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## From Product to Process: Evolution of a Legal Writing Program

Diane Edelman

Jo Ann Durako

Kathryn Stanchi

Brett Armdur

Lorray Brown

*See next page for additional authors*

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**Authors**

Diane Edelman, Jo Ann Durako, Kathryn Stanchi, Brett Armdur, Lorry Brown, and Rebecca Connelly

FROM PRODUCT TO PROCESS: EVOLUTION OF A LEGAL  
WRITING PROGRAM\*

Jo Anne Durako\*\*  
Kathryn M. Stanchi\*\*\*  
Diane Penneys Edelman\*\*\*\*  
Brett M. Amdur\*\*\*\*\*  
Lorray S.C. Brown\*\*\*\*\*  
Rebecca L. Connelly\*\*\*\*\*

The past decade has seen an evolution in the dominant theory of teaching legal writing. First-year programs have traditionally followed a product-oriented approach to teaching this essential skill with an emphasis on the student's finished written product.<sup>1</sup> Legal writing instruction

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\*\* Visiting Instructor of Legal Writing, Villanova University School of Law, 1993 to present; J.D. B.A., University of Florida; Ed.M., Harvard University.

\*\*\* Visiting Assistant Professor of Law, Temple University School of Law; Visiting Instructor of Legal Writing, Villanova University School of Law, 1993-1996; J.D., Boston University; B.A., University of Pennsylvania.

\*\*\*\* Visiting Instructor of Legal Writing, Villanova University School of Law, 1993 to present; J.D., Brooklyn Law School; B.A., Princeton University.

\*\*\*\*\* Visiting Instructor of Legal Writing, Villanova University School of Law, 1993 to present; J.D., University of Pittsburgh; B.A., American University.

\*\*\*\*\* Clinical Assistant Professor, University of Michigan School of Law; Visiting Instructor of Legal Writing, Villanova University School of Law, 1994-1996; J.D., University of Pittsburgh; B.A. University of Pennsylvania.

\*\*\*\*\* Visiting Instructor of Legal Writing, Villanova University School of Law, 1992-1995; J.D., University of Pittsburgh; B.A., West Virginia University.

1. See Teresa Godwin Phelps, *The New Legal Rhetoric*, 40 Sw. L.J. 1089, 1093 (1986); J. Christopher Rideout & Jill J. Ramsfield, *Legal Writing: A Revised View*, 69 WASH. L. REV. 35, 49-50 (1994). Although the pedagogy of writing as a process has emerged in legal writing in the last decade, teachers of English composition introduced this pedagogy much earlier. See Phelps, *supra*, at 1095. In 1977, one of those composition theorists, Mina Shaughnessy, discussed the stages of the

based entirely on the product approach, however, has proven problematic for professors and students.<sup>2</sup> The shortcomings of this limited approach have spurred both writing theorists and writing teachers to search for a new theory for teaching legal writing.<sup>3</sup>

The process approach to writing has emerged as the next link in the evolutionary chain of legal writing theory.<sup>4</sup> With increasing resources devoted to writing programs at law schools throughout the country,<sup>5</sup> this more labor-intensive and time-consuming process approach has gained popularity. The approach has been most readily accepted by those who have concluded that the traditional product approach to legal writing has failed to produce good legal writers.<sup>6</sup> Nevertheless, many legal writing professors remain under-informed about the process approach and how to implement it in the classroom.<sup>7</sup>

writing process, which included: "1. Getting the thought . . . 2. Getting the thought down . . . [and] 3. Readyng the written statement for other eyes . . . ." See MINA SHAUGHNESSY, *ERRORS & EXPECTATIONS* 81-82 (1977). Drawing upon other teachers of writing, such as Janet Emig, Kenneth Bruffee, and Betty Rizzo, Shaughnessy set out several models for teaching writing so that by the time the student leaves the class, she should have the understanding she needs to become a "self-sufficient proofreader." Some of those models included small-group teaching, collaborative learning, peer teaching, and read-aloud exercises. See *id.* at 39, 83, 154; see also ERIKA LINDEMANN, *A RHETORIC FOR WRITING TEACHERS* 11-34 (3d ed. 1995).

2. See *infra* notes 9-14 and accompanying text.

3. See Phelps, *supra* note 1, at 1094; see also Elizabeth Fajans & Mary R. Falk, *Against the Tyranny of Paraphrase: Talking Back to Texts*, 78 CORNELL L. REV. 163, 174 (1993).

4. See Phelps, *supra* note 1, at 1094; see also Fajans & Falk, *supra* note 3, at 174.

5. See, e.g., Ted Gest, *Combating Legalese: Law Schools Are Finally Learning That Good English Makes Good Sense*, U.S. NEWS & WORLD REP., Mar. 20, 1995, at 78-82 (noting that American law schools are adding both required and elective writing courses to their curricula).

6. See, e.g., Fajans & Falk, *supra* note 3, at 174. In addition to scholarly critique, lawyers and judges have become vocal critics of the writing skills of law school graduates. See, e.g., Roger J. Miner, *Confronting the Communication Crisis in the Legal Profession*, 34 N.Y.L. SCH. L. REV. 1, 9 (1989) (noting poor quality of briefs that judges receive), cited in Rideout & Ramsfield, *supra* note 1, at 38 n.9; see also SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, AMERICAN BAR ASS'N, *LEGAL EDUCATION & PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM* 172-76 (1992) [hereinafter *MACCRATE REPORT*] (prescribing the scope of communication skills "essential to competent legal practice").

In addition, the House of Delegates of the American Bar Association has recently recodified certain standards relating to legal writing, including provisions which require law schools to "provide an educational program that ensures that [their] graduates . . . receive basic education through a curriculum that develops . . . skills of legal analysis, reasoning, and problem solving; oral and written communication; legal research; and other fundamental skills necessary to participate effectively in the legal profession . . ." SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, AMERICAN BAR ASS'N, *REPORT TO THE HOUSE OF DELEGATES*, pmbl., at 1 (1996) (emphasis added); see also *id.* Standard 302(a), at 15.

7. See Rideout & Ramsfield, *supra* note 1, at 56.

In an attempt to contribute to the collective knowledge on implementing process views of writing, this article describes how the six full-time faculty members of the first-year Legal Writing program at Villanova University School of Law integrated a comprehensive process approach in a traditional writing program.<sup>8</sup> We describe the inspiration for our innovations, the structure of our traditional product-oriented program, and the techniques we chose to implement the process-oriented program. We also describe the results of an extensive student evaluation and our own assessment of the educational value of our innovations. We conclude that our innovations were successful and that other legal writing programs may benefit from using similar techniques to facilitate the evolution of their programs.

### I. BACKGROUND: PRODUCT VS. PROCESS

The product and process approaches to teaching writing differ in several respects. For example, these approaches have different goals for teaching writing and are based on fundamentally different philosophies about how and why to teach writing. Not surprisingly, they also use different techniques and envision different roles for professor and student.

The traditional product approach focuses on what to write and the rules for writing, with the professor's primary input on evaluation of the final product.<sup>9</sup> Because of its emphasis on the professor's evaluation of the final product, the product model is professor-centered. This approach is problematic for students because it encourages them to imitate various writing styles, including those used in judicial opinions.<sup>10</sup> As a result, while some students may succeed by mimicking clear writing styles, others too often generate documents replete with run-on sentences, multisyllabic words, obscure Latin phrases, and jargon that they may not even understand.<sup>11</sup> In addition, the traditional approach too often isolates writing skills from substantive thought by treating writing as separate from thinking and analyzing law.<sup>12</sup>

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8. Prior to the 1994-95 academic year, Villanova's Legal Writing program incorporated some of the basic tenets of a process-oriented approach, such as encouraging preparation of drafts and outlines of student memoranda and briefs. We gratefully acknowledge these ideas of our predecessors, which grew into several of the teaching innovations described in this article.

9. See Rideout & Ramsfield, *supra* note 1, at 42 ("Focused on the product, [writing-is-writing proponents] believe that a final draft is sufficient to measure a student's ability and that this ability is best measured in final exams and papers.").

10. See Phelps, *supra* note 1, at 1102.

11. See Rideout & Ramsfield, *supra* note 1, at 40.

12. See Philip C. Kissam, *Thinking (By Writing) About Legal Writing*, 40 VAND. L. REV. 135,

The product approach also presents difficulties for the professor, because it encourages the belief that the final product is the appropriate measurement of a student's ability.<sup>13</sup> Programs using law students and adjunct instructors, by necessity, have focused their limited time and attention on improving the quality of their students' final output. This proves to be an unwise "quick fix," however, because even students who master the "product" during the first year of law school will be ill-equipped to handle the varied and exponentially more complex writing challenges that lawyering inevitably demands of them.<sup>14</sup>

The process approach has emerged in an effort to integrate writing skills with the same legal reasoning that attends the learning of substantive legal concepts. Through this integration, instruction shifts from emphasizing the product to focusing on "the processes by means of which the [student] produces the [product]."<sup>15</sup> Ultimately, students are taught to look behind the product and develop an understanding of how and why the product came into being.<sup>16</sup>

Essentially, the process approach changes the goal of teaching writing from perfecting the product to teaching life-long skills adaptable to new writing situations. The primary tenets of the process approach are: that writing is a recursive process that overlaps and intertwines prewriting, writing and revision activities; that writing is rhetorically based, focusing on audience, purpose and constraints; and that the written product is judged by how well it communicates the writer's message and meets the reader's needs.<sup>17</sup> As the name implies, this student-centered model di-

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138-41 (1987); see also SHAUGHNESSY, *supra* note 1, at 236 (traditional writing isolates thinking from writing).

13. See Rideout & Ramsfield, *supra* note 1, at 42; see also Phelps, *supra* note 1, at 1093 ("The stress on the modes of discourse results in a stress on the form of the writing. It neglects the role of the reader and the writer, seeing writing as form rather than as conversation.").

14. There are a number of reasons why the traditional approach has flourished in many law schools. These reasons have much to do with widely held, but incorrect, assumptions about writing as a pursuit. Many professors who teach substantive courses believe that legal writing should be second nature to any student who is reasonably well-versed in substantive areas. They also believe that a focus on legal writing beyond the minimal instruction traditionally provided too closely resembles trade school training. See Rideout & Ramsfield, *supra* note 1, at 47. Others who subscribe to the traditional approach assume that legal writing cannot be taught. They assume that writing is a talent that one has or does not have, and that no amount of instruction will significantly improve a student's ability. See *id.* at 43. Still others believe that students should have developed sufficient writing skills prior to law school enrollment. See *id.* at 41.

15. *Id.* at 51.

16. See Phelps, *supra* note 1, at 1095-96.

17. See *id.* at 1094; Fajans & Falk, *supra* note 3, at 173-79; see also JAMES L. KINNEAVY, A THEORY OF DISCOURSE 19 (1971). Kinneavy set out a framework for understanding the communication discourse. His theory examines the concept that writing should have a purpose and an audience.

vides writing into three steps: (1) prewriting, with its planning, researching, analyzing, and organizing functions; (2) writing preliminary drafts of the legal document; and (3) editing, revising, and polishing the drafts.<sup>18</sup> When we undertook to integrate innovations into Villanova's Legal Writing Program, we sought to incorporate these steps and achieve these goals.

## II. MOVING FROM PRODUCT TO PROCESS: THE INNOVATIONS IN VILLANOVA'S TRADITIONAL LEGAL WRITING PROGRAM

We first decided to incorporate process techniques into Villanova's Legal Writing Program during the 1994-95 academic year. Our decision was sparked by our introduction to process-oriented techniques at the 1994 Legal Writing Institute Conference in Chicago.<sup>19</sup> From presentations, panels, and workshops, we learned that, increasingly, legal writing programs were moving away from the traditional product-oriented approach to legal writing.<sup>20</sup> When we returned from the Legal Writing Institute Conference, we were determined to develop a comprehensive pedagogical approach to modify Villanova's Legal Writing curriculum by integrating the process method in our first-year course.<sup>21</sup>

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By using a communication triangle, Kinneavy explains the relationship between the writer (encoder), the message (signal), and the subject (reality). *See id.* at 19.

18. *See Phelps, supra* note 1, at 1095.

19. The Legal Writing Institute was founded in 1984 by the University of Puget Sound School of Law (now Seattle University School of Law). *See Learning from the Disciplines, A Conference for People Who Teach in or Administer Legal Writing Programs (July 18-20, 1996)* (unpublished pamphlet) (on file with authors). The purpose of the Institute is "to promote the exchange of information and ideas about legal writing and to provide a forum for research and scholarship about legal writing and analysis." *Id.* The Institute promotes these activities through conferences, a newsletter, *The Second Draft*, and a journal, *Legal Writing*. *See id.*

20. *See Rideout & Ramsfield, supra* note 1, at 50. Indeed, the first biennial conference of the Legal Writing Institute in 1984 marked the beginning of broad discussion of the process approach within the legal writing community. *See id.* at 53. Conferences continue to focus on teaching methodologies drawn from the process model. *See id.* at 53-54; Teresa Godwin Phelps, Presentation to the Legal Writing Institute Conference (July 20, 1996) [hereinafter Phelps Presentation].

21. We returned from the Legal Writing Institute Conference at the end of July with three weeks of preparation time before classes began. We had no additional time or other resources available to help with our experiment of adopting the process approach to writing. We believed, however, that our program was ripe for transformation. We were all legal writing professionals, with five of us having taught in the Villanova program during the prior year. This stability and shared experience, and the support of our program director, proved to be an important foundation for the success of our innovations to the program.

Frequent turnover among legal writing faculty and the resulting disruption prevent legal writing programs from evolving effectively. These conditions make innovation less likely when teachers do not have the chance to grow before they are turned away. Even if innovation is accomplished, frequent turnover makes it unlikely that experienced teachers will be able to pass their ideas along to

Our approach to innovation moved our program toward the process model while retaining the product techniques that our students valued and we believed beneficial. The first step we took was to select from among the many new techniques we discovered at the Conference. For our initial effort, we chose to experiment with additional in-class exercises, collaboration exercises, self-editing, self-evaluation and peer editing. Next, we determined how best to incorporate the new process-oriented techniques without unduly disrupting our traditional first-year framework. Our ultimate decision was to integrate these process techniques and to preserve the best product-oriented techniques that appeared to be working for both our students and our Conference colleagues—namely, sample documents, extensive written feedback, and professor-student conferences.<sup>22</sup> Thus, we developed a plan blending process innovations with updated product techniques to develop and reconstruct our legal writing program.

To achieve our goal of integrating the process model into Villanova's product-oriented legal writing program, we introduced several innovations and refined some of the traditional teaching methods used in the past for the research memorandum assignment, assigned early in the first semester. All of these changes shared concepts of process pedagogy that we believed would best teach students the importance of initial planning and analysis during the writing process and the value of rigorous and repeated self-critique. By explicitly identifying the three steps of the writing process, we expected students to internalize this approach to drafting all legal documents and to be able to replicate it in future writing situations.

We chose four process-model innovations<sup>23</sup> as the primary means of

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their novice colleagues. See Jill J. Ramsfield, *Legal Writing in the Twenty-First Century: The First Images*, 1 LEGAL WRITING 123, 129 (1991). Thus, the continuity of our faculty and our joint commitment to teaching legal writing were essential preconditions for the evolution of our program and the success of our experiment. These conditions were also essential to creating this article.

22. While we did not want to abandon our seemingly successful product-oriented techniques, we chose to integrate these techniques with innovations that were consistent with the process approach. In particular, we decided we would teach writing not as an exercise in mastering a series of discrete documents, but instead as a process of prewriting, writing, and editing so that students could transfer these skills from their preparation of one document to their preparation of another, both during and long after they completed our course. The students' mastery of various documents would still be essential, as would our feedback on their writing product; however, the students' ability to evaluate their own work would also become critical, as would their focus on the audience, purpose, and constraints for every document they drafted.

23. We also experimented with several other innovations, including an in-class exercise demonstrating to students that they can identify well-written memoranda; student collaboration on legal analysis during the pre-writing stage; explicit, process-based instructions to the research memoran-

incorporating this new approach in the research memorandum assignment:

- A memorandum editing checklist that provided self-guided questions and explicit evaluation criteria;
- A faculty-written sample memorandum for the first writing assignment with annotations to make explicit the process behind the writing;
- A self-evaluation form to help students internalize the editing process and learn from the process of completing the assignment; and
- A two-part peer editing assignment that required students to (1) evaluate draft memoranda of two peers using the memorandum editing checklist and (2) review peer comments on their own memoranda.

To reinforce the impact of our four new process-model innovations, we also transformed our traditional teaching methods to incorporate the process model of writing. Specifically, we modified three traditional product-oriented techniques of professor-student conferences, inter-linear comments on student papers and summary comments at the end of student papers.<sup>24</sup>

To give the best picture of how the integration of the process-oriented techniques worked, we first describe Villanova's traditional first semester legal writing program before discussing the four innovations. We describe the innovations and new twists on traditional teaching techniques that we incorporated into Villanova's program, and where they fit within the traditional model.

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dum assignment; and designation of a closed universe of relevant authority after students had completed researching an open memorandum assignment. See, e.g., Sylvia Robertshaw, Presentation to the Panel on Peer Feedback at the Legal Writing Institute Conference (July 29, 1994); see also SHAUGHNESSY, *supra* note 1.

We did not evaluate these additional techniques, in part because of the difficulty in having students isolate their effects. As a result, we have limited our discussion in this article to eight techniques we evaluated using a student survey. For a discussion of the techniques evaluated, see *infra* part III.

24. Because these methods involve professor editing of student writing, the goal of which is to have the student improve the end-product, they exemplify the product approach to legal writing. These methods are professor-centered in that they require professor editing and thinking, and the student simply incorporates the professor's comments with minimal interaction or active learning. Thus, these methods may encourage the professor to overlook the important step of student evaluation and thinking about the writing. Although the quality of the end product is important, and the conferences and evaluative comments are excellent methods of improving student writing, we believe that incorporating some process-based theory and techniques makes these methods even more effective. For examples of our new twists on traditional teaching techniques, see *infra* part II.C.

### A. Villanova's Traditional Program

Villanova follows a traditional legal writing program model shared by many law schools: students learn objective or predictive writing of legal memoranda during the first semester and persuasive writing of appellate briefs during the second semester in a two-credit, year-long writing course. The basis of our approach to teaching in both semesters was a product model that emphasized what to write and the rules of writing, in which our primary input was our evaluation of the final product.

The first writing assignment students receive is called the "writing project." This project requires students to write a short legal memorandum using a closed universe of materials provided by the professor.<sup>25</sup> The next, more challenging assignment, is called the "research memorandum" assignment. For this, students must research the law independently and write a somewhat longer ungraded "legal memorandum." After students turn in their first draft and receive extensive written comments, professors hold mandatory individual conferences, after which final drafts are due.

The final project of the fall semester is the "graded" memorandum assignment, a longer, more advanced research and writing project that typically involves a more complex legal issue, as well as statutory or constitutional analysis. The spring semester is devoted to completing an ungraded persuasive writing exercise, writing a graded appellate brief and presenting a graded oral argument to a panel of three judges.

### B. The Innovations to the Traditional Model

Figure 1

FIRST SEMESTER: TRADITIONAL MODEL	Writing Project Assigned	Writing Project Due	Research Memo Assigned		Research Memo Due	Required Student Conference	Conferences Continue and Re-Draft of Research Memo		Graded Memo Assigned			Graded Memo Due	
Week	1	2	3	4	5	6	7	8	9	10	11	12	13
FIRST SEMESTER: PROCESS MODEL WITH INNOVATIONS (innovations italicized)	Writing Project Assigned	Writing Project Due	Research Memo Assigned <i>Self Evaluation of Writing Project Due</i>	<i>Sample Memo and Editing Checklist Distributed</i>	Research Memo Due	<i>Self Evaluation of Research Memo Due</i>	Required Student Conference <i>Peer Edit of Research Memo Due</i>	Conferences Continue and Re-Draft of Research Memo	Graded Memo Assigned <i>Teaching Methods Survey Distributed</i>			Graded Memo Due	

25. To teach the students another aspect of the process approach to writing an entire memorandum, we assign the discussion section of the memorandum first, and then assign the students to write the issue, conclusion and facts sections. Generally, an attorney will write the discussion section first, then the other sections, as the attorney can focus better on the issue, conclusion and facts after writing the discussion section.

The innovations to the traditional model described below require effort and commitment from both professor and student. In this way, they exemplify the process model, which requires that students participate actively in learning, with detailed guidance and repeated intervention from their professors.<sup>26</sup> The interventions differ, however, in the degree of effort and commitment required from the participants. The editing checklist and annotated sample memorandum, for example, are professor-created and offer students quite detailed guidance. They are, however, more than examples that students may follow blindly; rather, they require students to reflect deeply about their applicability to different legal writing contexts. The self-evaluation and peer-editing exercises, in contrast, require not only that students think and extrapolate, but that students demonstrate the results of their thoughts in writings that will be evaluated by their professors. Thus, these innovations require the most student commitment. However, by showing students our commitment to the process approach, we hope to instill in them a sense of their commitment to perform their process-oriented tasks thoroughly.

### 1. *Memorandum Editing Checklist*

One week before the due date of the research memorandum,<sup>27</sup> we gave students a detailed memorandum editing checklist.<sup>28</sup> The editing checklist is a series of questions, in the sequence they might arise in ed-

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26. Psychological approaches to learning theory urge that intellectual development of a student depends upon a "systematic and contingent interaction" between teacher and student. See JEROME S. BRUNER, *TOWARD A THEORY OF INSTRUCTION* 6 (1966). Moreover, the sequence by which the student is introduced to new concepts is crucial to the student's learning process. See *id.* at 41, 49-50. We considered this issue of sequence while formulating our innovations and modifications to Villanova's program.

27. We chose the research memorandum as the target for our innovations for several reasons. First, students had practiced writing a legal document when completing the writing project, and thus had a basic understanding of, and experience with, writing a legal memorandum. Next, the research memorandum is the second, and final, practice memorandum before the graded memorandum assignment. It was the likely candidate for innovation because the students invested substantial time in the assignment, writing two drafts over a five- to six-week period and discussing the memorandum in an individual conference with the professor. In addition, we assigned it early enough in the year that our innovations would help students with future assignments. Moreover, there was sufficient time to incorporate the innovations without the pressure of a graded assignment. Since the process approach demands candid reflection of students on their writing, along with a plan that contemplates more than one draft of the final document, the structure of this assignment met those specifications.

28. See Appendix A. Our memorandum editing checklist is adapted from the checklist in HELENE S. SHAPO ET AL., *WRITING AND ANALYSIS IN THE LAW* 87-89 (3d ed. 1995). We also drew material from the checklist in NANCY L. SCHULTZ ET AL., *INTRODUCTION TO LEGAL WRITING AND ORAL ADVOCACY* 62-63, 106 (2d ed. 1993).

iting and revising a legal memorandum, that enable students to test whether they have followed the steps needed to write a high quality legal memorandum. In addition to reinforcing the importance of self-editing, the memorandum editing checklist helps students internalize the basic criteria of a high quality legal document. By providing a guide to the editing process, we expect students to spend time and effort on this essential third step of the writing process.

The checklist covers each part of a legal memorandum from issue statement through discussion section. The discussion section includes questions about macro- and micro-organization,<sup>29</sup> analysis, use of precedent and writing style. The questions are designed to reinforce the criteria taught in class and to guide the students through the editing process. The checklist includes questions such as "Did you begin [the Discussion] with a thesis paragraph of appropriate length for the length and complexity of the Discussion?" and "Have you explained and supported your conclusions with adequate reasoning?" We also included questions that guided students through Professor Richard K. Neumann's four-step "Proof of a Conclusion of Law."<sup>30</sup> The final question in the checklist, labeled the "Final Test," highlights the goal of a good legal memorandum by assessing its effectiveness in terms of audience and purpose: "Can a busy attorney who is unfamiliar with the facts and the law for your legal problem easily understand your memo?"<sup>31</sup>

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29. For a discussion of structuring legal documents on macro- and micro-levels, see SCHULTZ ET AL., *supra* note 28, at 97-106.

30. RICHARD K. NEUMANN, JR., *LEGAL REASONING AND LEGAL WRITING* 84 (2d ed. 1994). The four step paradigm is:

(i) statement of your conclusion; (ii) a statement of the rule that supports the conclusion; (iii) proof of the rule through citation to authority, through explanations of how the authority stands for the rule, through analyses of policy, and through counter-analyses; and (iv) application of the rule's elements to the facts with the aid of supporting authority, policy considerations, and counter-analyses. . . .

*Id.*

31. This Final Test mirrors the first paragraph students saw when reading the process-oriented instructions for the research memorandum assignment:

This assignment will test your research skills and your ability to review documents and extract relevant facts. Most importantly, it will test your ability to analyze a legal problem and write a concise and coherent memorandum of law that can easily be understood by another attorney who is not familiar with the facts or the law of this case.

The language of these instructions was adapted from unpublished materials submitted to the Legal Writing Institute Idea Bank at the 1994 Conference. Submission by Professor Grace Wigal of West Virginia University School of Law to the Idea Bank at the Legal Writing Institute Conference (July 30, 1994). Both the explicit goal statement and the Final Test emphasized to students the importance of determining the purpose, audience and constraints of the legal document before beginning to write and the importance of evaluating the success of that effort as part of the editing and revising

The purpose of the checklist is to give students clear, explicit, objective criteria of a good legal memorandum and a tool to use to satisfy those criteria. The checklist also teaches students how and why to rigorously critique their own writing.

## 2. *Annotated Sample Memorandum*

To reinforce the lessons of the editing checklist, we also gave students a sample memorandum annotated to show the practical application of the editing checklist criteria.<sup>32</sup> This memorandum is a professor-created model answer to the first assignment, the writing project, with annotations as marginal notes that indicate how the memorandum meets the criteria of the checklist.<sup>33</sup> The annotated memorandum not only provides students with a sample of good legal writing, but demonstrates the concrete application of the writing process introduced by the editing checklist.

The annotated memorandum labels almost every sentence, identifying, among other things, strong thesis sentences, components of the thesis paragraph, use of authority, and the components of the Neumann paradigm such as counter-analysis<sup>34</sup> and policy analysis.<sup>35</sup> While concepts such as thesis sentences and counter-analysis may previously have seemed abstract to students, the annotations demonstrate their concrete

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process.

32. See Appendix B. The idea for an annotated memorandum came, in part, from a panel presentation at the Legal Writing Institute Conference in Chicago in 1994. See, e.g., Kathryn Mercer, *Designing an Effective Closed Memorandum* (July 30, 1994) (unpublished material from the Panel on Designing Writing Assignments at the Legal Writing Institute 1994 Conference). Some legal writing texts also include annotated memoranda. See, e.g., SHAPO ET AL., *supra* note 28, at 367-70; NEUMANN, *supra* note 30, at 402-08.

33. In past years, we had given students a sample memorandum without annotations—merely an example of the type of writing product we expected. Consequently, in the next assignment, we invariably received too many memoranda slavishly copying the analytical and writing style of the sample memorandum. Although the sample gave students the benefit of an example of good legal writing, students seemed unable to translate the good example—the product—into a writing process that met the requirements of a new assignment. We hoped that by including analytic, structural and stylistic annotations in our new version of the model answer to the writing project, we would furnish the students with a process-oriented tool, reminding and demonstrating to them how a good legal writer always keeps process in mind when creating a product.

This is consistent with the principles discussed by writing theorist Erika Lindemann. See LINDEMANN, *supra* note 1, at 122-24. Lindemann explains that “in discussing any model, the focus should be primarily on how the writer solves problems.” *Id.* at 122 (emphasis removed). Further, “[t]he value of a model is what it can teach us about our own writing.” *Id.* at 123.

34. Professor Neumann defines “counter-analysis” as treatment of adverse authority. See NEUMANN, *supra* note 30, at 85.

35. See *id.*

application, making students better able to employ the concepts in future assignments. These annotations serve as a "bridge" between the product and process techniques.

### 3. *Self-Evaluation Form*

Our focus on self-editing and internalizing the criteria for good legal writing led us to our third innovation, the self-evaluation form, also known as the "private memo."<sup>36</sup> The self-evaluation form consists of a series of questions designed to encourage and guide student reflection on the assignment just completed. It also requires students to evaluate their papers' strengths and weaknesses and articulate what they learned from the assignment.<sup>37</sup>

The questions on the self-evaluation form include those reflections that should accompany the completion of any first draft. In addition to identifying the strengths and weaknesses of the paper, students are asked "What part of your paper would you spend more time on if you had it? Why?" and "The next time you have to write a similar assignment, what will you do differently? Why?"<sup>38</sup>

In addition to teaching students the process and importance of the self-critique and introspection that accompany good writing, the self-evaluation prompts students to think about what they learned from the assignment and what they have yet to master, and to communicate their insights to the professor. These insights also help guide the professor's

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36. See Appendix C. To devise our self-evaluation form, we used several anonymous submissions to the 1994 Legal Writing Conference Idea Bank, as well as one from Professor Daryl Ann Wilson, Northwestern School of Law. See LINDEMANN, *supra* note 1, at 237-38 (discussing the uses and benefits of self-evaluation); Mary Kate Kearney & Mary Beth Beazley, *Teaching Students How to "Think Like Lawyers": Integrating Socratic Methods with the Writing Process*, 64 TEMPLE L. REV. 885, 891-92 (1991) (describing private memo techniques). We gave the students slightly different versions of the form for evaluating their initial writing project, see Appendix C, and the first and second drafts of the research memorandum. In our survey, however, we asked the students to rate this technique generally. See Appendix E.

37. The self-evaluation form included the following statement of the goals: "This self-evaluation comment sheet has two primary purposes: 1. to help you evaluate and articulate the strengths and weakness of your writing, and 2. to help me respond directly to your concerns when I comment on your writing." Appendix C.

38. These questions were drawn from unattributed materials in the Legal Writing Institute Idea Bank at the 1994 Legal Writing Institute conference. At the 1996 Legal Writing Institute Conference in Seattle, several presentations incorporated the concept of the "private memorandum" or "self-grading" process. See, e.g., Mary Beth Beazley, Presentation to the Legal Writing Institute Conference (July 19, 1996); Phelps Presentation, *supra* note 20; James M. Stratman, Presentation to the Legal Writing Institute Conference (July 18, 1996) (discussing the use of "think aloud" exercises in legal writing classes).

review of the draft memorandum. By commenting constructively on the self-evaluation, the professor can respond directly to students' most pressing concerns and questions.<sup>39</sup> The comments are the beginning of a dialogue that will occur through the inter-linear comments on the draft and continue face-to-face at the professor-student conference.

#### 4. *Peer Evaluation: Evaluating Other Students' Work and Using Peer Feedback*

Besides critiquing their own work in the self-evaluation process, students were also required to evaluate the research memoranda of two of their peers and to review the comments of two peer editors.<sup>40</sup> By putting students in the role of reader (audience) instead of writer, we hoped students would become more sensitive to the importance of audience. The peer editing was also designed to help students become accustomed to and more proficient at self-editing.<sup>41</sup> For example, by recognizing flaws in the work of others, they might be more likely to spot those flaws in their own work. Moreover, if the students recognized the flaws in the work of others—such as the difficulty for the reader to follow the legal analysis in a memorandum fraught with distracting typographical or grammatical errors—they would be more accepting of similar critique from their professors. By requiring students to read and incorporate peer-editing comments, we introduced students to real-world criticism and

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39. For example, if a student responded that the most difficult part of the assignment was the counter-analysis, the professor could review the counter-analysis and respond directly to the concern identified by the student. In some cases, the student merely needs reassurance. While in others, the professor needs to devote significant attention to that aspect of the student's analysis and writing. In theory, students are more receptive to feedback and criticism that they invite by identifying troublesome aspects of their individual writing processes, thus opening the channels of communication.

40. See Appendix D for the 1995 version of these forms. This innovative technique was adapted from unpublished versions previously designed by Brooklyn Law School, Case Western Reserve University School of Law and Seattle University School of Law.

41. The specific goals of the peer-editing exercise were stated in the first paragraph of the assignment: "The goals of this process [of peer-editing] are to make you a better critic and editor of your own work, to give you the benefit of the comments and constructive criticism of others, and to expose you to the type of 'real life' critique that you will receive as an attorney." Appendix D.

The instructions changed in the 1995-96 version of the peer editing exercise because, based on student evaluations of the exercise, we decided to make the exercise anonymous. See *infra* note 64 and accompanying text for the 1994 evaluations of the peer editing exercise that led to the change in format. We modified the instructions to warn students that real-life criticism would seldom be received or given anonymously, but anonymity would better serve the educational goals of this assignment. In addition, we streamlined the evaluation form slightly in 1995 to eliminate evaluation of several stylistic areas. See *supra* note 68 (comparing the evaluations of the peer editing exercises of 1994 and 1995).

showed them that peers, as readers, made critiques similar to those of professors.

To complete the peer evaluation exercise, students received an instruction sheet, a copy of the memorandum editing checklist, and an editing worksheet. These materials included the same memorandum editing checklist the students used when editing their own work. The editing worksheet included a list of the parts of a legal memorandum with space for comments on strengths and weaknesses of each part, and a writing style checklist that required students to record stylistic, grammatical and typographical errors. The final test for the peer-editing worksheet reiterated the final test on the memorandum checklist and the research memorandum instructions: student editors had to imagine that they were busy attorneys and ask themselves whether they could easily understand the memorandum after one reading. Again, we brought the assignment back to the audience and purpose of the legal document, touchstones of the process approach to writing.

### C. *New Twists on Traditional Teaching Techniques*

To supplement our innovations and the theme of process writing, we also added some new twists to the traditional teaching techniques used in past years for the research memorandum. First, we changed our technique for commenting on student papers. In our inter-linear comments, we resisted the temptation to edit sentences and rewrite student work, and thus create a better writing product. Rather, we posed questions (sometimes leading) designed to guide students to a resolution of any problem a reader would have understanding the memorandum.<sup>42</sup> Thus,

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42. For example, in the professor's written comments (as well as in the conference), the legal writing professor may be tempted to tell the student that the *Jones* case is a better example of causation than the *Smith* case. Even if at the conference, the professor explains why *Jones* is better, this approach deprives the student of the process of evaluating the two cases and deciding which is the better example. By contrast, a process-approach requires the professor to ask the student, both in written comments and at conference, "Why did you use *Smith* here? Is there a better example of causation in the case law that would help the reader understand this point?" In this way, the student has the experience of doing the evaluation of case law, learns to ask the same question in the future ("Am I using the best example?" "Will the reader understand this point?"), and is thus better able to deal with an analogous issue in future writings.

We used similar techniques to correct students' stylistic problems, such as asking "Why did you choose the passive voice here? Does it help your purpose?" or "Read this sentence aloud. Does it say precisely what you mean? Will the reader understand your point?" Asking about the passive voice, instead of merely circling it or correcting it, reinforces for students that they should think consciously about style, and that they can use language and syntax strategically. Similarly, encouraging students to read awkward sentences aloud for precision and clarity (instead of writing the familiar "awk" in the margin) demonstrates that careless language can obscure an important point, and may

the professor's inter-linear comments function as an individualized editing checklist—a series of questions that highlight the student's current writing problems and that the student could use to edit future documents.<sup>43</sup>

We continued the Socratic dialogue in the conference, and encouraged our students to engage in the process of exploring the issues of audience and purpose of writing, and discovering their own answers.<sup>44</sup> We also added an additional twist by transforming the traditional professor-centered conference, where the professor determines the agenda, to require students to come to the conference prepared with questions and an agenda for the discussion.<sup>45</sup> Students became active in the revision process—instead of relying on the professor both to ask the questions and provide the answers. Students also learned this process of diagnosing their problems and determining the solutions as another important writing skill.<sup>46</sup>

Finally, to complete the cycle begun with our goal statement in the research memorandum instructions and the memorandum editing checklist, we evaluated the students' research memoranda using the editing checklist, instead of using only general, summary comments and our usual editing of students' writing. This reinforced student assimilation of the concepts in the checklist, and gave them their own "annotated memorandum" that demonstrated the concrete application of the editing checklist in the context of their own writing.

The new twists reinforced the goals of acclimating students to the editing process and giving them the tools they needed to assimilate, eval-

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help students develop an "ear" for imprecise and unclear prose. *See generally* Kearney & Beazley, *supra* note 36; *see also* LINDEMANN, *supra* note 1, at 224-36 (teaching through comments on student papers).

43. We further recommended that students review the inter-linear comments and add those additional items to the editing checklist to "customize" the checklist to address their particular writing problems. This approach is similar to the student-generated checklists discussed by theorist Lindemann. *See* LINDEMANN, *supra* note 1, at 202-04.

44. *See* Kearney & Beazley, *supra* note 36, at 887-88 (using the Socratic method, students "learn how to think and learn information better when they are required to think through and figure out answers to questions than when a teacher tells them the answers").

45. We instructed students to review peer editing comments, the self-evaluation comments with professor's responses, and the professor's inter-linear and summary comments prior to the conference. Students were further instructed to be prepared to set the agenda and use the half-hour conference time as an opportunity to clarify comments they did not understand and discuss more fully comments on issues that they selected as important to developing their writing skills.

46. *See* Kearney & Beazley, *supra* note 36, at 900 ("When the teacher responds with Socratic questions . . . students realize for themselves the problems that the reader has in understanding the meaning of the writing.").

uate and incorporate comments on their work. Because these techniques incorporated the constructive components of the Socratic method, the new twists also demonstrated to students that they know the criteria for good legal writing and are competent to edit their own work. In addition, our use of the checklist to evaluate the memoranda put the students on notice of the evaluation criteria we used when we critiqued their first drafts,<sup>47</sup> and continued the process of reinforcing the criteria for good writing and the importance of self-editing. Our ultimate goal here, as with the new process-oriented techniques, was to prepare students to generate their own questions when they engage in self-editing in new writing situations.

### III. STUDENT EVALUATION OF THE PROCESS-ORIENTED INNOVATIONS AND TWISTS: THE SURVEYS, RESULTS AND ANALYSIS

Because the 1994-95 academic year was our first year of integrating a variety of process-oriented innovations into Villanova's Legal Writing program, we wanted to determine whether our techniques were successful and, if they were, to what degree. We also wanted to compare student perception of our different innovations with our assessment of the efficacy of these techniques. We found that by surveying our students, we could obtain part of this valuable information. Further, since we refined some of our innovations during the 1995-96 academic year, we were able to gauge the relative success of our modifications by surveying students both years.

#### A. *Methodology*

After the students completed redrafting their research memoranda, we surveyed them to determine their assessment of the relative effectiveness of our new process-oriented techniques and twists on traditional teaching tools. We distributed the survey for the first time toward the end of the fall semester of the 1994-95 academic year ("the 1994 survey"), the year in which we first implemented our innovations. We distributed the same survey toward the end of the fall semester of the 1995-96 academic year ("the 1995 survey").

The first part of the written survey (the "numeric evaluation") asked students to rate the effectiveness of each of our four primary process-oriented innovations as well as the three main twists we incorpo-

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47. Many students told us that they had anticipated our comments, upon reflection, after handing in their first drafts or were not surprised when they read them.

rated into existing teaching methodologies.<sup>48</sup> We used a Likert scale, which directed the students to rate our innovations and twists on a scale of one to seven, with a rating of one representing "not very useful" and seven representing "very useful."<sup>49</sup> The second part of the survey (the "narrative evaluation") asked students to provide narrative comments about all aspects of the research memorandum assignment, allowing space for comments on each of the eight techniques and two more additional open-ended questions which called for narrative responses.<sup>50</sup>

Students had approximately ten minutes to complete the survey, which we distributed at the end of a class session after they completed the research memorandum assignment.<sup>51</sup> Because students completed the survey before receiving any course grade, we instructed them to complete the survey anonymously.<sup>52</sup> In 1994, 223 students, out of a first-year class of 229 students, submitted survey forms. In 1995, approximately 224 students, out of a first-year class of 226 students, submitted survey forms.<sup>53</sup>

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48. See Appendix E. As discussed in part II, *supra*, these items were: (1) the memorandum editing checklist; (2) the annotated sample memorandum; (3) the self-evaluation form; (4) the peer editing assignment; (5) the conference on the memorandum with the professor; (6) the professor's inter-linear comments on the students' memoranda; and (7) the professor's summary comments on the students' memoranda. Since the peer editing assignment contained two components—the students' review of two memoranda as well as their receipt of critiques from two of their peers—we asked separate questions about these components on the survey. Therefore, although we measured seven process-oriented techniques, we actually asked students to rate numerically eight items. As noted in note 23, *supra*, we incorporated but did not evaluate other innovations that we implemented during this time period.

49. A Likert scale is a simple, commonly used method for surveying attitudes which asks participants to rate a statement on a numerical scale. See ROBERT J. GREGORY, *PSYCHOLOGICAL TESTING: HISTORY, PRINCIPLES, AND APPLICATIONS* 135 (2d ed. 1996). In our case, we surveyed the students' assessment of the usefulness of our instructional techniques by having them rate each technique on a one to seven scale. Specifically, the first part of our survey read as follows: "Rate each of the following eight items below from 1 (not very useful) to 7 (very useful). Indicate your rating by circling the appropriate number from 1 to 7." Appendix E.

50. The second part of the survey consisted of the following questions: "How can we improve your instruction on memo writing skills?" and "What other comments would you like to make about your instruction on memo writing skills?" Appendix E.

51. See *supra* Figure 1.

52. Because of the anonymity of the survey, the overwhelming response rate, the wide variation in numerical ratings, and the students' willingness to provide narrative comments (including significant negative comments), we do not consider it significant that the students completed the survey before receiving a first semester grade in legal writing. In short, we do not believe that the data from the anonymous surveys are biased.

53. Unfortunately, approximately 20 of these forms were inadvertently lost before the results were tabulated. These 20 forms represented one half of the students (i.e. one of the two sections) taught by one of the six professors. In our tabulation of numerical survey responses, we accounted for the 20 lost surveys by substituting for them the responses of the students in that professor's other section. In other words, the responses of students in one of the 12 legal writing sections were

Further, approximately 76% of the students who completed the surveys in 1994 provided written comments on one or more of our innovations and new approaches to existing teaching techniques, and other general comments. Approximately 71% did so in 1995.<sup>54</sup>

counted twice. Our evaluation of narrative (as opposed to numerical) survey responses for the fall 1995 semester, of course, could not include comments made by students whose forms were lost. *See infra* note 54.

54. We received an exceptionally high response for narrative comments, averaging almost one comment per form. In 1994, 169 of the 223 responding students provided narrative comments, and in 1995, approximately 132 students did so. The 1995 survey results reflect the responses from 11 of the 12 class sections. *See supra* note 53. The number of student giving comments on our innovations and twists was as follows:

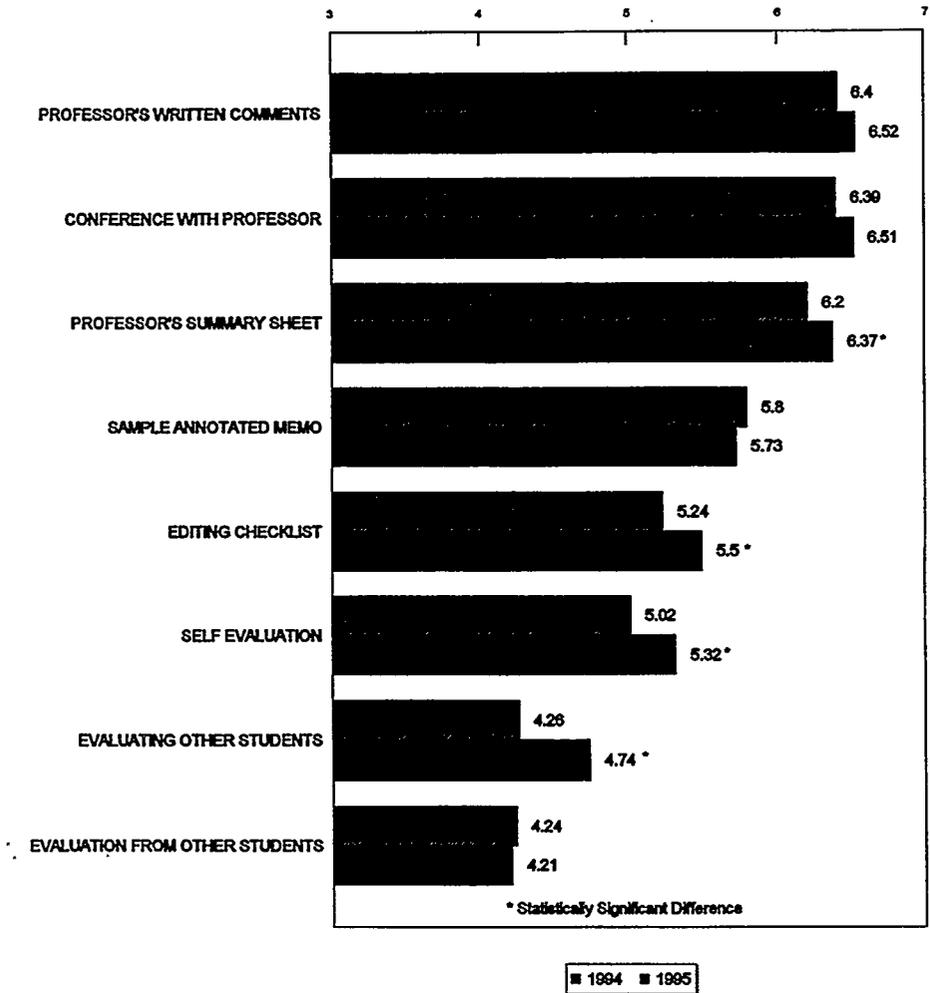
Figure 3

<b>INNOVATION/TWIST/GENERAL</b>	<b>1994 SURVEY</b>	<b>1995 SURVEY</b>
Annotated Sample Memorandum	15	12
Memorandum Editing Checklist	4	3
Self-evaluation	16	6
Peer Editing (both components)	65	20
Inter-linear Comments	3	6
Summary Comments	9	2
Conference	28	26
General Comments on Course and/or Research Memorandum (i.e., unrelated to specific innovations or twists)	81	81
Total number of Students providing Narrative Comments	169 (12 sections)	132 (11 sections)
Total number of Narrative Comments	221 (12 sections)	185 (11 sections)

B. Results

Figure 2

STUDENT ASSESMENT OF EFFECTIVENESS OF  
LEGAL WRITING INSTRUCTION TECHNIQUES



The results from our survey of students revealed that students found all eight techniques very helpful. In both 1994 and 1995, the surveys showed that students rated the eight items measured in the numeric portion of the surveys in the following order from highest to lowest:<sup>55</sup> (1) the professor's inter-linear comments; (2) the conference with the professor; (3) the professor's summary comments; (4) the annotated sample memorandum; (5) the memorandum editing checklist; (6) the self-evaluation; (7) the evaluation of other students through the peer editing exercise; and (8) the receipt of other students' evaluations through the peer editing exercise. While the mean value of the ratings for the instructional techniques ranged from a high of 6.52 to a low of 4.21, we were very gratified to observe that, in both 1994 and 1995, all eight techniques scored higher—most considerably higher—than the midway point of four on the one to seven scale.

The survey results also showed the relative success of each of the eight techniques. The ranking of the eight techniques, in terms of student assessment, showed that most innovations or new twists were significantly more effective than all those ranked below them on Figure 2.<sup>56</sup> There were, however, several innovations that were not significantly more useful than the next lower ranked process-oriented technique. For example, there was no significant difference in the mean ratings for the professor's inter-linear comments and conferences with the professor in either 1994 or 1995.<sup>57</sup> Similarly, there was no significant difference between the mean ratings for self-evaluation and editing checklists in 1994 or 1995. While the difference in means between evaluating others and receiving evaluation from others was not significantly different in 1994,

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55. See *supra* Figure 2. This ranking is based on a calculation of the mean value of the ratings for each innovation or technique. To calculate the mean values described in this Figure, we used Lotus 1-2-3, version 4.0.

56. We performed a common statistical test, known as a "t-test," to compare the mean ratings of the 1994 and 1995 surveys for each of the eight innovations and techniques. A t-test measures statistically significant differences in means. See DENNIS E. HINKLE ET AL., *APPLIED STATISTICS FOR THE BEHAVIORAL SCIENCES* 241 (3d ed. 1994). Using analysis tools from Microsoft Excel 4.0, we found that the four increases in mean ratings noted by an asterisk in the bar graph in Figure 2 were statistically significant to the 0.05 level of confidence. Therefore, there is a 95% likelihood that the increases found between the 1994 and 1995 ratings occurred due to the changes made in our innovations or other improvements. Simply put, these results support our belief that the effectiveness of these four innovations improved in 1995.

57. Although there was no significant difference found by the t-test in the means for these two innovations, both the inter-linear comments and conferences were significantly more useful than all the remaining six innovations ranked below them on the bar graph in Figure 2. Similarly, while there was no significant difference between the self-evaluation form and the editing checklist, these two techniques were rated significantly more useful than the remaining two peer evaluation techniques.

there clearly was a statistically significant difference in the peer editing techniques in 1995.<sup>58</sup>

### C. *Analysis of the Results and Narrative Comments*

Because the professor's inter-linear comments, the conference, and the professor's summary comments were the only techniques that provided the students with individualized evaluation of their work by their professor, we expected that these techniques would rate the highest numerically. The students' narrative comments about these techniques were also very positive, further demonstrating the value of individualized feedback. For example, in 1994, 43% of all students who provided narrative comments about their conferences reported that they would have liked additional conferences with their legal writing professor throughout the semester. Again, in 1995, 46% of the students requested the same increased degree of professor contact.<sup>59</sup> Also, very few students reported that the professor needed to improve the written comments or the content of the conferences. We were especially gratified to receive comments that reflected appreciation for the effort we put into our conferences, for example: "The conference was the single most helpful aspect of this class after learning the fundamentals."<sup>60</sup> Our students also recognized that writing is a process: "The [conference] and the rewrite help a lot in *rethinking* and *reorganizing*."<sup>61</sup>

Following the three techniques involving personalized professor feedback in overall mean scores were the two techniques involving newly created memorandum writing aids—the annotated sample memorandum and the editing checklist. The students universally commented favorably on the annotated sample memorandum and requested additional examples. Students in 1995 also unanimously commented favorably on the annotated sample memorandum, and nearly two-thirds of the students

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58. As noted above, we did a t-test to determine the statistical significance in the differences between the means obtained from the survey results. See *supra* note 56.

59. In the 1994 survey results, the 28 narrative comments received on student conferences with professors were overwhelmingly positive, with 15 students advocating an additional and/or longer conference during the semester. In addition, eight of the 12 students who commented on their professors' written comments, whether inter-linear or summary, found them to be helpful. Only four students commented that their professors' comments were either confusing or overwhelming.

In 1995, the 26 narrative comments on professor-student conferences were similarly positive, with 12 students urging the inclusion of longer or additional conferences, and only two students offering suggestions for fine-tuning the content of the conferences. The majority of the seven students who commented on the professors' written comments in 1995 also found them to be helpful.

60. 1995 Student Survey Form (on file with authors).

61. 1995 Student Survey Form (on file with authors) (emphasis added).

providing narrative comments on this innovation (twelve out of twenty-one) clamored for more samples.

The self-evaluation form, a hybrid that requires students to evaluate their own work, but also gives the professor a student-guided focus for evaluating work, rated higher than a "5," but lower than the other professor-created writing aids, the editing checklist and the annotated memorandum. The self-evaluation form did, however, improve significantly in rating in 1995, from a 5.02 to a 5.32.<sup>62</sup> This jump in student evaluation may be attributed to the professors' more intensive use of the self-evaluation form during that year. In 1995, more professors wrote responsive comments on the self-evaluation form, and made comments on the students' memoranda that cross-referenced the students' questions and concerns reflected on their self-evaluation forms. This more interactive use of the self-evaluation form may have increased the students' confidence in their ability to identify both good and poor writing, and had the added benefit of showing students that their professors valued the students' thoughts about their work. The self-evaluation form proved more than just a device for introspection; it was also a tool that facilitated the dialogue between professor and student.<sup>63</sup>

While still giving the remaining techniques a mean rating higher than a "4," students gave the lowest ratings to the two techniques that involved primarily student evaluation: the two components of the peer evaluation exercise (being evaluated by other students and evaluating other students).<sup>64</sup> In 1994, most students who commented stated that they

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62. At a mean rating of 5.32, the self-evaluation form ranked much closer to the editing checklist (rated 5.50 in 1995) than the peer evaluations (rated 4.74). The 5.32 rating not only represents a statistically significant increase for the self-evaluation from 1994 to 1995, but is also higher than the 5.24 rating that the editing checklist received in 1994. The success of the self-evaluation form is, of course, dependent also on the degree of student input.

63. Very few students commented on the self-evaluation form during either year of the survey.

64. In 1994, many students felt uncomfortable critiquing their classmates, and believed that because edits were not conducted anonymously, the student editors "sugar coated" their critiques. However, of the many students who were critical of the peer editing exercise, most provided constructive criticism, aimed at improving the exercise instead of eliminating it. Students suggested that the students could learn more by reading their classmates' memoranda than by editing them, or could benefit from editing only one student paper instead of two. Despite the students' general discomfort with the peer editing exercise, a small proportion of commenting students (5%, or three out of 65) suggested that students should complete a peer editing exercise on additional assignments.

In contrast, in 1995, student reaction to this innovation was more positive, with a higher percentage of students (15%, or three out of 20) calling for additional peer editing assignments and very few students giving negative comments. Nearly half of these students found the exercise helpful—even "great"—and/or requested that their professors assign more of these exercises. Just a few doubted their peers' editing skills or simply stated that they relied more on their professor's comments than on those of their peers' which we did not view as a negative comment.

were not competent to evaluate their own work, and they were even more skeptical of their ability to evaluate the work of others.

Interestingly, after we modified the peer evaluation exercise in 1995 by having it completed anonymously, student reaction to this exercise was significantly more positive. This time, virtually all students who commented on this innovation found the exercise helpful or offered constructive suggestions, e.g., allow more time for completion of the exercise, make peer editing a component of the final grade, or clarify areas where the professor's and peer's critiques differed. In contrast to the preceding year, when students heavily criticized the peer evaluation because it was not conducted anonymously, a mere four students criticized this exercise in 1995, chiefly because they doubted their peers' evaluative skills.

#### IV. PROFESSORS' REFLECTIONS ON RESULTS OF THE STUDENT EVALUATIONS

As a by-product of our experiment incorporating the process model, we discovered the importance of periodic evaluation and critique of our teaching methods. Student evaluations were an indispensable part of this process. They functioned as compasses to point us in the right direction and encouraged us to be flexible in our teaching. We realized that it would be foolhardy to base our entire curriculum on student opinion; after all, students have their own complicated agendas in law school that are not always consistent with sound pedagogy.<sup>65</sup> Keeping in mind this caveat, we still found student evaluation to be a great source of ideas and encouragement.<sup>66</sup> Specifically, the data reinforced our instincts that the

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65. Student desire may also not be consistent with the limited time and resources of even the most committed legal writing professor. Indeed, one of the most striking conclusions evident from our survey results was that, in the students' minds, effectiveness was proportional to the professor's involvement in the students' work. When the technique involved direct comments by the professor on the students' memoranda, the technique received the highest scores. When the technique was a memorandum writing aid crafted by the professor, but not a direct comment on the students' work, the technique scored somewhat lower. When the technique involved primarily student input, with the professor's comments dependent on the nature and quantity of the student input (i.e., the self-evaluation form), the technique scored even lower. When the technique required significant effort on the part of the student and less intensive review by the professor (e.g., the peer evaluation assignment), the technique scored lowest. Notwithstanding these results, closer examination of the data revealed that some of our techniques struck a successful balance between efficiency and learning value.

66. Student evaluations have two additional benefits: (i) they tell us whether students will be receptive to certain teaching methods and (ii) they give students the sense that they are integral to the learning process. It is important for teachers to know about student receptivity to a particular technique because that receptivity will determine, in part, the efficacy of the technique. Students are

process approach was successful, validated the considerable efforts required to implement the plan, and helped us to identify the relative usefulness of some techniques and to refine and improve other techniques.

The primary guidance of the students' evaluations was to encourage us that our experiment was working. While there was variation in response to our individual innovations, on the whole, the students reacted favorably to them. Indeed, as evidence of the success of our process approach as a whole, we found that the students' overall evaluations at the end of the fall semester rated the research memorandum assignment as the best assignment of the course.<sup>67</sup> While we were concerned that students might resent the amount of additional "non-writing" tasks—the seven innovations—involved in completing the research memorandum assignment, that did not occur. In fact, the result that the research memorandum was rated highest was an unexpected, and gratifying, outcome that validated our beliefs about the effectiveness of the process approach.

In addition, we saw the success of the process approach when we noticed that our students' comments on the peer evaluation assignment mirrored our comments. For example, during both 1994 and 1995, despite the students' insecurities about peer editing, we found that in almost all instances the students did an effective—and in some cases superior—job of critiquing their peers' work. We told them so, emphasizing that they should use the same careful editing skills when revising their own work, and that they know what constitutes good legal analysis and writing. The similarity of our comments to the peer comments also tacitly reinforced our comments on the importance of good writing skills for producing quality work.

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unlikely to learn from a technique that they reject. Relatedly, encouraging early student participation in evaluating the curriculum makes them more receptive to future techniques that grow out of the evaluations.

67. To test this, we analyzed data for a sample drawn from half the first-year class from the standard evaluation form used at the end of the fall semester in 1994 and 1995. *See* Appendix F. Of the three fall semester assignments—writing project, research memorandum, and graded memorandum—the research memorandum was rated highest on a scale of 1 (poor) to 7 (very good). The mean score for the research memorandum was 6.17, compared with 5.66 and 5.58 for the writing project and graded memorandum, respectively. In addition, the research memorandum was most often rated the highest of the three assignments (it ranked highest 21 times out of 110, as compared with three times for the writing project and eight times for the graded memorandum). The research memorandum was *never* rated the lowest of the three assignments (as compared with 22 lowest ratings of 110 for the writing project and 19 for the graded memorandum).

From the overwhelming positive results of the 1994 survey, we concluded that the innovations enhanced the students' experience preparing the research memorandum. We therefore found it unnecessary to calculate these comparisons for the 1995 survey results.

We also used the student evaluations to improve our teaching process. For example, in 1994, our fall survey demonstrated that some techniques were so highly valued by the students that we continued to use them during the spring semester. Specifically, having relied on the annotated sample memorandum in the fall semester, students requested an annotated persuasive writing exercise, which we incorporated beginning in the spring 1995 semester. Similarly, the memorandum editing checklist evolved into an appellate brief editing checklist as well as an oral argument checklist. Furthermore, because the survey results showed the high value students placed on professors' comments written in the text of the students' memoranda, we allocated our reviewing time accordingly. Several of us also responded to this information in 1995 by adding handwritten inter-linear responses to the students' comments on their self-evaluation forms.

Finally, because of the students' narrative comments on the surveys, we changed the peer editing exercise to be anonymous. Evaluating other students using the peer editing exercise had the biggest increase in its mean rating from 1994 to 1995, rising from 4.26 to 4.74. We believe that this significant increase in the effectiveness of this innovation is most likely attributable to that change.<sup>68</sup>

In addition to helping us modify and improve our innovations, the survey results also helped us to use our time more efficiently. For example, while we expected the individual conferences with the professors to be highly rated, and they were, our second highest-rated intervention into the students' writing process, the annotated sample memorandum, was a noteworthy success. This success was especially remarkable given the much smaller time commitment needed to develop one heavily annotated memorandum as compared with the time for an individual half-hour conference with more than 220 students. Similarly, the time to create a self-evaluation form that can be used for several assignments and a memorandum editing checklist shared and customized by all professors was again far less than what was needed collectively to review and comment on over 220 seven-page memoranda, even though this was the highest-rated innovation.

Finally, the evaluations demonstrated the significant value of experienced, committed professors. In comparing the 1994 and 1995 survey results, we think it is noteworthy that in six of the eight categories, the

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68. The significant increase is also testimony to the value of conducting the surveys in the first place. Had we not conducted the 1994 survey, we might not have been aware of the need to make the peer editing exercise anonymous. *See also supra* note 41 and accompanying text.

1995 score was higher than the 1994 score. The remaining two categories showed insignificant difference. This increase is at least partially attributable to the inevitable improvement in teaching effectiveness that results from relatively new teachers gaining a year of experience in teaching in general, and with new techniques in particular.<sup>69</sup>

## V. THE SUCCESS OF THE INNOVATIONS: THE PROFESSORS' VIEW

Incorporating innovations into Villanova's Legal Writing program was a success on many fronts. The student evaluations were overwhelmingly favorable,<sup>70</sup> taught us a great deal about how (and why) our students learn, and gave us a fresh perspective on our teaching methods. In addition, the Villanova Law School faculty responded favorably to our innovative program when we presented it at an academic colloquium.<sup>71</sup> Favorable comments by other legal writing professionals at both regional and national conferences further bolstered our confidence in the efficacy of our innovations.<sup>72</sup>

Perhaps most important, the six of us believed, based on our ongoing, informal evaluation of student performance and student feedback, that the innovations were, and continue to be, effective in improving students' writing skills.<sup>73</sup> Certainly, our innovations made students more in-

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69. Of the six instructors in our program in 1994-95, one was in her third year of teaching legal writing, four were in their second year, and one was in her first year. In 1995-96, four of the instructors were in their third year, one was in her second year, and one was in her first year. Accordingly, the differences in the 1994 and 1995 surveys cannot be attributed to change in personnel.

70. See *supra* part III.

71. In 1993, Villanova began holding faculty colloquia, at which faculty present academic works-in-progress for comment and evaluation by their peers. In April 1995, we presented a colloquium that described our innovations in Villanova's Legal Writing curriculum. In addition to the innovations described in this article, we also presented our innovations related to the teaching of lawyering skills such as document analysis, our institution of an optional international law moot court Legal Writing course for first year students, and our increasing use of technology to facilitate our teaching methods.

The colloquium was a great success on many fronts. Our colleagues learned more about the importance of the skills taught in Legal Writing, and gained insight into the value added by supporting legal writing professionals.

72. We presented our work at the 1995 Regional Legal Writing Conference at Villanova Law School and at the 1996 Legal Writing Institute Conference at a panel titled "Lawyering Skills, Process Drills and Techno Thrills," on July 20, 1996. The theme of these presentations was how legal writing faculty can successfully incorporate numerous innovations and twists into their curricula. In addition, we discussed our use of evaluations, such as the survey method discussed in this article, at the 1996 Regional Legal Writing Conference at Widener University School of Law.

73. For this, we have primarily anecdotal evidence. For example, we believe that our emphasis on pre-writing skills resulted in better student outlines of memoranda and briefs. We saw evidence of this during spring semester conferences on the appellate brief assignment. We saw further evidence during our discussions with returning students. One student volunteered that he had used his memo-

volved in the learning process and more invested in the Legal Writing course, which also contributed to students' improvement. Most importantly, we believed that we effectively conveyed the core concepts of the process approach, and did so with students valuing both the individual innovations and the overall outcome.

The innovations also altered the way that students perceive Legal Writing as a course and a discipline. Students learned that Legal Writing was not simply an extension of college English, but a process of research, analysis and communication intertwined with constant introspection. As one student phrased it, "The *process* of doing the [writing project, research memorandum], peer evaluations, conference and re-write was an effective building-block learning *process*."<sup>74</sup> We expect that more students will share this view in the years to come, as we continue to develop and refine the Legal Writing curriculum.

## VI. CONCLUSION

There is a growing "recognition among legal educators and the practicing bar that effective communication skills are essential to competent legal practice."<sup>75</sup> Giving our students a strong foundation on which they can continue to build their writing and communication skills and which prepares them to meet the needs of an increasingly competitive profession is of paramount importance. The real challenge to those of us charged with the responsibility of teaching these vital skills is how best to meet this need.

In our effort to improve student learning, we began with the idea of incorporating the process approach by adopting four innovations and refining three successful techniques. Our plan was not to revamp the entire structure of the program, but to modify and refocus it through the use of process-oriented innovation. We found that by introducing these innovations, we were able to integrate product and process approaches in ways that improved the writing program throughout the year, and ultimately improved our students' writing skills.

Our approach can serve as a model for other similar legal writing programs ready to make the transition from product to process. But the model is not complete—and completion is not the goal. Rather, our approach teaches that the search for effective methods is an evolutionary

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random editing checklist when completing an assignment during his work as a summer associate at a large law firm.

74. 1995 Student Survey Form (on file with authors) (emphasis added).

75. MACCRATE REPORT, *supra* note 6, at 175.

process that, like the three-step writing process, requires planning, teaching, and revising. By evaluating and revising our own teaching innovations, we, like our students, are engaged in the process approach to legal writing.

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## Appendix A

## MEMORANDUM EDITING CHECKLIST

## A. ISSUE

1. Have you identified the correct, specific issue?
2. Unless the issue is solely a question of law, have you incorporated the key facts that raise the issue?
3. Have you identified the facts as specifically as appropriate, rather than use an overly generalized description?
4. If there is more than one issue, have you organized the issues in a logical order that you will follow in the memo?
5. Have you included the appropriate jurisdiction?
6. Have you included key facts and excluded proper names?

## B. CONCLUSION

1. Have you given a short answer?
2. Have you accurately and clearly answered the question raised in the Issue?
3. Have you summarized the analysis in the Discussion and briefly applied the controlling law to the facts of your problem?
4. Do the Issue and Conclusion "track" in terms of key facts and legal rules?

## C. FACTS

1. Have you identified your client and briefly stated the legal problem?
2. Have you included the necessary procedural facts?
3. Have you included all the facts that you used in your Discussion?
4. Have you included enough background facts to provide an appropriate context for the legal problem?
5. Have you omitted irrelevant and distracting facts?
6. Did you arrange the facts in an organization that is easy to understand, such as chronologically, topically, or chronologically within a topical organization?
7. Does this section include only facts and not analysis or argument?

## D. DISCUSSION

1. Did you begin with a thesis paragraph of an appropriate length for the length and complexity of the Discussion?
2. Did the thesis paragraph begin with your fact-specific conclusion? Did it also include a statement of the applicable legal rule and any relevant factors, along with your legal conclusion and rationale? (There should be no big surprises in the Discussion after the thesis paragraph.)
3. Have you organized your discussion logically? *[MACRO ORGANIZATION]*
  - a) Have you used headings as signposts?
  - b) Is the discussion organized into separate claims that are presented in a logical order?
  - c) Have you started with the most important claim first?
  - d) Is each claim broken down into the issues and sub-issues by which the claim is analyzed?
  - e) Does each point begin with a clear, fact-specific assertion that orients the reader?

## Appendix A

4. For each issue and sub-issue did you — [*MICRO ORGANIZATION*]
  - a) analyze the controlling statutes and case law and the persuasive authorities  
For each authority did you —
    - i) State the rule?
    - ii) Explain the rule through a thorough discussion of your authorities?
    - iii) Give necessary factual background? (for cases)
  - b) apply the legal principles in those statutes and cases to the facts of your problem?
  - c) draw analogies and distinctions to the precedents?
  - d) objectively evaluate and explore all credible interpretations? [*COUNTER-ANALYSIS*]
  - e) complete the discussion of the issue or sub-issue before moving on to the next one?
5. Does your analysis reflect an accurate synthesis of the authorities so that you explore all ramifications of a topic as a related analysis?
6. Have you kept firmly to what is relevant for the claim or defense you are analyzing?
7. Have you explained and supported your conclusions with adequate reasoning?  
Did you analyze all interpretations before coming to an unqualified conclusion?
8. Have you discussed policy arguments, if appropriate?
9. Have you maintained an objective tone?
10. Have you been creative in using facts and analogizing to similar situations?
11. Have you ended with a brief conclusion that recaps the main points and answers the question?

**E. WRITING STYLE**

1. Are your paragraphs unified around a topic and is that topic clear?
2. Did you use transitions to show the logical relationships between sentences and between paragraphs?
3. Did you use quotes effectively, with introductory phrases? Have you avoided using lengthy quotes? Did you paraphrase accurately?
4. Do your sentences carry the reader forward rather than bog the reader down?
  - a) Are your sentences a readable length without too many interrupting phrases and clauses?
  - b) Do the verbs of your sentences carry the action or have you nominalized the verbs?
  - c) Did you use concrete nouns as subjects rather than abstract ones?
  - d) Are most of your sentences in active voice?
  - e) Did you edit out unnecessary throat clearing words and phrases?
  - f) Have you avoided elegant variation?
5. Have you avoided other Wydick violations?
6. Have you used the key terminology or phrases of your authority?
7. Is your memo free of typos, grammatical errors, and misspellings?
8. Have you followed correct Bluebook citation form? Have you cited authority where necessary?

**F. FINAL TEST**

Can a busy attorney who is unfamiliar with the facts and the law for your legal problem easily understand your memo?

Appendix B

MEMORANDUM

TO: Partner

FROM: Associate

RE: State v. McVeigh--No. 94-123  
Propriety of first degree burglary charge

DATE: September 13, 1994

ISSUE

Whether a person is properly charged with first degree burglary under the Uniform Penal Code if he enters a trailer that is parked in the driveway of a residence, attached to the residence by a water line, and slept in occasionally.

Jurisdiction/ key facts

CONCLUSION

No. The first degree burglary charge is improper. Under the Uniform Penal Code, first degree burglary requires entry of an inhabited dwelling house. An inhabited dwelling house is a structure that is slept in regularly. Moreover, a structure that is attached and integral to an inhabited dwelling house is a part of the dwelling house. Here, the trailer is neither an inhabited dwelling house nor part of an inhabited dwelling house because the trailer is slept in occasionally and attached to the residence by only a water line.

Case specific conclusion; answers issue.

Jurisdiction and rule.

Legal conclusion and rationale.

FACTS

We represent Timothy McVeigh, who has been charged with first degree burglary for breaking into a trailer owned by Terry Nichols. Sufficient evidence exists that McVeigh had the intent to commit burglary. The question here is whether the charge of first degree burglary is proper.

Procedural facts

At approximately 11:56 p.m. on May 6, 1994, McVeigh was arrested inside Nichols' trailer. At the time, the trailer was parked in Nichols' driveway. Nichols reported to the police that when the trailer is in his driveway, he uses it only for guests. He estimated that guests sleep in the trailer approximately ten nights per year, but that the trailer is always attached to the main residence by a water line. Nichols also

Key facts

Appendix B

uses the trailer for traveling vacations approximately two weeks per year.

Background facts

On May 6, Nichols' roommate, Kato Kaelin, saw McVeigh climb through a window into the trailer. He called the police, who arrested McVeigh and charged him with first degree burglary. Kaelin told the police that he had intended to sleep in the trailer on May 6, but changed his mind before the burglary.

DISCUSSION

Fact specific conclusion

Applicable Rule (broad)

Applicable Rule (specific)

Legal Conclusion and Rationale

Timothy McVeigh was improperly charged with first degree burglary. Under the Uniform Penal Code, "[e]very person who enters any . . . building' with intent to commit grand or petit larceny or any felony is guilty of burglary." UPC § 459. Burglary of an inhabited dwelling house is first degree burglary, while all other types of burglary are of the second degree. *Id.* § 460. A structure is an inhabited dwelling house if it is slept in regularly. Further, structures that are attached and integral to an inhabited dwelling house are part of the dwelling house. The first degree burglary charge against McVeigh is improper because Nichols' trailer was neither slept in regularly nor an attached and integral part of Nichols' home.

Thesis paragraph

Regular Use As A Place To Sleep

Fact specific conclusion on first element / topic sentence

Proof of conclusion through statement of rule.

Proof of rule through discussion of authority

Nichols' trailer is not an inhabited dwelling house because it is not used regularly as a place to sleep when it is parked in the driveway of the Nichols residence. The test of whether a structure is an inhabited dwelling house is whether the structure is "used regularly as a place to sleep." *Poff v. State*, 241 A.2d 898, 899 (Md. Ct. Spec. App. 1968). A structure is not used regularly as a place to sleep if it is used only for occasional napping, or sleeping on "rare occasions." *Id.*

Objective heading for first element

Answers whether first element is met.

In *Poff*, the defendant was convicted of storehouse breaking for forcibly entering an apartment leased by the police. *Id.* at 898. Although two police officers occasionally

Note citation placement

Appendix B

napped and ate in the apartment, they never slept there overnight during their three-day stay. *Id.* The court found that the apartment was not a dwelling house because the police did not sleep there regularly. *Id.*

Application of Rule

Like the apartment in *Poff*, Nichols' trailer was used only occasionally as a place to sleep. Guests slept there sporadically, approximately ten nights per year, but no one slept in the trailer on a regular basis when it was parked in the driveway. This sporadic use is insufficient under *Poff* to make the trailer an inhabited dwelling house. *See id.*

Paragraph begins with transition phrase-signals beginning of application of law to facts

Conclusion

Proof of conclusion through rule and distinguishing rule and facts

Moreover, Kato Kaelin's intention to sleep in the trailer on the night of the burglary is irrelevant. The test of whether a structure is an inhabited dwelling house is whether it is used regularly as a place to sleep. *Id.* Whether someone slept in the structure on the night in question, or planned to, has no bearing on whether the structure is a dwelling house.

Paragraph begins with transition word-signals addition to previous discussion

Attachment to Inhabited Dwelling House

Objective Heading for second element

Fact specific conclusion / topic sentence

Proof of conclusion through rule

The trailer is also not part of an inhabited dwelling house, because it is not an integral part of the Nichols residence. A structure is an integral part of an inhabited dwelling house only if it is attached to the house, especially if the attachment provides direct access to the residence. *See People v. Cook*, 185 Cal. Rptr. 576, 581 (Ct. App. 1982).

"See" used because proposition is not directly stated in *Cook*, but flows from it.

Proof of rule through discussion of authority

In *Cook*, defendant burglarized a garage and enclosed patio that were attached to the victims' main house. *Id.* The garage contained an inside door leading directly into the main house. *Id.* The court found that entry into either the garage or patio would constitute first degree burglary because both structures were "integral part[s] of the . . . residence." *Id.* Emphasizing the door in the garage that provided access to the residence, the court stated that the garage was "simply one room of several which together compose[d] the dwelling." *Id.* (distinguishing *People v. Picaroni*, 281 P.2d 45 (Cal. Ct. App. 1955) (unattached garage)). The court noted that the Legislature intended to punish burglary of inhabited dwellings more severely than burglary of other structures because of the greater likelihood that inhabited dwellings would be occupied.

Incorporation of distinguished case law and explanatory parenthetical

Policy discussion incorporated as part of explanation of rule

## Appendix B

Id. Therefore, treating a structure that is attached to an inhabited dwelling as an integral part of that dwelling furthers the policies underlying first degree burglary, because of the greater likelihood that occupants of the house would be in the attached structure. Id.

Application of rule

Here, the trailer is not an integral part of the Nichols residence because it is attached to the residence by a water line only. Unlike the garage in Cook, the water line does not provide direct access to the house. Moreover, unlike the door between the garage and residence in Cook, the water line attachment does not make it significantly more likely that an occupant of the house might be in the trailer at the time of the burglary. See id. Therefore, the water line is not sufficient attachment to make the trailer a part of Nichols' dwelling house.

First word of paragraph is transition—signals reader that discussion of Cook is over, and discussion of our facts has begun.

Concise conclusion

Timothy McVeigh was improperly charged with first degree burglary because the trailer he burglarized is not an inhabited dwelling house. It is slept in only occasionally, and it is not an attached and integral part of the Nichols residence. Moreover, the water line attachment does not significantly increase the likelihood that an occupant of the inhabited residence would be in the trailer. Therefore, the charge of first degree burglary against McVeigh is improper.

1. For purposes of this memorandum, it is assumed that the trailer is a building under the Uniform Penal Code.

NOTES:

1. The right margin of this document is justified. You should not justify the right margin of your documents.
2. This document contains an "endnote". You should use footnotes, not endnotes. Remember, however, that footnotes are discouraged.



## Appendix D

MEMORANDUM

TO: All First Year Students  
FROM: Legal Writing Faculty  
DATE: October 2, 1995  
RE: PEER EVALUATION ASSIGNMENT

For this assignment, you will evaluate work written by other students in your Legal Writing section. The goals of this assignment are to make you a better critic and editor of your own work, to give you the benefit of the comments and constructive criticism of others, and to expose you to the type of "real life" critique that you will receive as an attorney.

To receive credit for this assignment, you must critique research memoranda prepared by two of your classmates, using the criteria stated in the Memorandum Editing Checklist that you received in class last week (additional copy attached). In addition, you must complete an Editing Worksheet (copies attached) for each paper you critique. We will mark your edit of your classmate's paper with a ✓, ✓+, ✓-, and will consider these marks when we calculate your final grade. You will be evaluated on the quality of your comments and your effort. In addition, after we review your evaluation, we will give it to the drafter of the memorandum so that she or he can learn from your comments and incorporate them into a revised memorandum.

Your classmates will be given the critiques that you prepare. Please keep this in mind and remember to make your comments constructive, that is, provide the writer with suggestions for improving the memorandum. Note strengths as well as weaknesses. Be as specific as possible in your evaluations, supplying examples where helpful. Keep in mind that your edit will be evaluated not on the quantity of your comments, but on the quality of your critique.

This exercise will be conducted anonymously. Although in "real life," you will neither give nor receive criticism in an anonymous manner, we have found that students are willing to edit more thoroughly and candidly if the peer editing process is anonymous. Therefore, be sure to include your personal code in the space marked "Editor's Code" and your classmate's code in the space marked "Writer's Code." Neither your name nor the name of your classmate should appear anywhere on the Editing Worksheet.

You must attach your worksheets to your edited copies of your classmates' memoranda and hand them in to your Legal Writing professor at the designated time and place.

Attachments: Memorandum Editing Checklist  
Editing Worksheet (two copies)

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Adapted from materials used at Brooklyn Law School, Case Western Reserve School of Law, and Seattle University School of Law (formerly University of Puget Sound School of Law).

Appendix D

EDITING WORKSHEET

Writer's Code: \_\_\_\_\_

Section: \_\_\_\_\_

Editor's Code: \_\_\_\_\_

I. Contents

Does the memorandum contain all of the required parts? Check any parts that are missing.

Heading

Facts

Issue

Discussion

Conclusion

II. Heading

Does the heading include the name of the addressee, author, date and adequate "re" information?

Comments:

III. Issue

Strengths:

Weaknesses:

IV. Conclusion

Strengths:

Weaknesses:

## Appendix D

- V. Facts  
Strengths:

Weaknesses:

- VI. Discussion  
A. Large-scale organization (e.g., use of thesis/roadmap paragraph, headings, overall logical organization)  
Strengths:

Weaknesses:

- B. Small-scale organization (e.g., discussion of all elements/issues, use of topic sentences)  
Strengths:

Weaknesses:

- C. Case Discussion and Application  
Strengths:

Weaknesses:

(cont'd)

Appendix D

D. Writing Style

Please check any writing style difficulties that you saw.

- Using "legalese"
- Using passive voice too often
- Using surplus words
- Problems with grammar; please specify \_\_\_\_\_
- Problems with subject/verb agreement (singular/plural)
- Problems with possessives
- Problem with punctuation; please specify \_\_\_\_\_
- Problem with parallel construction
- Spelling errors/typos
- Run-on sentences
- Sentence fragments (incomplete sentences)
- Quotations not quoted precisely or not properly altered
- Misuse of terms of art
- Elegant variation
- Inconsistent verb tense
- Using contractions, informal language
- Unclear phrases
- Did not use transitions between paragraphs
- Did not use transitions within paragraphs
- Tone of language too persuasive
- Bluebook errors:
  - Problems with form (including general and short form)
  - Problems with placement (overall and pinpoint citations)

VII. Overall Comments

A. If you were a busy attorney, could you easily read and understand this memorandum after one reading?

B. What is your overall impression of this memorandum?

## Appendix E

Section \_\_\_\_\_

**EVALUATION OF MEMORANDUM WRITING SKILLS INSTRUCTION**

Please take a few minutes to complete this form so that we can evaluate the effectiveness of the instruction you received to help you learn memo writing skills. Rate each of the following eight items below from 1 (not very useful) to 7 (very useful). Indicate your rating by circling the appropriate number from 1 to 7.

After you have completed the ratings, please place a star ( \* ) next to the two items that you found most helpful. Thank you for your help.

1.     Reading the annotated sample memorandum for the McVeigh problem  
NOT VERY USEFUL     1     2     3     4     5     6     7     VERY USEFUL
2.     Following the Editing Checklist and the Memo Writing Pointers  
NOT VERY USEFUL     1     2     3     4     5     6     7     VERY USEFUL
3.     Completing the Peer Evaluation of your classmates' Research Memoranda  
NOT VERY USEFUL     1     2     3     4     5     6     7     VERY USEFUL
4.     Reviewing the Peer Evaluation of your Research Memorandum  
NOT VERY USEFUL     1     2     3     4     5     6     7     VERY USEFUL
5.     Completing the Self-evaluation and getting feedback from your professor  
NOT VERY USEFUL     1     2     3     4     5     6     7     VERY USEFUL
6.     Reading your professor's comments written in the text of the original draft of your memo  
NOT VERY USEFUL     1     2     3     4     5     6     7     VERY USEFUL
7.     Reading your professor's summary comments, written at the end or on a separate comment sheet, about the original draft of your memo  
NOT VERY USEFUL     1     2     3     4     5     6     7     VERY USEFUL
8.     Discussing your original draft during the conference with your professor  
NOT VERY USEFUL     1     2     3     4     5     6     7     VERY USEFUL
9.     How can we improve your instruction on memo writing skills?
10.    What other comments would you like to make about your instruction on memo writing skills?

## Appendix F

Name of Your Instructor \_\_\_\_\_ Section \_\_\_\_\_

LEGAL WRITING: EVALUATION, FALL 1995

We are always looking for suggestions to help us improve the Legal Writing course. Please write any comments or suggestions you have on this sheet. Though we are particularly interested in comments on the subjects we have listed, please feel free to offer suggestions about other areas.

For Questions 1-7, we have provided a numerical scale of one to seven. A poor score would be 1, and a very good score would be 7. We also have provided room for your comments.

Please do not sign your name. All evaluations are anonymous. We will not read the evaluations until we have submitted your grades for the semester. We also invite you to offer your suggestions by talking with us. Thanks for your help.

## 1. The assigned books, materials, and exercises.

(a) Introduction to Legal Writing.

1	2	3	4	5	6	7
poor						very good

(b) Wydick, Plain English for Lawyers. 1 2 3 4 5 6 7

(c) Additional readings (e.g., The Role of Precedent; How to Organize Proof of a Conclusion of Law). 1 2 3 4 5 6 7

(d) In-class exercises. 1 2 3 4 5 6 7

(e) Handouts (e.g., checklists, pointers)

1 2 3 4 5 6 7

## 2. The memo assignments.

(a) Closed memo (McVeigh). 1 3 4 5 6 7

(b) Ungraded research memo. 1 2 3 4 5 6 7

(c) Graded memo. 1 2 3 4 5 6 7

## Appendix F

3. The instructor made clear what was expected from me in preparing the memoranda. 1 2 3 4 5 6 7
4. Content of class meetings. 1 2 3 4 5 6 7
5. The conference(s) with the Instructor. 1 2 3 4 5 6 7
6. (a) The Instructor: ability to teach in the classroom.  
1 2 3 4 5 6 7
- (b) The Instructor: accessibility. 1 2 3 4 5 6 7
- (c) The Instructor: ability to explain material.  
1 2 3 4 5 6 7
- (d) The Instructor: overall. 1 2 3 4 5 6 7
7. Organization of the course. 1 2 3 4 5 6 7
8. Are there areas in which you would have liked more classroom instruction? Please specify.
9. Would you have benefited from more hours of classroom instruction?  Yes  No
- If you answered yes, how often?
- rarely  occasionally  weekly
10. What was the most valuable aspect of your Legal Writing course?
11. Other comments:

