it enough to garner publication. The paper does more than merely restate the literature, but fails to provide something useful to the audience. Despite these shortfalls, the thesis is novel and defensible. And with revision to answer these shortfalls, the paper could be strengthened to become publishable.	The topic is overwritten already and the utility of another article on the topic is likely low. A paper may also fall into this category if it provides too narrow a view, giving rise to many unanswered counterarguments that would make a reader question the placement of the article in a scholarly journal. The paper may also fail in other areas so much so as to prevent publication (e.g., writing style is ineffective and confuses the reader). A paper that falls into this category may still be worthy of academic credit.