

PREFACE TO THE EIGHTH EDITION

Like prior editions, the Eighth Edition of *Legal Writing* adopts a process-based approach, not a document-based approach. Learning to write using a document-based approach is like learning to cook by reading a description of the finished dish: how it looks, how it tastes, how it smells. The description of the finished dish is important because the cook needs to understand her goal. But the description of the dish doesn't tell her what she needs to *do* to get there.

Learning to write using a process-based approach is like learning to cook that same dish by reading the recipe. The recipe takes the cook through the stages of preparation ("chop the carrots into quarter-inch slices; sauté the onions in one tablespoon of olive oil"). In those early stages, the elements of the dish don't look, taste, or smell the way they will when the cooking process is completed ("cook over low heat, stirring constantly until thickened; then pour into the chicken stock mixture and simmer for one hour"). But those intermediate stages are critical to achieving the end result.

Like a recipe, this book consciously tracks the stages in the writing process. Concepts are introduced at the points where they become relevant to a writer's process of creating and communicating content. In this new edition, the rule structure is still the starting point. Earlier expansions in the treatment of analogical reasoning and narrative are maintained, but the material is significantly streamlined to meet the needs of modern students. A streamlined approach also preserves the primary pedagogical role of the professor and the student's actual writing assignment. After all, a student can't learn too much by reading about how to write. The real action happens in the writing itself. This book aims to convey the crucial information without adding unnecessary distraction or reading time.

Other changes improve the book's substance. To explain the challenge of adjusting to the uncertainty of the law, the Introduction now includes information about learning as a complex, multistep process. Specifically, the Introduction incorporates Bloom's Taxonomy, a framework created to categorize education goals. In the discussion of authority, this edition now includes all three categories of sovereign entities in the United States with the power to make and enforce laws: the federal government, the states, and Native American tribes.

Chapter 11 has been updated to include information about e-memos, as currently a lawyer's primary way of communicating legal analysis is via e-mail. Because of the prevalence of e-mail communication, some additional material on professional e-mails is included.

The citation chapter has been updated to reflect the changes in the Seventh Edition of the *ALWD Guide to Legal Citation* and the Twenty-First Edition of *The Bluebook*. Chapter 15 on revising now includes a discussion of the proper use of "they" as a singular pronoun. Chapter 16 now addresses texting as another mode of communication that lawyers use.

The section on brief writing has been enhanced and restructured. Material has been added about electronic filing and certificates of compliance. To parallel the organization of Part I on writing an office memo, Stage 3 now includes Chapter 22, "Organizing for Your Reader: The Argument Section," and Chapter 23, "Completing the Draft of the Brief." Revision and oral argument are covered in Chapters 24 and 25, with a brief discussion of virtual oral arguments in the wake of the COVID-19 pandemic included in Chapter 25.

Appendices: The sample documents are designed, of course, for critique, not for mimicry. The samples in this edition are:

- *Appendix A:* An office memo applying a three-element conjunctive rule and using rule-based reasoning, analogies, policy, and factual inferences.
- *Appendix B:* An office memo applying a rule with factors and making significant use of factual analogies.
- *Appendix C:* Sample e-memo.
- *Appendix D:* Sample correspondence.
- *Appendix E:* A trial-level brief applying a procedural rule (setting aside a default judgment) that incorporates the substantive rule. A subpart of the analysis uses a set of factors.
- *Appendix F:* An appellate brief addressing a pure question of law setting out two alternative arguments.
- *Appendix G:* An appellate brief making extensive use of statutory construction tools, including the definition of terms used in the rule and arguments based on applicable policy rationales.

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