

## PREFACE TO THE NINTH EDITION

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Like prior editions, the Ninth 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. In light of technological advances, some say that we are currently in one of the most transformative periods in the history of legal practice. Accordingly, the Introduction now includes information about generative artificial intelligence. Specifically, the Introduction discusses why it is important to master legal writing and analysis when artificial intelligence can now draft contracts, summarize cases, and generate legal memoranda in seconds. The Introduction notes that throughout these changes, the core of legal practice remains constant: the application of analytical thinking, ethical judgment, and effective communication to solve human problems. While the tools and contexts may evolve, these fundamental

skills remain essential. In the discussion of Bloom's Taxonomy, this edition addresses the increased importance of the higher-level thinking skills as artificial intelligence assumes responsibility for more routine tasks.

Chapters 11 and 17 have been updated to include a discussion of ethical responsibilities in the context of the use of artificial intelligence in practice. In addition, the citation chapter has been updated to reflect the changes in the Eighth Edition of the *ALWD Guide to Legal Citation* and the Twenty-Second Edition of *The Bluebook*. The section on brief writing now introduces ethos, pathos, and logos as the tools lawyers use to persuade judges.

In light of the pandemic-era shift to remote proceedings that is here to stay, Chapter 25 now provides a more in-depth discussion of using virtual conferencing technology for court proceedings.

**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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