

TALKING TO STUDENTS ABOUT THE DIFFERENCES BETWEEN UNDERGRADUATE WRITING AND LEGAL WRITING

BY ANNE ENQUIST

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Writers' Toolbox ... is a regular feature of Perspectives. In each issue, Professor Enquist offers suggestions on how to teach specific writing skills, either in writing conferences or in class. Her articles share tools and techniques used by writing specialists working with diverse audiences, such as J.D. students, ESL students, and practitioners. Readers are invited to contact Professor Enquist at ame@seattleu.edu.

Dear new law students,

When a person embarks on a new challenge such as law school, it is often a good idea to ask those who have gone before you what it is that they know now that they wish someone had told them then. At the risk of depriving you of discovering this for yourself the hard way, I thought I'd share a few observations about the similarities and differences between undergraduate writing and the writing you'll do for your legal writing classes.

If you are a typical law student, you probably wrote numerous papers as an undergraduate. Consequently, you will be inclined—consciously and subconsciously—to draw on the experiences you had with these undergrad papers when you are writing “papers” in law school. After all, you must have been a successful undergraduate student if you are now a law student, so it makes perfect sense to apply what worked before to the writing assignments you have now, right?

Yes and no. Yes, there are things that you learned about undergraduate writing assignments that will carry over into law school writing assignments, things like planning, time management, outlining, revising, editing, and proofreading. But there are also things that are quite different, and I don't just mean citation form. First and most important is the difference in the writer-reader relationship. Undergraduate writing has an unusual, even artificial, writer-reader relationship: The writer is usually the novice in the subject matter, and the reader is the expert. The student learning the subject is writing for the professor who has advanced degrees in the subject. This relationship is, of course, backwards. The normal writer-reader relationship is just the opposite: The writer is the expert writing for a less informed reader. In fact, the reason why the writer is writing is that he or she knows more about the topic than the reader, and the reason why the reader is reading is that he or she wants the information the writer has to share.

Now think for a minute about how the artificial undergraduate writer-reader relationship changes a number of things. The undergrad writer is writing not to really inform or explain; instead, he or she is writing to fulfill a requirement, to impress the professor reader, and to get a good grade. And how do you get the good grade? Not by making the typical points that the professor has already read in hundreds of other student papers. You got the “A” by making the “creative” point, by offering up the unusual insight, maybe even something that professor had not already thought about or read about. The unwritten rule that most successful undergrad writers have absorbed is that the secret to getting good grades on papers is to dress up your ideas; make them seem more sophisticated than they really are. In short, make simple things seem complex.

Second, how about your research? Undergrad writers are rewarded for doing extensive research, so naturally they want to make sure that their professor knows just how much work they did. The natural tendency then is to cite to every conceivable thing they found, no matter how tenuous the relationship is to the topic. Real-world

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writing also rewards comprehensive research,¹ but in the real world readers don't want to know everything the writer learned while researching. Real-world readers expect writers to be more selective, to synthesize the relevant material, and to avoid taking them down every blind alley they stumbled upon on the way to determining what matters and what doesn't.

And don't forget that because the undergrad writer is a novice in the field being written about, he or she is also very likely to quote extensively in order to be sure to get the information right. The tendency toward over-quoting seems directly related to the extent of the writer's lack of confidence about the subject matter. Over-quoting during one's undergrad days had the double benefit of bringing lots of expertise that the writer doesn't have into the writing all while adding length!

Which brings us to my third point: how about length? It is no secret that many undergrad writers pad their writing to meet the length requirements of assignments. Some undergrad professors have been known to reward students who write very long papers. At times it may even seem like undergrad writers are getting "paid" by the word. The longer the paper, the more likely it is to garner a high grade. In real-world writing, things don't usually work that way. If the writer becomes wordy or fails to get to the point, the reader is likely to become impatient and annoyed; he or she may even stop reading. Legal writing adopts the real-world writing point of view about length, which is "I'm busy. Tell me what I need to know and then stop writing."

In short, while undergrad writing strategies made perfect sense given the writer-reader relationship and the overall undergrad writing situation, writing in law school is likely to be different. Although the writing still occurs in a school situation, the professor will probably be role-playing the real-world reader—either a

supervising attorney, a judge, a client, or opposing counsel. Consequently, your legal writing assignments will require you to write for this simulated reader and not for the legal writing professor. Admittedly, the assignments will still be academic exercises and you as the writer will be the novice and the legal writing professor will be the expert. The difference, of course, is that the legal writing professor will be reading and evaluating your writing from the perspective of the real-world reader. Put another way, while the unspoken goal of undergrad writing may have been to make simple things seem complex, the goal in most legal writing is to make complex things seem simple.

Does this mean that your undergraduate education did you a serious disservice and ill-prepared you for law school and the practice of law? Not at all. It just was a different writing situation, and the quicker you grasp the salient differences, the less frustration you'll have about one of the most important and most challenging things you learn in law school: to be an effective legal writer.

Good luck and have a great year.

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¹ Although sometimes the time constraints and limited resources mean that you have to curb your impulse to research a topic to death.