



## CHECKLIST FOR THE FIRST-YEAR WRITING PROCESS<sup>1</sup>

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- I. **Getting Started**
  - a. **Take note of the controlling jurisdiction for your problem**
  - b. **Develop your understanding of the legal framework**
    - consulting secondary sources can give you background information on the legal subject area that will help you develop your research plan
  - c. **Create a research strategy**
    - making a list of potentially relevant keyword searches before starting on Westlaw or Lexis can help keep your research on track
    - note any jurisdictions outside your own in which it may be helpful to search
    - if the problem involves a statute, think about whether legislative history and regulations would be helpful, or if the problem calls for a more straightforward look at how the statute has been applied by courts
  - d. **Break down the project into separate and manageable parts**
    - just like a research strategy, it is important to have a strategy for completion
    - set a schedule and stick to it (for more on this, see “Just Do It: Tips for Avoiding Procrastination”)
  - e. **Be aware of the purpose of your assignment, the intended audience, the scope of the legal question, and the type of stance you are taking**
- II. **Researching**
  - a. **Don’t abandon your strategy**
    - begin by searching for the keyword phrases you brainstormed above; while you may deviate from that list based on the usefulness of the law you find, make it a conscious choice, and resist the urge to chase down tangential legal issues that are either irrelevant or are wholly outside of a helpful jurisdiction
  - b. **Take and organize your notes carefully**
    - develop a system for recording the information you find and the case (with citation) it came from; suggested strategies include using tabs to

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flag issues in cases, labeling the tops of case print-outs, making charts with descriptions of cases, and color coding various parts of the cases

- keep track of the searches you have done to maximize your efficiency (Westlaw's Research Trail tool may be helpful in that regard)
  - also make note of why you choose not to use certain cases along the way; this will avoid unnecessary re-reading of cases along the way
  - pay attention to issues being addressed in the cases you find; adjust your strategy if you are not finding information on a particular element, etc.
- c. If you have questions, ask a librarian**
- the Law Center's librarians can help you come up with research strategies, develop relevant searches, and help you use Westlaw and Lexis
- d. Update your case research with Shepardize or KeyCite**
- pay attention to indications that a case has been distinguished, applied in other cases, or overruled

### III. Organizing

#### a. Outline

- use the organizational method that makes sense to you; for instance, using a traditional outline format or separating your research into paragraphs
- outline based on the required components of your assignment and the relevant aspects of the law
- within those broad sections, outline the different issues and sub-issues that will need to be addressed

#### b. Plug your research into the outline

- decide which cases will be the most effective based on law, similarity of facts, and level of persuasiveness
- keep in mind that the cases you do not use in the main discussion may still be appropriate for string cites and parentheticals

#### c. Review your organization for strategy and effectiveness

- decide whether the order of the information is the most effective
- for a memo, the organization may be most effective when simply put in the order of the tests that courts have set out or based on statutory factors
- for a brief, the organization itself may be a means of advocacy; for example, the order of the points you want to emphasize and your strongest arguments can be significant

### IV. Writing

#### a. Just write

- when working on your first draft, don't worry about proper citations, grammatical errors, and other more technical details (though you should remember to keep track of sources for the information you are using)

- CAUTION: this point applies to the drafts you produce during the writing process, not a draft that you turn into a Law Fellow or practicing attorney
  - because your written product will change throughout the writing process, saving those stylistic and polishing aspects until the content is finalized will save you time overall
- b. Remember to maintain an internal structure**
- in addition to the large-scale organization of your writing, the internal organization of each paragraph is also important
  - regardless of the model of legal writing you have been taught, your focus should be on having some kind of topic sentence, a rule statement, legal reasoning, any relevant counterarguments, and a conclusion

## V. Revising

### a. Be systematic

- focus on the large scale organization with regard to your legal analysis before moving onto smaller-scale items like sentence structure
- for some people, it is easiest to start with the section that needs the most work; for others, it is better to build up to those problem areas
- regardless of which is better for you, be systematic

### b. Try to read your writing as someone coming to the law for the first time

- check for whether the legal standards and your conclusions are clearly stated or if the reader is forced to make certain logical connections that are not spelled out (because you want the reader on your side, the latter is undesirable)

### c. Check your topic sentences

- make a reader-based outline based on your topic sentences
- check to see if that outline both mirrors what you created during the organization phase and whether it could serve as a valid guide for your reader as to the overall structure of your written product
- if the topic sentences do not reflect your intended organization, reexamine whether you need better topic sentences or whether your internal structure has shifted

### d. Check for consistency

- changes in one section affect others parts of your written product
- be sure any changes in the analysis are mirrored throughout your writing

## VI. Polishing

### a. Check cites according to the Bluebook

### b. Read carefully for typos missed by spellcheck, for missing words, etc.

- to distance yourself from the content and check only for mistakes in format and typos, it may be helpful to read the document backwards or aloud, or use a ruler to focus yourself on the text