

SUGGESTIONS AND CRITERIA FOR TERM PAPERS

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The following suggestions and criteria apply to seminar papers and independent study papers:

- The length of the paper is not a specific criterion; however, it would be surprising if an intelligent three-credit paper on a challenging topic could be written in less than twenty-five pages. I am more interested in the quality than the length, and would rather read a shorter, well-written paper than plough through pages and pages of unnecessary "filler."
- Grading will be on both analysis and writing craft. The following are suggestions on both areas:

ANALYSIS

1. Conceptualization of the Problem - I distinguish between reports of information gathered from other sources and papers that go on to make some use of that information. Most papers start with a report of some sort, but I would like you to go beyond the reporting stage. Reports trace the law dealing with a topic, the background of that law, and what published sources or other people say about that law or the underlying problem. Reports reveal raw data and what others think about a subject. Needless to say, it is important that the report be accurate and comprehensive. A MERE REPORT, NO MATTER HOW WELL WRITTEN, WILL NOT RECEIVE A GRADE HIGHER THAN C+.

Most papers that go beyond a mere report use one or more of the following techniques:

Synthesis - the author ties together two or more areas of life or law; for example, tying together contract principles with marriage dissolution. The more novel the juxtaposition of topics, the more original and creative is the synthesis. A very good synthesis reflects deep analysis by, for example, articulating subtle connections among apparently unrelated areas or in using the connections to illuminate difficult conceptual problems.

Application -the author applies an approach, such as an area of law, to a new problem. Applications can be simplistic or sophisticated, depending on the difficulty of the approach, the problem to which it is applied, or the sophistication of the application, etc.

Creative Analysis - the author often starts out by reporting on the thoughts of others, synthesizing different areas of study, or applying a relatively clear approach to a new problem; but then goes further (e.g., identifying logical or applied holes in the approach or analysis of others, or suggesting completely new analyses or solutions to problems).

2. Suggestions

- a. Have a thesis (a point that the paper is meant to develop or prove); dedicate the rest of the paper to proving the thesis logically.
- b. Assume that you must educate a reader who knows nothing about your topic. Assume that you must convince a hostile or skeptical reader; this means that you should be sure to identify and fill holes in your logic, and deal with arguments on the other side of the issue.
- c. Choose your sources intelligently. Go beyond commercial outlines, hornbooks, law dictionaries, and law review articles. Whenever possible, do original research in cases, statutes, and legislative history. Consider unorthodox sources such as non-legal books, periodicals, and personal interviews.
- d. Treat your sources critically. Adopt a skeptical attitude toward them. Make the writer educate and convince you. What are the holes in the writer's logic or facts? (Your criticism can then be included as appropriate in the development of your own analysis.)

CRAFT

1. Style - follow a "law review" style rather than a "brief" style. In particular, I think we both will find it less distracting if all of your cites are in footnotes (at the bottom of the page) rather than in the body of the paper.
2. Clarity of Writing - Even thoughtful analysis will be hampered by sloppy, unclear writing. Writing is a lawyer's main tool, and thus, should be honed. While a well-written report cannot rise higher than a C+, a poorly written "analysis" can surely sink at least that low. Remember that good legal writing is no different than good writing of any kind. You can learn good writing by reading good writers. By implementing the following, you can avoid the problems that tend to crop up in seminar papers:
 - a. Be "reader friendly" - Part of a writer's job is to lead the reader clearly from point to point in the analysis; telling the reader where the discussion has been, where it is going, how it is getting there, and why. I do not think that it is possible to be too simplistic and careful here,

especially when dealing with difficult analysis. Some basic tools that a writer can use to accomplish this task are: 1) a skillful introduction, 2) clear and careful organization, and 3) transitional words, sentences, and paragraphs.¹

- b. Avoid having confusing, ambiguous, or awkward sentences by following these general rules:
- 1) Avoid gerunds (sometimes referred to as nominalizations, i.e., verbs that have been changed to nouns), use the verb instead.

Example:

Change is often met by resistance from parents.

(Gerund)

Parents often resist change. (Verb)

- 2) Keep subject and verb together, i.e., do not let one or more clauses separate them. It upsets the flow of the sentence making it difficult to read and understand.
- 3) Keep the verb and its object (or any part of speech and its modifier) reasonably close together.
- 4) Use the active voice to make a strong, direct statement. It brings the reader's attention to the action taking place in the sentence, as well as making the sentence uncomplicated and easy to read.

Example:

It has been decided that your application for law school will not be considered at this time (Passive)

Lewis & Clark has decided not to consider your application for law school. (Active)

Passive voice is indirect and downplays the action of a sentence. It is used only if the writer has a specific reason to do so.

Examples of when you may want to use passive voice:

¹Transitional devices are needed wherever changes in ideas occur. They can be words or phrases if the changes are relatively obvious, sentences if they are more substantial, and paragraphs if they are really major.

- ▶ You are a criminal defense attorney representing a murder suspect. You would say “the witness alleges that the victim was murdered by someone resembling my client” rather than, “the witness alleges that my client murdered the victim.”
 - ▶ The “doer” of the action is unknown; e.g., *The pie that I just baked this morning was eaten*, or *This type of pottery was made around the 18th century*.
 - ▶ It is more important to emphasize the “receiver” than the “doer” of the action; e.g., *The vote on the Equal Rights Amendment was not taken until midnight*.
- 5) Avoid sentences with an “invisible” actor.

Example:

Problems were created. (Invisible actor)

Janet created problems. (Relevant actor)

- 6) Use two or three sentences to make a sentence clearer.
- 7) Make sure your pronouns (it, he, she, they, etc.) refer to something obvious. If they do not, use the proper noun rather than a pronoun.

Example:

Anne, Robin, and Tiffany are my best friends. Sometimes, however, she is a pain. (Not obvious pronoun)

Sometimes, however, Robin is a pain. (Proper noun)²

- c. Organize the paper as a whole as well as individual sections or paragraphs. Inevitably, poor papers are poorly organized. This is the most common problem. Following are some suggestions for a well organized paper:

- 1) Divide the paper into sections using headings and subheadings, i.e., an outline format.
- 2) Start with an introduction. Your introduction should be an

²For a more in-depth discussion of these and other issues, refer to Herman, The Portable English Handbook or English Revisited, on sale in the bookstore.

overview, or road-map of the paper – a brief summary that will guide the reader. In general, any important information in the introduction should also be contained in the body of the paper. It should have at least three parts:

- ▶ a statement of the author's purpose, main point, or focus;
- ▶ a statement of the different sections of the paper and relationships between them, i.e., the organizing principle or procedures by which the subject will be addressed. (The simplest format is to say that Section One will discuss _____, then in a sentence or two explain why that discussion will take place);
- ▶ a statement of the author's major conclusions, findings, or thesis.

Substantial background information is better dealt with in the first substantive section of the paper rather than in the introduction. If you are still unclear as to the proper format of an introduction, look at a couple good law review articles.

- 3) Follow the introduction with the "report" section (or sections).
 - 4) Follow the report with the more analytical sections. Each section (except, maybe, the "report" section) should have its own theme or "thesis," developing and supporting the main thesis of the paper—in content and in order of presentation. These are the logical steps in the argument that "proves" the paper's thesis. Each section should logically flow from the preceding section and lead into the succeeding section.
 - 5) Make sure each paragraph within a section has a theme that is a logical step in developing the point of the section.
 - 6) End with a brief conclusion that simply summarizes the information that has been given in the body of the paper.
- d. Avoid long quotes in the body of the paper unless it is so dramatic and on point that it just has to be included. Generally, if you think that a long quote is especially important, summarize it in the text and reprint in the accompanying footnote. Shorter quotes are okay; however, be careful not to overuse them.
- e. Check your grammar, punctuation, and spelling. If you are unsure in

these areas, use the available books for help.³

3. Citation

- a. Form - Please cite according to the rules in the UNIFORM SYSTEM OF CITATION ("The Blue Book"). I will check your cites for style as well as content. Common errors include: introductory signals (Rule 2.2), short citation forms (Rule 4), and capitalization (Rule 8).
- b. Substantive - a crucial part of your paper is documentation, i.e., citations to relevant authority, additional explanations of matters that are not central (but related) to the textual material, definitions of certain terms, etc. If your paper lacks sufficient documentation, it demonstrates a lack of research.

In addition, too many students run into problems with plagiarism because they fail to adequately give credit for information contained in their papers. A number of students have been cited for an honor code violation, given an F on their paper, and/or academically dismissed due to plagiarism.

Plagiarism occurs when a direct quote is not placed in quotation marks and/or the author of the quote is not cited; or, when ideas of another are used without the source of the idea being cited. The use of stolen ideas is the most common form of plagiarism.

To avoid plagiarism, keep track of all sources used. A good rule of thumb is, when in doubt, cite to a source. It is better to over-cite than to under-cite. To avoid having to go back and look up cites, write down relevant information concerning the sources while you are taking notes.

³Again, refer to Herman, The Portable English Handbook or English Revisited.

